

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**



STAFF REPORT

TO Members of the Alameda County Planning Commission
RE Housing Element Implementation
HEARING DATE February 6, 2012

GENERAL INFORMATION

The following is an overview of proposed amendments to the County's Zoning Ordinance pertaining to agricultural employee housing, density bonuses and mobilehomes necessary to implement the County's Housing Element.

STAFF RECOMMENDATION

Staff requests that the Commission hear staff's presentation, receive public comment, and provide direction to staff in finalizing changes to the proposed amendments.

STAFF ANALYSIS

Overview

The Board of Supervisors adopted the 2009-2014 Housing Element on April 12, 2011. The Element was reviewed and subsequently certified by the State Department of Housing and Community Development on April 29, 2011. The Housing Element identified the need to review, and if necessary to revise, the Alameda County Zoning Ordinance to comply with Federal and State law and to successfully implement the County's Housing Element in the following areas:

- Density Bonuses and Incentives
- Secondary Dwelling Units
- Farm or Agricultural Employee Housing Facilities
- Residential Care Facilities
- Supportive Housing
- Emergency Shelters
- Transitional Housing
- Manufactured Housing and Mobile Homes
- Single Room Occupancy (SRO) Units

On December 5, 2011, the Commission heard a presentation from staff describing the process that would be employed to implement the County's Housing Element. The Commission concurred with staff's recommendations, and since that time staff has been engaged in meetings with other bodies regarding the proposed amendments. In preparing the Zoning Ordinance amendments staff has consulted with the Ordinance Review Advisory Committee (ORAC), the Sunol Citizen's Advisory Council, and the Castro Valley Municipal Advisory Council. The proposed amendments were to be heard at the Agricultural Advisory Committee meeting on

January 24, 2012; however, this meeting was cancelled. The ORAC did not object to the amendments as prepared by staff and suggested some modifications which are reflected in the Preliminary Draft Ordinance Amendments (Attachment A). The Sunol Citizen's Advisory Council met to discuss the draft amendments pertaining to agricultural employee housing on January 18, 2012 and did not propose any substantive changes. The Agricultural Advisory Committee will meet to discuss the item at a later date.

Rationale for Proposed Amendments

Agricultural Employee Housing

The County must ensure that its Zoning Ordinance complies with Health and Safety Code Sections 17021.5 and 17021.6 which require the following:

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 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. The permitted occupancy in employee housing in an agricultural zone shall include agricultural employees who do not work on the property where the employee housing is located.

Currently, the County's Zoning Ordinance only addresses agricultural caretaker dwelling units and not agricultural employee housing. An agricultural caretaker dwelling unit differs from agricultural employee housing in so far as the occupant of the caretaker dwelling must perform work on the parcel upon which the dwelling unit is located; agricultural employee housing has no such limitation on occupancy. In order to comply with sections 17021.5 and 17021.6 of the Health and Safety Code, the County should amend its Zoning Ordinance to include definitions of the terms "agricultural employee" and "agricultural employee housing;" and it should add agricultural employee housing to the list of permitted uses in the Agricultural (A) District (Chapter 17.06). Consistent with other provisions of that chapter, agricultural employee housing should be subject to a Site Development Review.

It is worth noting that these units must still comply with the County's General Plan and are subject to review under the California Environmental Quality Act (CEQA).

Density Bonuses

A density bonus is the allocation of development rights that allows a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is zoned. On January 1, 2005, SB 1818 revised California's density bonus statutes (Government Code Sections 65915-65918) by reducing the number of affordable units that a developer must provide in order to receive a density bonus. The bill also increased the maximum density bonus to 35 percent. The new minimum affordability requirements are as follows:

- The project is eligible for a 20 percent density bonus if at least 5 percent of the units are affordable to very low-income households, or 10 percent of the units are affordable to low-income households; and
- The project is eligible to receive a 5 percent density bonus if 10 percent of for-purchase units are affordable to moderate-income households.

The law also established a sliding scale, which determines the additional density that a project can receive. A developer can receive the maximum density bonus of 35 percent when the project provides either 10 percent very low-income units, 20 percent low-income units, or 40 percent moderate-income units. In 2005, SB 435 was passed, which clarified California's density bonus law by explaining that a project can only receive one density bonus.

Prior to SB 1818 and SB 435, jurisdictions were required to grant one incentive, such as financial assistance or development standard reductions, to developers of affordable housing. The new laws require that cities and counties grant more incentives depending on the percentage of affordable units developed. Incentives include reductions in zoning standards, development standards, design requirements, or other concessions that would reduce costs for developers. Projects that satisfy the minimum affordable criteria for a density bonus are entitled to one incentive from the local government. Depending on the amount of affordable housing provided, the number of incentives can increase to a maximum of three incentives from the local government. If a project utilizes less than 50 percent of the permitted density bonus, the local government must provide an additional incentive.

Additionally, the new laws provide density bonuses to projects that donate land for residential use. The donated land must satisfy all of the following requirements:

- The land must have general plan and zoning designations that allow the construction of very low-income affordable units as a minimum of 10 percent of the units in the residential development;
- The land must be a minimum of one acre in size or large enough to allow development of at least 40 units; and
- The land must be served by public facilities and infrastructure.

At the ORAC meeting on January 24, 2012, some modifications were suggested pertaining to density bonuses and the donation of land for the purposes of developing affordable housing. It was requested that language be added to ensure that donated land be located within in the same general plan boundary as the project receiving the density bonus. Also, it was requested that language be added to ensure that land be accessible by public transit.

Furthermore, there are additional provisions in the statute that would permit the granting of a density bonus for projects that include child care facilities. A request for an additional density bonus can be for child care facilities that meet the following standards:

- The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable.

- The number of children who attend the center shall be equal to or greater than the percentage of dwelling units that are required for very low income, lower income, or moderate income households.

Chapter 17.56 of the Alameda County Zoning Ordinance, Density Bonus, permits a density bonus of at least 25 percent and at least one other concession or incentive or other incentives of equivalent financial value to developers of housing developments that reserve at least 10 percent for very-low income households, 20 percent of their units for lower-income households, or 50 percent for qualifying senior citizens. All units developed with the density bonus must be affordable for a minimum of thirty years. Table 1 below describes the differences between Alameda County’s existing requirements and State law.

| TABLE 1: SB 1818 DENSITY BONUS REQUIREMENTS | | | | |
|--|----------------------|----------------|--------------------------------------|------------------------------|
| State Law | | | Alameda County | |
| Percent Units by Income Group | Density Bonus | | Percent Units by Income Group | Density Bonus Maximum |
| | Minimum | Maximum | | |
| 10% Very Low | - | 35% | 10% Very Low | 25% |
| 20% Low | - | 35% | 20% Low | 25% |
| 40% Moderate | - | 35% | 50% Seniors | 25% |
| 100% Senior | 20% | 20% | | |
| 5% Very Low | 20% | - | | |
| 10% Low | 20% | - | | |
| 10% Moderate | 5% | - | | |

The County’s Density Bonus provides more stringent requirements than the minimum requirements established under SB 1818 for the percentage of very low-, low- and moderate-income units. However, the County Zoning Ordinance does not state that the 25 percent density bonus is a maximum. It defines the term density bonus as “*an increase of at least twenty-five (25) percent in the number of dwelling units authorized for a particular parcel of land beyond the otherwise maximum allowable residential authorized by the county zoning ordinance, Title 17 of this code;*” however, the County still must increase the density bonus to 35 percent to be consistent with SB 1818 (Chapter 928, Statutes of 2004), and include the additional regulations, pertaining to child care facilities, and land donations contained therein.

SB 1818 also imposes statewide parking standards that a jurisdiction must grant upon request from a developer of an affordable housing project that qualifies for a density bonus. When local parking requirements are higher, the statewide parking standards supersede the local requirements. The developer may request these parking standards even if they do not request the density bonus. The new parking standards are summarized in Table 2. These numbers are the total number of parking spaces including guest parking and handicapped parking.

| TABLE 2: STATEWIDE PARKING STANDARDS FOR AFFORDABLE HOUSING | | |
|--|---|---|
| Number of Bedrooms | Number of On-Site Parking Spaces | Alameda County Standard |
| 0 to 1 bedroom | 1 | 2 for each dwelling unit, plus 1 for each bedroom available for |
| 2 to 3 bedrooms | 2 | |

| | | |
|--|-----|------------------------------|
| 4 or more bedrooms | 2 ½ | accommodating a paying guest |
| <i>Source: Government Code Section 65915 (p) and Table 17.52.910 County Zoning Ordinance</i> | | |

Mobilehome Parks

Section 65852.7 of the California Government Code specifies that a mobilehome park shall be a permitted use on “all land planned and zoned for residential land use.” However, local jurisdictions are allowed to require use permits for mobilehome parks.

Currently, mobilehome parks are conditionally permitted only within the Residential Suburban (RS) district, elsewhere they are considered legal nonconforming uses. Many of those long-standing sites were given the notation “M-H” in some Planning Department documents, and as a result the term “M-H” was incorrectly described as a zoning district in the 2009 Housing Element Update. Staff does not recommend that the Housing Element be amended to correct the error as an amendment would require additional review by the State Department of Housing and Community Development; however, the County should amend its Zoning Ordinance such that mobilehome parks are conditionally permitted in all residential zones as stipulated in Government Code Section 65852.7. State law does not specify a minimum acreage requirement for mobilehome parks; currently the County Zoning Ordinance requires that mobilehomes be located on parcels that are at least five acres in size. Also, while staff does not recommend that the building density be changed, staff does recommend that the density be stated within the section pertaining to mobilehome parks rather than by reference. Also, staff has added Section 17.52.1065 to refer readers to existing parking requirements for mobilehome parks permitted by the County.

Initial Study/Negative Declaration (IS/ND)

The California Environmental Quality Act (CEQA) requires that an analysis be performed when there is a project that may cause a direct or indirect change in the environment (Public Resources Code 21065). An Initial Study (IS) and Negative Declaration (ND) was prepared for the Alameda County Housing Element Update (2009-2014) which addressed potential impacts arising from adoption and subsequent implementation of the Housing Element. The County performed this analysis as required under CEQA and subsequently concluded that there will be no significant adverse environmental impacts from adopting the Ordinance amendments as there are no specific development or construction projects being proposed or permitted at this time. The ND was certified by the Board of Supervisors on March 30, 2010. A copy of the IS/ND has been provided with your package.

Individual projects which may (or may not) be proposed as a result of the proposed amendments will be subject to evaluation under CEQA, will be analyzed for compliance with the County’s Zoning, Building, Grading and Subdivision Ordinances, and be judged for their consistency with the County’s General Plan.

CONCLUSION

At this time staff requests that the Commission provide feedback on the proposed amendments. Staff anticipates returning to the Commission on February 21, 2012 to discuss the remaining implementation topics. Staff would then prepare final draft Ordinance amendments for formal consideration at a public hearing before the Commission on March 5, 2012.

It must be noted that some changes are time sensitive and may require more immediate action. Per Senate Bill 2 (Cedillo, 2007), local jurisdictions must amend their Zoning Ordinances to permit emergency shelters by right in at least one zoning district within one year of the adoption of their Housing Elements. As a result, Alameda County's amendments must be adopted by the Board no later than April 2012.

ATTACHMENTS

- A. Preliminary Draft Ordinance Amendments
- B. Initial Study and Negative Declaration, certified March 30, 2010

| | |
|---------------------|---|
| PREPARED BY: | Angela C. Robinson Piñon, Planner |
| REVIEWED BY: | Elizabeth McElligott, Assistant Planning Director |

PRELIMINARY DRAFT ORDINANCE AMENDMENTS

Proposed Definitions to be added to Definitions (Chapter 17.04)

“Agricultural employee” means a person engaged in agriculture, including: farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

“Agricultural employee housing” means any living quarters or accommodations of any type, including mobilehomes, which comply with the building standards in the State Building Standards Code or an adopted local ordinance with equivalent minimum standards for building(s) used for human habitation, and buildings accessory thereto, where accommodations are provided by any person for individuals employed in farming or other agricultural activities, including such individuals’ families. The agricultural employee housing is not required to be located on the same property where the agricultural employee is employed.

Proposed Revisions to A District Regulations (Chapter 17.06)

*****Highlighted and underlined text is new*****

17.06.030 - Permitted uses.

The following principal uses are permitted in an A district:

- A. On a building site, one one-family dwelling or one-family mobilehome either constructed after September 15, 1971, and issued an insignia of approval by the California Department of Housing and Community Development and permanently located on a permanent foundation system, or constructed after July 15, 1976, and issued an insignia of approval by the U.S. Department of Housing and Urban Development and permanently located on a foundation system;
- B. Crop, vine or tree farm, truck garden, plant nursery, greenhouse, apiary, aviary, hatchery, horticulture;
- C. Raising or keeping of poultry, fowl, rabbits, sheep or goats or similar animals;
- D. Grazing, breeding or training of horses or cattle;
- E. Winery or olive oil mill;
- F. Fish hatcheries and rearing ponds;
- G. Public or private riding or hiking trails;
- H. One secondary dwelling unit per building site on parcels twenty-five (25) acres in size or larger that are zoned for not more than one dwelling and have one but no more than one dwelling unit on the parcel subject to the following requirements:
 - 1. The secondary dwelling unit shall be on the same building envelope as the primary unit;
 - 2. On parcels less than one hundred (100) acres, the secondary dwelling unit shall be no larger than two thousand (2,000) square feet in area; on parcels one hundred (100) acres or larger the secondary dwelling unit shall be no larger than two thousand five hundred (2,500) square feet in area;
 - 3. The secondary dwelling unit shall be subject to site development review pursuant to Section 17.54.210 et seq.; and
 - 4. The secondary dwelling unit shall be subject to and consistent with the provisions of the county policy on secondary dwelling units in agricultural and rural residential areas. Notwithstanding the requirements of Section 17.54.220.A, for secondary units on parcels that are less than one hundred (100) acres in size, the planning commission shall decide applications for site development review under this section, and a public hearing is required.
- I. Occupancy of agricultural caretaker dwelling(s) subject to a site development review as provided in Section 17.06.090, when found by the planning director to be necessary to provide housing for the agricultural caretaker and his/her family.
- J. Boarding stables and riding academies subject to the following requirements:

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1. The boarding stable shall be subject to site development review pursuant to Sections 17.06.090 and 17.54.210 et seq., except as follows:
 - a. The appropriate board of zoning adjustments shall decide applications for site development review under this section, and a public hearing is required.
 - b. Where the holder of an existing conditional use permit is found to be in compliance with all conditions of the existing conditional use permit, the planning director shall recommend approval of a site development review for the facility Alameda County Ordinance Code, Title 17, Zoning Ordinance with no new conditions except as allowed by the county policy for equine facilities in the A (agricultural) district, to the appropriate board of zoning adjustments.
 - c. The planning director may modify the requirements of Section 17.54.230 consistent with the provisions of the county policy of equine facilities in the A (agricultural) district; and specifically may waive the requirement that the site plan be prepared by licensed civil engineer, land surveyor, architect, landscape architect, or a registered building designer.
2. The boarding stable shall be subject to and consistent with the provisions of the county policy for equine facilities in the A (agricultural) district.
3. Site development reviews under this section shall not have an expiration date. However, they shall be subject to a periodic review for compliance with conditions of approval of the site development review and with relevant county ordinances, including all water quality rules and regulations. Such reviews shall occur every five years at minimum, or as needed to ensure compliance.
4. Any changes in the scope of the boarding stable operation shall require a modification to the site development review.
5. Site development review approval under this section shall not be construed to confer upon a boarding stable any exemption from any health, nuisance, or public safety ordinances or their subsequent enforcement or confer any other unique privileges upon a stable.

(Ord. 2004-55 § 1; Ord. 2003-47 § 1; Ord. 99-2 § 1; Ord. 93-33 § 2 (part); prior gen. code § 8-25.2)

K. Agricultural employee housing consisting of not more than thirty-six (36) beds in a group quarters or twelve (12) units or spaces designed for use by a single family or household subject to a site development review as described provided in Section 17.06.090 (Agricultural Districts--Site Development Review—When Required), 17.60.100 (Agricultural Districts—Agricultural Employee Housing), and 17.54.210 (Site Development Review).

17.06.040 - Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses and shall be permitted in an A district only if approved by the board of zoning adjustments, as provided in Sections 17.54.130 and 17.06.010:

- A. [Deleted]
- B. Outdoor recreation facility;
- C. Animal hospital, kennel.
- D. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;
- E. Public or private hunting of wildlife or fishing, and public or private hunting clubs and accessory structures;
- F. Packing house for fruit or vegetables, but not including a cannery, or a plant for food processing or freezing;
- G. Flight strip when accessory or incidental to a permitted or conditional use;
- H. Hog ranch;
- I. Drilling for and removal of oil, gas or other hydrocarbon substances;
- J. Radio and television transmission facilities;
- K. Public utility building or uses, excluding such uses as a business office, storage garage, repair shop or corporation yard;
- L. Administrative offices accessory to the principal use on the premises including activities by the same occupancy which are not related to the principal use providing such activities not so related are accessory to the administrative office activity;
- M. [Deleted]
- N. Administrative support and service facilities of a public regional recreation district;
- O. Privately owned wind-electric generators;
- P. Remote testing facility;

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Q. Winery or olive oil mill related uses; and

R. Agricultural employee housing for 37 or more beds in group quarters or 13 units or spaces designed for use by a single family or household.

(Ord. 2004-55 § 2; Ord. 2002-60 § 1 (part); Ord. 2000-53 § 1 (part); Ord. 99-26 § 1 (part); Ord. 94-40 § 1; Ord. 3-33 § 2 (part); prior gen. code § 8-25.3; Subsections deleted O-2009-??, May 12, 2009)

17.06.090 - Site development review—When required.

Site development review pursuant to Section 17.54.210 shall be required for:

A. Every new dwelling or addition to existing dwelling exceeding five hundred (500) square feet or thirty (30) feet in height hereafter placed on a parcel in the A district;

(Prior gen. code § 8-25.8)

B. Agricultural caretakers dwelling(s), when found by the planning director to be necessary to provide housing for the agricultural caretaker and his/her/their family(ies); subject to the following provisions:

1. Initial site development review shall include submittal of required applications and materials and completion of an agricultural caretaker dwelling report, signed by the property owner.
2. The agricultural caretaker dwelling report submitted under Paragraph 1 above shall include a description of the agricultural use on the site, a description of the commercial/economic viability of the agricultural use, a discussion of the personnel necessary to implement or oversee the agricultural use, and a description of the proposed agricultural dwelling and/or housing. If the agricultural use is intended primarily for private interest rather than commercial viability, or if the dwelling unit is intended for a use not otherwise related directly to commercially viable agriculture on the site, such as onsite security, the report shall provide this information.
3. Site development review approval shall normally be issued for a period of five years, except in instances where it is found by the planning director that a demonstrable need for more stringent controls (e.g., history of non-compliance with county codes, public health/safety issues, community concerns) is necessary.
4. The planning director may extend initial site development review for additional five-year periods of time at the end of each preceding five-year period, subject to review and approval, of an updated agricultural caretaker dwelling report, signed by the property owner.
5. During the effective period of the site development review, any changes relating to the information contained in the agricultural caretaker dwelling report (including changes to the dwelling unit itself, changes in maximum occupancy requirements, and/or changes in the size/nature/ scope of the agricultural use being served by the presence of the caretaker onsite) shall be reported to the planning department, and shall be subject to the same procedures and regulations as those applicable to the initial application.
6. The planning director shall have the discretion to disapprove the initial and/or subsequent site development review and agricultural caretaker dwelling report if found that compliance with the requirements and intent set forth in this title is exercised unlawfully or contrary to any condition or limitation of its issuance.
7. The planning director may, at his/her discretion, hold a public hearing regarding an initial or subsequent site development review application.
8. The approval of a site development review for an agricultural caretaker dwelling of any kind on any parcel, regardless of the existing legal building site status of the parcel, shall not be construed to establish upon that same, or any adjacent or commonly-owned parcel, building site status.
9. The agricultural caretaker dwelling is intended to remain only as long as necessary to support either onsite security or the primary agriculture use on the site, and when the need for this support terminates the dwelling must be completely removed or converted to another legal use.
10. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.

C. Boarding stables and riding academies subject to the provisions of Section 17.06.030J of this chapter.

D. Agricultural employee housing subject to the provisions of Section 17.06.100 of this chapter.

NOTE: Renumbering of §§3-7 (formerly §§2-6 plus amendments O-2009-##, May 12, 2009).
(Ord. 2004-55 § 3; Ord. O-2003-47 § 1)

17.06.100 – Agricultural Districts—Agricultural employee housing

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Agricultural employee housing is subject to site development review pursuant to Sections 17.06.060 (Agricultural Districts--Site Development Review—When Required) and 17.54.210 (Site Development Review) et seq. and to the following provisions:

- A.** The site development review shall include submittal of required applications and materials including an agricultural employee housing report, signed by the property owner.
- B.** The agricultural employee housing report submitted under Paragraph 1 above shall include the following information:
 - 1.** Entity responsible for housing maintenance and up-keep;
 - 2.** Description of whether the housing will be used on a permanent, temporary, and/or seasonal basis;
 - 3.** Total number of people to be housed on-site at any one time;
 - 4.** Description of the housing, including whether the structures will be permanent and/or temporary, intended as units for families, one person, or several persons, and cost of the units and utilities to the agricultural employees;
 - 5.** Location(s) where the agricultural employees will work;
 - 6.** There must be adequate water and sewer available to service the development, as determined by the Department of Environmental Health;
 - 7.** The housing must be located off prime and productive agricultural land, or on the parcel where no other alternatives exist on site, on the least viable portion of the parcel; and
 - 8.** The development shall incorporate proper erosion and drainage controls; and
 - 9.** Parking shall be provided in accordance with Section 17.52.910 (Parking spaces required—Residential buildings).
- C.** Site development review approval shall normally be issued for a period of five years, except in instances where it is found by the planning director that a demonstrable need for more stringent controls (e.g., history of non-compliance with county codes, public health/safety issues, community concerns) is necessary.
- D.** The planning director may extend the initial site development review for additional five-year periods of time at the end of each preceding five-year period, subject to review and approval, of an updated agricultural employee housing report, signed by the property owner.
- E.** During the effective period of the site development review, any changes relating to the information contained in the agricultural employee housing report (including changes to the dwelling unit itself, and changes in maximum occupancy requirements) shall be reported to the planning department, and shall be subject to the same procedures and regulations as those applicable to the initial application.
- F.** The planning director shall have the discretion to disapprove the initial and/or subsequent site development review and agricultural employee housing report if found that compliance with the requirements and intent set forth in this title is exercised unlawfully or contrary to any condition or limitation of its issuance.
- G.** The planning director may, at his/her discretion, hold a public hearing regarding an initial or subsequent site development review application.

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H. The approval of a site development review for an agricultural employee housing of any kind on any parcel, regardless of the existing legal building site status of the parcel, shall not be construed to establish upon that same, or any adjacent or commonly-owned parcel, building site status.

I. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.

Proposed Revisions to Parking Regulations

| Table <u>17.52.910</u> Parking Spaces Required for Residential Buildings | |
|---|---|
| Use | Number of Spaces Required |
| Mobilehome park | 2 for each mobilehome site <u>located on each mobilehome site</u> ; other provisions of this title notwithstanding, the access to one of these spaces may be within the access to the second space; plus 1 for each 10 mobilehome sites |
| <u>Agricultural employee housing</u> | <u>1 space per unit, or 1 for each 4 beds</u> |

Proposed Revision to Specify that Mobilehomes are Conditionally Permitted in Residential Zones

- Mobilehome parks subject to the provisions provided in sections 17.52.1000 to 17.52.1065

Proposed Revisions to Existing Performance Standards for Mobilehome Parks

17.52.1020 - Mobilehome parks—Density.

The maximum permitted number of mobilehome sites shall be determined in accordance with Section 17.12.050, equating the term "dwelling unit" with the term "mobilehome site."

Except as otherwise provided in a combining district or specific plan, the number of dwelling units permitted on a building site in a mobilehome park shall not exceed the number obtained by dividing the area in square feet of the building site by five thousand (5,000), disregarding any fraction.

17.52.1065 - Mobilehome parks—Parking.

Pursuant to Section 17.52.910 (Parking spaces required—Residential buildings), every mobilehome site shall have two parking spaces. A mobilehome park shall also provide 1 parking space for every 10 mobilehome sites.

Proposed Revisions to the Density Bonus Ordinance

Chapter 17.56 106- DENSITY BONUS

17.56 106- Title.

This chapter shall be called the density bonus ordinance of the county of Alameda.
(Ord. 93-5 § 1 (part): prior gen. code § 8-400)

17.56 106.020 - Purpose.

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This chapter establishes policies which facilitate the development of affordable housing for very low and lower income households and senior households within the unincorporated area of Alameda County, through the provision of a density bonus, and additional financial incentives if necessary for affordability, to applicants who agree to meet the requirements established by this chapter.
(Ord. 93-5 § 1 (part): prior gen. code § 8-401)

17.56 106.030 - Definitions.

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

Affordable Housing Agreement: "Affordable housing agreement" means the agreement made between the applicant and the county governing the regulation and monitoring of the affordable units.

Amenities: "Amenities" means interior amenities including, but not limited to, fireplaces, garbage disposals, dishwashers, cabinets and storage space and bathrooms in excess of one.

Applicant: "Applicant" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks a density bonus or incentives or both under this chapter.

Base Units: "Base Units" means the number of units that would be allowed under the General Plan land use designation and zoning ordinance for the subject site before calculation of the Density Bonus.

Child Care Facility: "Child Care Facility" means a facility, other than a day care home, licensed by the State of California to provide non-medical care to children under 18 years of age in need of personal services, supervision or assistance on less than a 24-hour basis. "Density Bonus" means an increase in density over the otherwise maximum allowable residential density under the applicable zoning ordinance and General Plan land use designation taking into account all applicable limitations.

Density Bonus: "Density bonus" means an increase of at least twenty-five (25) percent in the number of dwelling units authorized for a particular parcel of land beyond the otherwise maximum allowable residential authorized by the county zoning ordinance, Title 17 of this code, in density over the otherwise maximum allowable residential density under the applicable zoning ordinance and General Plan land use designation.

Density Bonus Unit: "Density bonus unit" means a residential dwelling unit authorized as a result of the granting of a density bonus.

"First time home buyer" means a person who has not held an ownership interest in a principal residence in the three years prior to the purchase of a restricted unit.

Household: "Household" means one person living alone or two or more persons sharing a residential dwelling.

Housing Development: "Housing Development" means a project providing residential units including, without limitation, a subdivision, a planned unit development, multifamily dwellings, or condominium project. Housing developments consist of development of residential units or creation of unimproved residential lots and also include either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, where the result of the rehabilitation would be a net increase in available residential units.

Incentive: An "Incentive" An incentive may include any of the following:

1. Approval of a mixed-use development if commercial, office, industrial, or other land uses will help to offset the costs of the housing development. A mixed-use development will be approved only if the

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- commercial, office, industrial, or other land uses are compatible with the surrounding land uses, the county general plan, and applicable specific plans;
2. Government-assisted financing, including, but not limited to, mortgage revenue bonds issued by the county;
 3. A reduction in site development standards, but only if the overall quality of the development is not lessened. All developments must also meet any design guidelines codified by the county at a future date;
 4. Other incentives proposed by the developer or the county which result in identifiable cost reductions, including but not limited to:
 - a. Waiver or reduction of certain county fees applicable to restricted units in a housing development,
 - b. Reduction of interior amenities,
 - c. Priority processing of a housing development which provides restricted units. Upon certification that the application is complete and eligible for priority processing, the housing development will be reviewed by the planning director in advance of all nonpriority items. The housing development review will be completed and a recommendation will be made by the planning director whether to approve the housing development within one hundred twenty (120) days of receipt of the completed application. The planning director may give written approval to extend the one hundred twenty (120) day period.

Lower Income Household: "Lower income household" means a household whose gross income is eighty (80) percent or less of the Alameda County median income adjusted for household size, computed pursuant to California Health and Safety Code Section 50079.5; if the Health and Safety Code definition is amended, this definition shall be deemed to be amended to the same effect.

Maximum Allowable Residential Density: "Maximum allowable residential density" means the density allowed under the General Plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project. Maximum allowable residential density takes into account limitations to density pursuant to General Plan policies and Zoning Ordinance regulations.

Median Income: "Median income" means the median income for Alameda County, published by the United States Department of Housing and Urban Development.

Moderate Income Household: "Moderate Income Household" means a household, with an annual income which does not exceed the United States Department of Housing and Urban Development annual determination for moderate income households with incomes of one hundred twenty (120) percent of the Median Income, adjusted for household size.

Planning director: means the Alameda County planning director or his or her designee. Already defined in Chapter 17.04.

Qualifying Unit: "Qualifying Unit" means a dwelling or dwellings designated for occupancy by very low, low, or moderate income households, within a housing development, which make the housing development eligible for a Density Bonus.

Resale controls: "Resale controls" means a resale restriction placed on restricted units by which the price of such units and/or the age or income of the purchaser will be restricted to ensure affordability and occupancy by very low or lower income households or senior households.

Restricted Unit: "Restricted unit" means a residential dwelling unit to be sold or rented at a price or rent affordable to a very low or lower income household, or sold or rented to a senior household.

Senior Citizen Housing Development: "Senior Citizen Housing Development" means a development of at least thirty-five (35) dwelling units reserved for Senior Citizen Households and as further described in Sections 51.3 and 51.12 of the California Civil Code Sections 51.3 and 51.12.

Senior Household: "Senior household" means as established by California Civil Code Section 51.3, a household in which at least one member is at least sixty-two (62) years of age, or a household with at

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~~least one member who is at least fifty-five (55) years of age in the case of a housing development with more than one hundred fifty (150) units.~~

Term of Affordability: "Term of affordability" means the time during which restricted units in a housing development must remain as restricted units.

Unit Type: "Unit type" means a dwelling unit with a defined floor area and a designated number of bedrooms.

Very Low Income Household: "Very low income household" means a household whose gross income is fifty (50) percent or less of the Alameda County median income adjusted for household size, computed pursuant to California Health and Safety Code Section 50079.5.
(Ord. 93-5 § 1 (part): prior gen. code §§ 8-402—8-402.17)

~~17.56~~ **106.040 - Density bonus qualifications.**

In order to qualify for a density bonus and one or more incentives under this chapter, a housing development must consist of five or more dwelling units and meet one or more of the following criteria:

~~A. Ten percent of the total units are designated as restricted units for very low income households; or~~

~~B. Twenty (20) percent of the total units are designated as restricted units for lower income households; or~~

~~C. Fifty (50) percent of the total units are designated as restricted units for senior households.
(Ord. 93-5 § 1 (part): prior gen. code § 8-403)~~

A. Agrees to construct and maintain at least five (5) percent of the base units for very low income households;

B. Agrees to construct and maintain at least ten (10) percent of the base units for lower income households;

C. Agrees to construct and maintain at least ten (10) percent of the base units in a condominium project or planned development project dedicated to moderate income households, provided that all units in the development are offered to the public for purchase;

D. Agrees to construct and maintain a senior citizen housing development;

E. Converts an existing apartment or multifamily dwelling to a condominium development as described in Section 17.106.050.I (Density Bonus—Density Bonus Calculations).

17.106.050 - Density bonus calculations.

A. In accordance with state law, the granting of a Density Bonus or the granting of a density bonus or an incentive(s) shall not be interpreted, in and of itself, to require a General Plan amendment, specific plan amendment, rezone, or other discretionary approval.

B. An applicant must choose a Density Bonus from only one applicable affordability category of this Chapter and may not combine categories, with the exception of a Child Care Facility or land donation. The Child Care Facility or land donation may be combined with an affordable housing development for an additional Density Bonus up to a combined maximum of thirty five (35) percent.

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- C.** Any Density Bonus and/or Concession/Incentive awarded shall apply only to the Housing Development for which it was granted.
- D.** In determining the number of density bonus units to be granted pursuant to 47.56.040 Section 17.106.040 (Density Bonus Qualifications), the maximum residential density for the site shall be multiplied by 0.20 for subsections A, B, and D of that section and 0.05 for subsection C of that section, unless a lesser number is selected by the developer.
 - 1.** For each one percent increase above ten percent in the percentage of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of 35 percent.
 - 2.** For each one percent increase above five percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent up to a maximum of 35 percent.
 - 3.** For each one percent increase above ten percent of the percentage of units affordable to moderate income households, the density bonus shall be increased by one (1) percent up to a maximum of 35 percent.
- E.** When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded to the next larger integer.
- F.** The density bonus units shall not be included when determining the number of qualifying units required for a density bonus. When calculating the required number of qualifying units, any calculations resulting in fractional units shall be rounded to the next larger integer.
- G.** The developer may request a lesser density bonus than the project is entitled to, but no reduction will be permitted in the number of required qualifying units pursuant to Section 17.106.040 (Density bonus qualifications) above. Regardless of the number of qualifying units, no housing development may be entitled to a density bonus of more than thirty-five percent.

H. The following table summarizes this information:

Density Bonus Summary Table

| Income Group | Minimum % Qualifying Units | Bonus Granted | Additional Bonus for Each 1% Increase in Qualifying Units | % Qualifying Units Required for Maximum 35% Bonus |
|------------------------------------|-----------------------------------|----------------------|--|--|
| Very Low Income | 5% | 20% | 2.5% | 11% |
| Low Income | 10% | 20% | 1.5% | 20% |
| Moderate Income (Condo or PD only) | 10% | 5% | 1% | 40% |
| Senior Citizen Housing Development | 100% | 20% | — | — |

I. An applicant for an apartment conversion to a condominium project that provides at least thirty-three (33) percent of the total units of the proposed condominium project to persons and families of Low or Moderate Income, or fifteen (15) percent of the total units of the project to Lower Income households, and agrees to pay for the reasonable necessary administrative costs incurred by the County, qualify for a twenty-five (25) percent Density Bonus or other incentives of equivalent financial value. An applicant shall be ineligible for a Density Bonus or other incentives if the apartments proposed for

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conversion constitute a housing development for which a Density Bonus or other Incentives were previously granted under the provisions of this chapter.

17.106.060 – Density Bonus--Eligibility and application requirements for incentives.

- A.** A housing development qualifying for a density bonus is entitled to at least one incentive in addition to the density bonus. incentives are available for qualifying housing developments as follows:
1. One incentive or concession for projects that include at least ten (10) percent of the total units for lower income households, at least five (5) percent for very low income households, or at least ten (10) percent for persons and families of moderate income in a condominium or planned development.
 2. Two incentives or concessions for projects that include at least twenty (20) percent of the total units for lower income households, at least ten (10) percent for very low income households, or at least twenty (20) percent for persons and families of moderate income in a condominium or planned development.
 3. Three incentives or concessions for projects that include at least thirty (30) percent of the total units for lower income households, at least fifteen (15) percent for very low income households, or at least thirty (30) percent for persons and families of moderate income in a condominium or planned development.
- B.** The appropriate authority for the housing development shall grant the incentive unless the appropriate authority makes a written finding, based upon substantial evidence, of any of the following:
1. That the incentive is not necessary in order to provide for affordable housing costs; or
 2. The concession or incentive would have a specific adverse impact, as defined in California Health & Safety Code Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, lower and moderate income households.
- C.** In accordance with Government Code Section 65915 (p), an applicant qualifying for a density bonus may request, inclusive of handicapped and guest parking, the following parking ratios:
1. Zero to one bedrooms: One onsite parking space
 2. Two to three bedrooms: Two onsite parking spaces
 3. Four or more bedrooms: Two and one-half parking spaces

These standards may be applied in addition to any other incentives for which the housing development qualifies as specified in this section. If the total number of parking spaces for the development is other than a whole number, the number shall be rounded up to the next whole number. Off-street parking spaces provided pursuant to this paragraph may be arranged in tandem and may be uncovered.

17.56 106.050 070 - Qualifications for restricted units.

- A.** The applicant shall execute an affordable housing agreement with Alameda County, which shall be recorded and shall run with the land.

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- B. The affordable housing agreement shall describe household types, number, location, size and construction scheduling of restricted units and any other information required by the county to determine the applicant's compliance with the conditions.
- C. Restricted units shall be constructed concurrently with or prior to the construction of nonrestricted units, shall be dispersed throughout the housing development, and shall include all unit types represented in the housing development and shall be in the same proportions as nonrestricted unit types.

(Ord. 93-5 § 1 (part): prior gen. code §§ 8-404—8-404.3)

17. ~~56 106.060 080~~ - Term of affordability.

~~A. If a housing development receives only a density bonus, the restricted units will remain restricted to lower or very low income households or to senior households for a minimum of ten years from the date of issuance of the certificate of occupancy.~~

~~B. If a housing development receives both a density bonus and an incentive, restricted units must remain restricted to lower or very low income households or to senior households for a minimum of thirty (30) years from the date of the certificate of occupancy.~~

(Ord. 93-5 § 1 (part): prior gen. code §§ 8-405—8-405.2)

~~The applicant shall agree to, and the County shall ensure, the continued availability of the Qualifying Units and other Incentives for a period of at least 30 (thirty) years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.~~

17. ~~56 106.080 090~~ - Requirements for rental housing developments.

- A. All restricted units shall be occupied by the household type specified in the affordable housing agreement.
- B. The applicant shall be responsible for obtaining and verifying information with respect to the qualifications of prospective and current tenants, including, but not limited to, information relating to tenants' incomes, and eligibility, in a form satisfactory to the planning director. The applicant shall maintain a list of qualified applicants for the duration of the program and shall allow the planning director to inspect such information upon reasonable notice. The applicant may contract with another entity to perform these functions subject to the approval of the planning director.
- C. The applicant shall submit reports annually certifying that the restricted units are occupied by the household types specified in the affordable housing agreement. The annual reports shall include the number of persons and income for each household in the restricted units.
- D. If the affordable housing agreement is violated, the applicant shall pay to the county as liquidated damages the maximum sum of five thousand dollars (\$5,000.00) for each restricted unit that is in violation of the affordable housing agreement. This amount may be required for each month of violation. Any unpaid liquidated damages may be recorded as a notice of violation of the affordable housing agreement against the title of the property. In addition to the liquidated damages, if a very low income or lower income household in a restricted unit is charged a rent that exceeds the rent specified in the affordable housing agreement, the applicant must pay to the tenant the difference in the rent charged and the allowable rent for the months that the tenant was overcharged. If a restricted unit is rented to a household with an income exceeding that specified in the affordable housing agreement, in lieu of the liquidated damages mentioned above, the first vacant nonrestricted unit must be made a restricted unit and rented to a household that qualifies under the affordable housing agreement.

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(Ord. 93-5 § 1 (part): prior gen. code §§ 8-406—8-406.4)

17.56.106.080 100 - Requirements for owner-occupied housing.

- A. The **first time** home buyer shall verify on a form provided by the planning director that the restricted unit being purchased is for use as the buyer's principal residence and that the buyer is either a lower income household, very low income household or a senior household. If the restricted unit ceases to function as the owner's principal residence, it shall be sold according to the requirements of the resale controls. If evidence is presented to the planning director that the owner is unable to continuously occupy the restricted unit because of illness or incapacity, the planning director may approve rental of the restricted unit to a very low income household, lower income household, or senior household.
- B. The resale controls will place limits on the resale price of a restricted unit and on the income of the new buyer. The resale price of a restricted unit will be limited to the original price of the restricted unit, plus a factor of appreciation equal to the annual increase in the median income, plus the appraised value, at time of sale, of any documented capital improvements. In addition, when an owner sells a restricted unit, the sale must be to a very low income household, lower income household, or senior household.
- C. Resale controls shall be recorded as part of the declaration of covenants, conditions, and restrictions on the restricted unit. The resale controls will remain in effect for the term of affordability.
- D. The following transfers of title or any interest therein are not subject to the provisions of this section, provided, however, that the resale controls shall continue to run with the land following such transfers: transfers by gift, devise, or intestate succession to the owner's spouse or children, and transfers of title to a spouse as part of a dissolution of marriage proceeding or in conjunction with marriage.

(Prior gen. code §§ 8-407—8-407.4)

17.56.106.090 110 - Application procedure.

- A. An applicant may submit to the planning director a preliminary proposal for a housing development pursuant to this chapter prior to the submittal of any formal housing development application. The planning director shall, within ninety (90) days of receiving a preliminary proposal, provide the applicant a written preliminary evaluation of the housing development.
- B. In addition to the county's usual development requirements, formal application for a housing development under this chapter shall include the following information:
 - 1. A written statement specifying the desired density increase, incentive requested, and the number, type, location, size and construction schedule of all dwelling units;
 - 2. If necessary for the planning director to evaluate the financial need for additional incentives, the applicant shall submit a report that contains housing development costs and revenues, including but not limited to land, construction, and financing costs, and revenues from restricted units, unrestricted units, and density bonus units. Such other information as the planning director needs to evaluate the housing development may be requested by the planning director. The planning director may retain a consultant to review the financial report. The cost of the consultant shall be borne by the applicant;
 - 3. Any other information requested by the planning director to implement this chapter.
- C. Housing developments that meet the requirements set forth in Section **17.56.040 17.106.040 (Density bonus qualifications)** above shall qualify for a density bonus and at least one incentive, unless the planning director adopts a written finding that the incentive is not required to achieve the economic feasibility of the restricted units. The planning director may also provide an incentive in place of a

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density bonus that is of equivalent value to the density bonus. Such incentive shall be calculated in a manner determined by the planning director.

(Ord. 93-5 § 1 (part): prior gen. code §§ 8-408—8-408.3)

17.106.120 – Density Bonus--Child Care Facilities.

A. When an applicant proposes a housing development that is eligible for a density bonus under this chapter and includes a child care facility on the premises or adjacent to the housing development, the applicant shall receive an additional density bonus that is in an amount of square feet of residential space that is equal to the square footage of the child care facility; or the applicant may receive another incentive that contributes significantly to the economic feasibility of the construction of the child care facility, provided that, in both cases, the following conditions are incorporated in the conditions of approval for the housing development:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the restricted units are required to remain affordable pursuant to the terms of the affordable housing agreement executed between the County and the developer.
2. Attendance of children at the child care facility shall have an equal or greater percentage of children from very low, low, and moderate income households than the percentage of affordable units in the housing development.

B. The County may deny the request for a density bonus or incentive for a child care facility if the county finds, based upon substantial evidence, that the community has adequate child care facilities without the facilities being considered as part of the subject housing development.

17.106.130 - Density Bonus--Donation of land.

A. When an applicant for a tentative subdivision map, parcel map or other residential development donates land to the County, the applicant shall be entitled to a density bonus above the maximum allowable residential density, up to a maximum of thirty five (35) percent depending on the amount of land donated. This increase shall be in addition to any increase in density permitted by this chapter up to a maximum combined density increase of 35 percent. A density bonus for donation of land shall only be considered if all of the following conditions are met:

1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.
2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in the amount not less than ten percent (10%) of the residential units in the proposed development.
3. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 (forty) units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is, or will be, served by adequate public facilities and infrastructure (such as waste water treatment facilities and public transit). The transferred land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the Very Low Income units on the transferred land, except that the County may subject the proposed development to subsequent design review if the design is not reviewed by the County prior to the time of transfer.
4. The transferred land and the units constructed on said land shall be subject to a deed restriction ensuring continued affordability of the units for a period of at least thirty (30) years and subject to

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restrictions consistent with California Government Code Section 65915 (c)(1) and (2), as may be periodically amended.

5. The land is transferred to the County or to a housing developer approved by the County.

6. The transferred land shall be within the boundary of the proposed development or, if the County determines appropriate, **be located within the same General Plan area as** the proposed development.

17. ~~56 106.400~~ **140 - Administration and fees.**

- A.** At the discretion of the planning director, the county may contract with another entity to administer the rental and sales provisions of this chapter.
- B.** The planning director shall establish the amount of fees to be charged to applicants for administration of this chapter at the cost of staff time attributable to such administration. These fees may be waived or reduced as specified in Section ~~17.56.030~~ **17.106.030 (Definitions)** under subsection (4)(a) of the definition of "incentive" ~~subsection (4)(a).~~
- C.** The planning director shall be responsible for monitoring the resale of restricted units.
- D.** The planning director shall adopt regulations and forms necessary to implement and interpret the provisions of this chapter.

(Ord. 93-5 § 1 (part): prior gen. code §§ 8-409—8-409.4)

**ENDORSED
FILED
ALAMEDA COUNTY**

APR 02 2010

PATRICK O'CONNELL, County Clerk
By *PO* Deputy

**Initial Study and Negative Declaration
Alameda County Housing Element Update (2009-2014)**

December 2, 2009

Environmental Checklist Form

Prepared Pursuant to the California Environmental Quality Act (CEQA)

A. PROJECT DESCRIPTION

1. **Project title:** Alameda County Housing Element Update (2009-2014)
2. **Project location:** Unincorporated Alameda County
3. **Project sponsor's name and address:** Alameda County Community Development Agency
224 West Winton Avenue, Room 111, Hayward, CA 94544
4. **Lead Agency name and address:** Alameda County Community Development Agency
224 West Winton Avenue, Room 111, Hayward, CA 94544
5. **Contact Person and phone number:** Elizabeth McElligott, Assistant Planning Director,
(510) 670-5400
6. **General plan designation:** Not applicable. Housing Element Update is not specific to a site or a community.
7. **Zoning:** Not applicable. See #6.
8. **Description of project:** State law requires each city and county to adopt a general plan containing at least seven elements including housing. Unlike the other mandatory general plan elements, a housing element, must be updated every five years, and is subject to detailed statutory requirements and mandatory review by the State Department of Housing and Community Development (HCD).

Alameda County has prepared a draft update to the Housing Element of the County's General Plan. The current Housing Element was adopted by the Board of Supervisors on October 2, 2003. The planning period for the Housing Element update will cover from July 1, 2009 to June 30, 2014.

The Alameda County Housing Element is the primary housing policy document for the unincorporated portions of the County and it provides a comprehensive strategy for promoting the development, preservation, and rehabilitation of safe, decent and affordable housing for all residents within the unincorporated areas.

The adoption and implementation of the Housing Element does not propose or require any changes to existing Zoning or General Plan designations for any parcel.
9. **Surrounding land uses and setting:** Alameda County is one of the nine San Francisco Bay Area counties, located along the eastern shore of the San Francisco Bay. The County covers approximately 738 square miles. Alameda County is one of only two Bay Area counties that spans an area that reaches from the Bay to California's Central Valley. The western portion of Alameda County is located generally on the East Bay Plain between the coastal hills and the Bay. The area is heavily urbanized and contains the incorporated cities of Albany, Berkeley, Piedmont, Oakland, Emeryville, Alameda, San Leandro, Hayward, Union City, Newark, and Fremont, as well as the unincorporated urban areas of Castro Valley, Fairview, San Lorenzo, Ashland, and Cherryland.

Eastern Alameda County is primary composed of the coastal range's rough terrain that extends from the hills above the Bay Plain to the border with San Joaquin County in the Central Valley. It is comprised mainly of non-urban uses including agriculture, parkland, watershed, and open space. This area has relatively low population density except for the Livermore-Amador Valley, in which the incorporated cities of Dublin, Pleasanton, and Livermore are located.
10. **Other public agencies whose approval may be required:** California Department of Housing and Community Development must review and certify the Housing Element.

B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology /Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

C. LEAD AGENCY DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Elizabeth McElligott
Signature

4/1/10
Date

Elizabeth McElligott, Assistant Planning Director

D. EVALUATION OF ENVIRONMENTAL EFFECTS:

The Environmental Checklist and discussion that follows is based on sample questions provided in the CEQA Guidelines (Appendix G) which focus on various individual concerns within 16 different broad environmental categories, such as air quality, cultural resources, land use and traffic (and arranged in alphabetical order). The Guidelines also provide specific direction and guidance for preparing responses to the Environmental Checklist. Each question in the Checklist essentially requires a "yes" or "no" reply as to whether or not the project will have a potentially significant environmental impact of a certain type, and, following a Checklist table with all of the questions in each major environmental heading, citations, information and/or discussion that supports that determination. The Checklist table provides, in addition to a clear "yes" reply and a clear "no" reply, two possible "in-between" replies, including one that is equivalent to "yes, but with changes to the project that the proponent and the Lead Agency have agreed to, *no*", and another "no" reply that requires a greater degree of discussion, supported by citations and analysis of existing conditions, threshold(s) of significance used and project effects than required for a simple "no" reply. Each possible answer to the questions in the Checklist, and the different type of discussion required, is discussed below:

- a) Potentially Significant Impact. Checked if a discussion of the existing setting (including relevant regulations or policies pertaining to the subject) and project characteristics with regard to the environmental topic demonstrates, based on substantial evidence, supporting information, previously prepared and adopted environmental documents, and specific criteria or thresholds used to assess significance, that the project will have a potentially significant impact of the type described in the question.
- b) Less Than Significant With Mitigation. Checked if the discussion of existing conditions and specific project characteristics, also adequately supported with citations of relevant research or documents, determine that the project clearly will or is likely to have particular physical impacts that will exceed the given threshold or criteria by which significance is determined, but that with the incorporation of clearly defined mitigation measures into the project, that the project applicant or proponent has agreed to, such impacts will be avoided or reduced to less-than-significant levels.
- c) Less Than Significant Impact. Checked if a more detailed discussion of existing conditions and specific project features, also citing relevant information, reports or studies, demonstrates that, while some effects may be discernible with regard to the individual environmental topic of the question, the effect would not exceed a threshold of significance which has been established by the Lead or a Responsible Agency. The discussion may note that due to the evidence that a given impact would not occur or would be less than significant, no mitigation measures are required.
- d) No Impact. Checked if brief statements (one or two sentences) or cited reference materials (maps, reports or studies) clearly show that the type of impact could not be reasonably expected to occur due to the specific characteristics of the project or its location (e.g. the project falls outside the nearest fault rupture zone, or is several hundred feet from a 100-year flood zone, and relevant citations are provided). The referenced sources or information may also show that the impact simply does not apply to projects like the one involved. A response to the question may also be "No Impact" with a brief explanation that the basis of adequately supported project-specific factors or general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a basic screening of the specific project).

The discussions of the replies to the Checklist questions must take account of the whole action involved in the project, including off-site as well as on-site effects, both cumulative and project-level impacts, indirect and direct effects, and construction as well as operational impacts. Except when a "No Impact" reply is indicated, the discussion of each issue must identify:

- a) the significance criteria or threshold, if any, used to evaluate each question; and
- b) the mitigation measure identified, if any, to reduce the impact to less than significance, with sufficient description to briefly explain how they reduce the effect to a less than significant level.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063(c)(3)(D) of the Guidelines). In this case, a brief discussion should identify the following:

- a) Earlier Analysis Used. Identify and state where they are available for review.
- b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
- c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

E. EVALUATION OF ENVIRONMENTAL IMPACTS:

| 1. AESTHETICS Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|--|-------------------------------------|---|----------------------------------|---------------|
| a) Have a substantial adverse effect on a scenic vista? | | | | X |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | | | | X |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | | | | X |

Summary:

The Housing Element has been updated to report on the County's progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

The Specific Plan for Areas of Environmental Significance and the Open Space and Scenic Route Elements to the County General Plan provide an inventory and generalized mapping of the scenic resources and describes scenic resource protection measures for the County. Based upon a review of these documents and the proposed actions in the Housing Element update, the adoption and subsequent implementation of the Housing Element update would not adversely affect scenic vistas, scenic resources, visual character, or create light/glare on a specific site or community in the unincorporated area, because it would not result in development of a specific site or alter a community. Any possible impacts on aesthetics are within the parameters already assessed in the Environmental Impact Reports (EIRs) prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| <p>2. AGRICULTURE AND FOREST RESOURCES</p> <p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</p> | <p>YES: Potentially Significant Impact</p> | <p>NO: Less Than Significant with Mitigation</p> | <p>NO: Less Than Significant Impact</p> | <p>NO: No Impact</p> |
|--|--|--|---|----------------------|
| <p>a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</p> | | | | <p>X</p> |
| <p>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</p> | | | | <p>X</p> |
| <p>c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined by Public Resources Code section 4526)?</p> | | | | <p>X</p> |
| <p>d) Result in the loss of forest land or conversion of forest land to non-forest use?</p> | | | | <p>X</p> |
| <p>e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?</p> | | | | <p>X</p> |

Summary:

The Housing Element has been updated to report on the County's progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area, and more specifically does not propose any changes to areas of the County designated for agricultural or forestry uses.

The Conservation Element to the County General Plan provides an inventory and generalized mapping of the agricultural and forestry/timberland resources within the County and describes policies to protect those resources. Additionally, the California Department of Conservation compiles maps of important farmlands for each county in California, including Alameda County, and Alameda County has mapped land area under Agricultural Preserves or Williamson Act contracts. Based upon a review of the Alameda County Conservation Element, the California Department of Conservation Map of Important Farmlands, Alameda County's Map of Agricultural Preserves, the County has determined that the proposed actions in the Housing Element update, and the adoption and subsequent implementation of the Housing Element would not result in any direct loss of important farmlands or conversion of farmland, it would not conflict with the existing zoning districts for agricultural use, and it would not alter land under a Williamson Act contract, because it would not directly result in development of specific site. Moreover, the county has

analyzed information provided by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land and has found that no forest lands are located within or adjacent to the project area and as such the adoption and implementation of the Housing Element would not result in any direct loss of forest land or lands currently under timber preserve because the Element would not result in the development of any specific site. In addition, none of the housing opportunity sites identified in the Element are within an area identified for agricultural or timber uses. Thus, any impacts on agriculture or forestry resources would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 3. AIR QUALITY Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant with Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | | | | X |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | | | | X |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | | | | X |
| d) Expose sensitive receptors to substantial pollutant concentrations? | | | | X |
| e) Create objectionable odors affecting a substantial number of people? | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area, and more specifically does not propose any actions that would alter or have any other affect on the implementation of air quality plans.

The Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines, 1999, state that sources of air pollution emissions that comply with all applicable BAAQMD regulations generally would not be considered to have significant air quality impacts. Furthermore, the BAAQMD Guidelines state that cumulative impacts of a project are not considered cumulatively significant if the project does not require a general plan amendment and the general plan is consistent with the Clean Air Plan. The Housing Element does not require any zoning code or general plan amendments for any specific parcel, and so it does not conflict with the Clean Air Plan.¹

Sensitive receptors are defined as occupants of residences, schools and hospitals. There are opportunity sites within the Sites Inventory that are located adjacent to or near some sensitive receptors such as residential areas and schools. Sensitive receptors could be exposed to air pollutants from two sources: project construction and from vehicle emissions.

The County has several policies in place to monitor and mitigate air quality impacts associated with construction. The following items are typical conditions of approval that are imposed upon by the County for new construction projects:

- Water all exposed soils of the active construction areas at least twice daily.
- Cover loads of soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard.

¹ Page 19, BAAQMD CEQA Guidelines, December, 1999

- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and construction staging areas.
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
- Limit traffic speeds on unpaved areas to 24 km (15 miles) per hour.
- Suspend excavation and grading activity during strong winds.
- A demolition permit shall be obtained from the Alameda County Building Inspection Department prior to the demolition of any structures.
- Appropriate air quality and asbestos permits shall be obtained from the Bay Area Air Quality Management District (BAAQMD).

Adoption of the Housing Element would not result in a substantial increase in air pollutant concentrations or result in an exposure of sensitive receptors to substantial pollutant concentrations arising from vehicular use. The Castro Valley, East County, and Eden Area Plans include transportation control measures and land use policies that address air quality impacts by encouraging alternative modes of transportation, higher density development in proximity to transit service, improvements to pedestrian and bicycle facilities, traffic calming, and similar activities that the County undertakes as part of its redevelopment agency projects, capital improvements plan, and as conditions of approval for new development.

The adoption and subsequent implementation of the Housing Element update would not violate any air quality standard or contribute to an existing or projected air quality violation, it would not result in a cumulatively considerable net increase of any pollutant criteria for which the region is a non-attainment under an applicable federal or state ambient air quality standard, it would not expose sensitive receptors to substantial pollutants, and it would not create objectionable odors.

| 4. BIOLOGICAL RESOURCES Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|--|-------------------------------------|---|----------------------------------|---------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | | | | X |
| b) Have a substantial adverse effect on any riparian, aquatic or wetland habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | | | X |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | | | | X |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | | X |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | | | | X |
| g) Result in conversion of oak woodlands that will have a significant effect on the environment? | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area, and more specifically does not propose any actions that would alter or have any other affect on areas designated for the protection of biological or natural resources.

The East County Area, Central Metropolitan, Eden Area and Castro Valley Plans, the Conservation Element and the Specific Plan for Areas of Environmental Significance to the County General Plan provide descriptions and generalized maps of the biologically sensitive areas within the County and describe policies to protect them. The housing opportunity sites identified in the Housing Element are located in areas where the natural conditions were long ago disturbed in favor of urban land uses. Consistent with these patterns of urbanization, much of the area native vegetation has been removed; creeks have been culverted, diverted or undergrounded; the area has been developed with paved roadways, sidewalks, gutters, parking lots, and various structures.

Based upon a review of these documents, it can be concluded that the proposed actions in the Housing Element update, and the adoption and subsequent implementation of the Housing Element would not have any impact on any specially listed species, riparian habitat, sensitive natural community, or protected wetlands. Any impacts on biological resources would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 5. CULTURAL RESOURCES Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5. | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5. | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. | | | | X |
| d) Disturb any human remains, including those interred outside of formal cemeteries. | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area, and more specifically does not propose any actions that would alter or have any other affect on areas designated for the protection of cultural, architectural, historical, paleontological or archaeological resources.

There are sites within the project area that may be eligible for listing on the California Register of Historical Resources (CRHR). Development on the majority of the opportunity sites are subject to site-specific review of some form. Part of this review will include a review of cultural or historical resource surveys and other documents as needed to formulate an opinion about a site’s, location, design, setting, materials, workmanship, feeling, and association with significant persons or events as provided in the Secretary of the Interiors Guidelines for Archaeology and Historic Preservation. Projects involving properties that appear eligible for listing for the CRHR will be required to have an assessment performed by a consultant qualified to make a determination about the site’s significance based on the appropriate State or Federal standards. Should this review find that the project may cause an impact to a cultural or historical resource; the County may impose mitigations as a condition of approval.

Native American archaeological sites have been found in the project area; therefore, it is possible that development on one of the opportunity sites could have an impact on archaeological, paleontological, or geologic resource, or disturb human remains. Under the County’s standard condition of approval, the project sponsor is required to notify construction personnel about the possibility of unearthing archaeological, paleontological, geologic resources, or to disturb human remains. Should such resources be identified, the sponsor is required to halt construction related activity in the area and to consult with a qualified archaeologist or geologist to assess the site and to determine the nature of the discovery. Should the consultant determine that there are substantial impacts to a resource; mitigation measures recommended by the archaeologist and approved by the planning director will be implemented.

Adoption and implementation of the Housing Element would not result in disturbance of known significant archaeological or paleontological resources, and it would not result in disturbance of known sites with human remains. Any impacts on cultural resources would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 6. GEOLOGY AND SOILS Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|--|-------------------------------------|---|----------------------------------|---------------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | X |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault. Refer to Division of Mines and Geology Special Publication 42. | | | | X |
| ii) Strong seismic ground shaking. | | | | X |
| iii) Seismic-related ground failure, including liquefaction. | | | | X |
| iv) Landslides. | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil. | | | | X |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. | | | | X |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property. | | | | X |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water. | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

The Seismic and Safety Elements to the County General Plan an inventory provide a generalized mapping of landslides, unstable soils, and seismic hazards in the County, and describes policies to protect people and structures from such hazards. The United States Geological Survey (USGS), the State Board of Geologists and Geophysicists, and the State Mining and Geology Board also provide maps and data pertaining to faults within the project area. This data shows that there are areas within the unincorporated County that may be subject to geologic and seismic risk. Should such risks be identified by the County, the project sponsor will be required to consult with persons qualified to assess the specific hazard and to develop appropriate mitigations to ensure that the project complies with relevant County and State standards for development in areas with geologic or seismic hazards.

Based upon a review of the Seismic and Safety Elements, USGS map data and the proposed actions in the Housing Element update, the adoption and subsequent implementation of the Housing Element update would not expose people or structures to potential substantial adverse effects involving earthquakes and

seismic-related activity, it would not result in soil erosion or loss of topsoil, and it would not result in placing structures on unstable soils, because it would not directly result in development of specific site or alter a community. Any potential impacts to geology or soils would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 7. GREENHOUSE GAS EMISSIONS Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|--|-------------------------------------|---|----------------------------------|---------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | | | X | |
| b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases? | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area. The following paragraphs summarize the steps that the County has or will undertake to reduce greenhouse gases.

The County’s Housing Plan, as provided within the Housing Element, describes the various goals, policies, and actions that the county will undertake during the planning period to “minimize the adverse environmental impacts of residential development” which includes the reduction of greenhouse gases (GHG).²

Alameda County is developing amendments to the Castro Valley and Eden Area plans that will propose strategies and programs to reduce GHGs as required by Assembly Bill 32 (Nunez, 2006) and Senate Bill 375 (Steinberg, 2008). While these documents have not been adopted by the Board of Supervisors, staff has reviewed drafts of these documents in an attempt to ensure consistency between each of these General Plan documents as required by State law. Likewise, the staff and consultants responsible for the Castro Valley and Eden Plans have evaluated the draft Housing Element and the Sites Inventory and have incorporated the population and housing projections into their GHG models.

The County recently amended its Ordinance to include policies to reduce greenhouse gases and the effects of climate change. The Green Building Ordinance (Chapter 15.08, Section 460) requires that new residential construction over 1,000 square feet meet green building standards as required by a third party rating agency such as LEED or GreenPoint.

The County is currently developing a Community Climate Action Plan (CAP) that will provide the foundation for its GHG reduction goals through specific policies, programs, and actions. The plan will: identify and prioritize actions to reduce emissions from multiple action areas, such as building energy use, transportation systems, and waste disposal; estimate each action's effect on emissions, costs/savings, and other criteria (e.g., impacts on service delivery, public health, advancement of other goals/priorities); build on the County's greenhouse gas emissions inventories, which establishes baseline GHG emissions level; and contain performance targets that will be tracked and reported on. Adoption of the Community CAP is expected in March 2010.

The Housing Element, if adopted, must be consistent with, and would therefore be dependent upon, the Eden Area Plan and the Castro Valley Plan. These two plans in turn must legally demonstrate reduction in GHG emissions in conformance with current State and Federal law, and along with the proposed CCAP must result in reductions of GHG emissions to 1990 levels by the by Year 2025 or earlier, in order to achieve a less-than-significant impact on GHG emissions. The Housing Element could have no greater impact on GHG emissions than the underlying Area General Plans on which it depends, and thus would have a less-than-significant effect on GHG emissions.

| 8. HAZARDS AND HAZARDOUS MATERIALS Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|--|-------------------------------------|---|----------------------------------|---------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. | | | | X |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. | | | | X |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. | | | | X |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment. | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area. | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area. | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. | | | | X |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

The Seismic and Safety Elements to the County General Plan an inventory provide a generalized mapping of hazardous land uses and fire areas and describes policies to protect people and structures from hazardous materials and the threat of fire in the County. Based upon a review of the Seismic and Safety Elements, the Airport Land Use Plan, and the proposed actions in the Housing Element update, the adoption and subsequent implementation of the Housing Element update would not expose people or structures to potential substantial adverse effects involving hazardous materials or fire. Any potential impacts to geology or soils would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 9. HYDROLOGY AND WATER QUALITY Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Violate any water quality standards, conflict with water quality objectives, fail to meet waste discharge requirements, or otherwise cause significant degradation of beneficial uses of surface water bodies or groundwater, including public uses, aquatic, wetland and riparian habitat? | | | | X |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | | | | X |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (i.e. within a watershed)? | | | | X |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff (e.g., due to increased impervious surfaces) in a manner which would result in flooding on- or off-site (i.e. within a watershed)? | | | | X |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems due to changes in runoff flow rates or volumes? | | | | X |
| f) Result in a significant increase in pollutant discharges to receiving waters (marine, fresh, and/or wetlands) during or following construction (considering water quality parameters such as temperature, dissolved oxygen, turbidity, and typical stormwater pollutants such as heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)? | | | | X |
| g) Result in an increase in any pollutant for which a water body is listed as impaired under Section 303(d) of the Clean Water Act? | | | | X |
| h) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | | | | X |
| i) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | | | | X |
| j) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | | | | X |
| k) Inundation by seiche, tsunami, or mudflow? | | | | X |

Summary:

The Housing Element has been updated to report on the County's progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

A review of the following documents was conducted in order to assess potential impacts to hydrologic and water resources: the County's General/Specific Plan policies and related maps; the Seismic and Safety Elements, the Specific Plan for Areas of Environmental Significance; the Watercourse Protection Ordinance, maps from the Federal Emergency Management Agency (FEMA), and Public Works Agency data on storm drainage and flooding. Based upon a review of the aforementioned documents and the proposed actions in the Housing Element update, the adoption and subsequent implementation of the Housing Element update would not expose people or structures to potential substantial adverse effects from flood hazards, nor would they violate adopted water quality or waste water standards, alter existing drainage patterns, or exceed planned flows of stormwater runoff for drainage systems. Any impacts on hydrologic and water resources would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 10. LAND USE AND PLANNING Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Physically divide an established community. | | | | X |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. | | | | X |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan. | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. The Housing Element does not require any revisions to zoned density or General Plan Designation for any parcel. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

The Housing Element does not physically divide an established community, nor does it conflict with any established State, Federal or County land use plan, policy or regulation which was adopted for the purpose of mitigating or avoiding an environmental impact. Any impacts on land use would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans. Moreover, the adoption and subsequent implementation of the Housing Element would not require any modifications to existing zoning or general plan designations for any parcel contained therein.

| 11. MINERAL RESOURCES Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. | | | | X |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area, and more specifically does not propose any actions that would result in a loss of the availability of a known or locally-important mineral resource.

The East County Area, Central Metropolitan and Castro Valley Plans, and the Conservation Element provide descriptions and generalized maps of the known mineral deposits within the County and describe policies to manage their extraction. Based upon a review of these documents it can be concluded that the proposed actions in the Housing Element update, and the adoption and subsequent implementation of the Housing Element would not have any impact on any known or locally-important mineral resource. Any impacts on mineral resources would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 12. NOISE Would the project result in: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. | | | | X |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels. | | | | X |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. | | | | X |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels. | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels. | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. The Housing Element does not require any revisions to zoned density or General Plan Designation for any parcel. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area, and more specifically does not propose any actions that would increase current noise levels.

The East County Area, Central Metropolitan and Castro Valley Plans, and the Noise Element provide an inventory and mapping of noise sensitive land uses and establishes compatibility guidelines for land use and noise. Based upon a review of these documents it can be concluded that the proposed actions in the Housing Element update, and the adoption and subsequent implementation of the Housing Element would not result in noise levels in excess of established standards in the County General Plan. Any impacts on noise would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 13. POPULATION AND HOUSING Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | | | | X |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. The Housing Element does not require any revisions to zoned density or General Plan Designation for any parcel. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

Although the Housing Element update will facilitate housing through policies and programs that may result in more intensive use of land, any impacts on population and housing would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 14. PUBLIC SERVICES Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|--|-------------------------------------|---|----------------------------------|---------------|
| a) Fire protection. | | | X | |
| b) Police protection. | | | X | |
| c) Schools. | | | X | |
| d) Parks. | | | X | |
| e) Other public facilities. | | | X | |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area. The Housing Element does not require any revisions to zoned density or General Plan Designation for any parcel. Its purpose is to facilitate development of housing opportunities within the unincorporated area that the County General Plan has already determined are suitable and planned for residential development.

The County General Plan assumes that the areas identified as appropriate for residential uses will have a basic level of public services to support new residential development, and requires that approval of new development will be conditioned on mitigating their impact on public services that would be generated by the development. The adoption and subsequent implementation of the Housing Element update would not alter the ability to maintain acceptable levels of public services as defined in the County General Plan.

Although the Housing Element update would facilitate housing through policies that may result in more intensive use of land, any impacts on public services would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| <p>15. RECREATION Would the project:</p> | <p>YES: Potentially Significant Impact</p> | <p>NO: Less Than Significant With Mitigation</p> | <p>NO: Less Than Significant Impact</p> | <p>NO: No Impact</p> |
|---|--|--|---|----------------------|
| <p>a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.</p> | | | <p>X</p> | |
| <p>b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.</p> | | | <p>X</p> | |

Summary:

The Housing Element has been updated to report on the County’s progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

The County General Plan assumes that the areas identified as appropriate for residential uses will have a basic level of park and recreational facilities to support new residential development, and requires that approval of new development will be conditioned on the applicant’s either providing funding via park dedication fees or by the granting of land to support the increased demand for such services. The adoption and subsequent implementation of the Housing Element update would not alter the ability to maintain acceptable levels of parks and recreational facilities as defined in the County General Plan.

Although the Housing Element update would facilitate housing through policies that may result in more intensive use of land, any impacts on parks and recreation services would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 16. TRANSPORTATION/TRAFFIC Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|--|-------------------------------------|---|----------------------------------|---------------|
| a) Exceed the capacity of the existing circulation system, based on applicable measures of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | | | X | |
| b) Conflict with an applicable congestion management program, including but not limited to, level of service standards and travel demand measures and other standards established by the county congestion management agency for designated roads or highways. | | | X | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. | | | X | |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). | | | X | |
| e) Result in inadequate emergency access. | | | X | |
| f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks). | | | X | |

Summary:

The Housing Element has been updated to report on the County's progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five-year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

The County General Plan assumes that the areas identified as appropriate for residential uses will have a basic transportation system to support additional residential development. The County General Plan also requires that approval of new development will be conditioned on mitigating impacts on the transportation system that would be generated by the new development. These mitigations include a cumulative traffic impact fee, and sidewalk and roadway improvements. The adoption and subsequent implementation of the Housing Element update would not alter the ability to maintain acceptable levels of traffic service as defined in the County General Plan.

Although the Housing Element update contains policies and programs, which facilitate a more intensive use of land that could generate impacts on transportation/traffic systems, any impacts on transportation and traffic would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| 17. UTILITIES AND SERVICE SYSTEMS Would the project: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board. | | | X | |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. | | | X | |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed. | | | X | |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | | | X | |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs. | | | X | |
| g) Comply with federal, state, and local statutes and regulations related to solid waste. | | | X | |

Summary:

The Housing Element has been updated to report on the County's progress in meeting existing goals and objectives for housing in the unincorporated area, to incorporate new data for the five- year period covering 2009 to 2014, and to define policies, programs, and other actions to meet goals and objectives for the period covering 2009 to 2014. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area.

The areas identified as appropriate for residential uses will have a basic level of utilities and service systems to support new residential development. The Housing Element update does not involve the disturbance of land, installation of facilities, or construction of any buildings or improvements. The adoption and subsequent implementation of the Housing Element update would have no effect on the utility requirements or on the state of compliance of local utility provision with federal, state and local statutes, regulations, and policies.

Although the Housing Element update would facilitate housing through policies that may result in more intensive use of land, any impact on utility and service systems would be indirect or within the parameters already assessed in the EIRs prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans.

| | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---|-------------------------------------|---|----------------------------------|---------------|
| <p>18. MANDATORY FINDINGS OF SIGNIFICANCE</p> | | | | |
| <p>a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</p> | | | | X |
| <p>b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)</p> | | | X | |
| <p>c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</p> | | | | X |

Discussion

The proposed project, which is the update of the Housing Element in the County General Plan, will not have a significant new impact on the environment, nor will the project have a significant new cumulative impact. The adoption and implementation of the Housing Element will not require any changes to existing zoning or general plan designations for any parcel identified therein.

E. SOURCES

The following references (which are available for review at the Alameda County Planning Department 224 West Winton Avenue, Room 111, Hayward, CA 94544) were consulted to prepare the Initial Study Checklist:

- General Plan, County of Alameda (Land Use and Circulation Elements), adopted May 26, 1966. Amended August 27, 1969; June 6, 1974; October 10, 1974; November 3, 1977; August 8, 1978; January 4, 1979; December 16, 1980; November 3, 1984; and April 5, 1984.
- Castro Valley Plan, adopted June 15, 1961. Amended January 29, 1974; August 8, 1978; April 4, 1985; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- Livermore-Amador Valley Planning Unit General Plan, adopted November 3, 1977. Amended January 4, 1979; December 16, 1980; November 3, 1983; April 5, 1984; December 12, 1989. Superseded by the East County Area Plan, adopted May 5, 1993; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- General Plan for the Central Metropolitan, Eden and Washington Planning Units, adopted January 13, 1981. Amended November 3, 1983.
- Unincorporated Eden (Portion) Area Plan, adopted November 3, 1983.
- Housing Element, adopted October 2, 2003
- Park and Recreation Element, adopted June 12, 1956. Amended November 21, 1968.
- Scenic Route Element, adopted May 5, 1966.
- Open Space Element, adopted May 31, 1973. Amended December 12, 1989.
- Conservation Element, adopted January 8, 1976. Amended November 23, 1976.
- Seismic Safety Element, adopted January 8, 1976. Amended August 5, 1982.
- Seismic and Safety Elements, adopted January 8, 1976. Amended August 5, 1982.
- Noise Element, adopted January 8, 1976.
- Alameda County Assessor's Williamson Act Subvention data as of December 31, 2008.
- Fairview Area Specific Plan, adopted September 4, 1997.

RESPONSE TO LETTER 4

The comments from the California Department of Transportation (CalTrans) do not question the adequacy of the Draft Initial Study/Negative Declaration, but rather describes the general requirements that are imposed on individual development projects requiring roadway improvements. As the draft Housing Element does not propose the development of any specific site, no mitigations are required. No additional action is required.

ADDENDUM

Comments and Responses to the Initial Study and Negative Declaration

This chapter includes a reproduction of, and response to, each letter received during the public review period. Each letter is reproduced in its entirety and is immediately followed by responses to the comments in it. The letters are presented in the order that they were received.

DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

**CEQA Filing Fee No Effect Determination Form**

Date Submitted: October 26, 2009

Applicant Name: Alameda County Community Development Agency

Applicant Address: 224 West Winton Avenue, Room 111, Hayward, CA 94544

Project Name: Alameda County Housing Element Update (2009-2014)

CEQA Lead Agency: Alameda County Community Development Agency

CEQA Document Type: Negative Declaration

SCH Number and/or local agency ID number: TBD

Project Location: Although the Alameda County Housing Element covers the entire unincorporated portion of Alameda County (County), its goals policies and actions are limited to areas within the County's Urban Growth Boundary established by Measure D (approved by the voters of Alameda County 2000, adopted by the County's Board of Supervisors 2002). Measure D limits intensive lands uses to the western, heavily urbanized portions of Alameda County which includes the incorporated cities of: Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton and Union City, as well as the unincorporated urban areas of Castro Valley, Fairview, San Lorenzo, Ashland, and Cherryland.

Brief Project Description: State-law requires each city and county to adopt a general plan containing at least seven elements including housing. Unlike the other mandatory general plan elements, a housing element, must be updated every five years, and is subject to detailed statutory requirements and mandatory review by the State Department of Housing and Community Development (HCD). The Alameda County Housing Element is the primary housing policy document for the unincorporated portions of the County and it provides a comprehensive strategy for promoting the development, preservation, and rehabilitation of safe, decent and affordable housing for all residents. Alameda County has prepared a Draft Housing Element to cover the period from July 1, 2009 to June 30, 2014.

The adoption and implementation of the Housing Element does not propose or require any changes to existing Zoning or General Plan designations for any parcel.

Describe clearly why the project has no effect on fish and wildlife: The County has reviewed the goals, policies and actions of the Housing Element and has concluded that the adoption and implementation of the Housing Element would not pose any threat to the protection of vital biotic resources in the County. Furthermore, the Housing Element Update does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area. It does not propose or require any changes to existing Zoning or General Plan designations for any parcel, and it

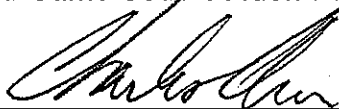
does not grant any entitlements to a specific project or site. Projects that occur on a site identified in the Housing Element Sites Inventory may be subject to more intensive environmental review; and all projects must comply with applicable Federal, State and County environmental laws and policies.

Determination: Based on a review of the Project as proposed, the Department of Fish and Game has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final, and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

DFG Approval By:



Charles Armor
Regional Manager
Bay Delta Region

Date: October 29, 2009

RESPONSE TO LETTER 1

The Department of Fish and Game has determined that the Alameda County Housing Element Update would not have a "potential effect on fish, wildlife and habitat." No additional action is required.

LETTER 2

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

From: Jewell Spalding [REDACTED]
Sent: Monday, November 02, 2009 3:21 PM
To: Glenn Kirby; Glenn Kirby; Kathie Ready; Ken Carbone; [REDACTED];
alaneloisel@comcast.net; Rich Rhodes; McElligott, Elizabeth, CDA
Cc: Lopez, Albert, CDA; Palmeri, Maria, CDA; [REDACTED]; Bazar, Chris, CDA;
gail.steeleg@acgov.org; Nate Miley; Lai-Bitker, Alice, Supv BOS Dist 3; Kaplan, Seth, BOS
Dist. 4; Swanson, Bob, BOS Dist 4; Lewis, Alison, BOS Dist 2; Wilson, Shawn, BOS Dist 3; Dawn
Clark-Montenegro; Charles & Ruby Snipes; Suzanne Barba; Howard Beckman
Subject: Initial Comments on Draft Housing Element Update & Initial Study/Negative
Declaration

Dear Mr. Chairman Kirby and Ms. McElligott,

I would have included Commissioner Frank Imhof on this message, however, staff did not have an email contact for him. By copy this is to request that staff provide Commissioner Imhof with a copy of this correspondence for your meeting this evening. I also telephoned Elizabeth McElligott this morning, but apparently she has not had an opportunity to return my telephone call. Although I would like to attend the hearing on this matter, due to other pre-existing obligations at this time and the short notice that you would be addressing this today, I am unsure whether I can attend.

This is to initially address the "Initial Comments on Draft Housing Element Update & Initial Study/Negative Declaration" dated October 23, 2009 which was distributed on Wednesday afternoon, October 28, 2009 to members of the Board of Zoning Adjustment. First, I would like to point out that providing two to three business days to review over 200 pages single spaced, a 123 page single spaced report, approximately eight single spaced appendices exceeding 35 pages, and six inventories totaling over 62 pages, for a hearing to be held on Monday, November 2, 2009 is simply an inadequate amount of time. Given these circumstances, this is to urge you to continue this hearing to allow the public to present to you more substantive comments after having an adequate time for review.

Initially, this also is to urge you to require that staff provide a full EIR on this project. Based on the draft site inventory for "all" communities, there are 795 existing housing units and a maximum additional capacity of 4,263. Applying various statements made by staff in the draft Eden General Plan, this proposal contemplates the identification of 5,058 housing units. From what I understand, although it is not readily apparent in the voluminous documents to review on short notice, is that approximately 2,167 units were identified as "needed." (See p. 55.) Given this proposal exceeds the needed number by almost 3,000 units (MORE than double needed - almost triple), a full EIR should be performed to enable you to make an informed and educated review and analysis, including the impacts which are likely from such large substantial development.

Also, excluded from the areas to provide such housing is all of the East County, and all lands south of Hayward Acres and Fairview, including Sunol. Staff should either identify for you what lands within these areas may serve the Housing Element purposes or confirm in writing that not one single parcel of land exists within these areas to contribute to the Housing Element Plan. In this regard, as to the Environmental Checklist, numbers 6 and 7, this project is site specific as identified in the October 20, 2009 Map provided and detailed inventory list.

Page 2 of the Report provides table 1-1 discussing population growth, which, without explanation, combines the unincorporated districts of Cherryland and Fairview together, although they are distinct areas which are not even physically close or adjacent to once another. The population growth for Cherryland and Fairview should be separately identified, including their numerical increase and growth. Additionally, there should be clarification as to whether the 5 Canyons development, now identified as Castro Valley but falling within Fairview is included in the growth numbers for Fairview or Castro Valley.

Beginning at page 51, under "Environmental and Safety Constraints," there is the identification of the County's "unincorporated urbanized areas (e.g. Castro Valley), most of the remaining undeveloped parcels are infill that have one or more physical constraints, such as slope, drainage or traffic circulation" and "must be evaluated under the environmental review process mandated" by CEQA. However, there is no EIR provided outlining alternatives or which is the least environmentally damaging. The necessity for such an examination is particularly acute given the San Lorenzo and Cherryland areas have now been newly designated floodplains, a significant consequence due to increased development (a point not recognized on page 53). Will the addition of over 5,000 housing units expand this flood plain further or raise the new water level even higher? This cannot be addressed in a "mitigated negative declaration" as proposed. By staff's own admission, this project needs an EIR yet none is provided.

Related to this is the discussion on page 52 under Hillsides and Slopes, Creeks and Watercourses and p. 53, Flooding and Mudflows. Page 52 states that "Hillsides exist in both urbanized and rural parts of the County." First, what is not apparent, is where is the definition as to what is "urban." The vast majority of areas within Fairview are zoned suburban, limited combined residential agriculture or agriculture. Is staff distinguishing between "urban" from "suburban?" What is the definition of "urban" v. "suburban." On what hillsides does "urban" development exist within each of the distinct unincorporated districts.

As to "consistency with other general plan elements and other planning documents," this plan is not consistent with the Fairview Specific Plan and Staff has agreed that the Fairview Specific Plan needs to be amended so that the implementing language actually accomplishes the stated purposes. In this regard, encouraging "mergers" of lots is not consistent with the Fairview Specific Plan or the requirement that the "prevailing" existing lot size be considered. (Compare p. B-13, principles/goal "encourage housing preservation and rehabilitation.) For that matter, any EIR should examine the consequence of mergers which can have the consequence of ripping down existing housing, creating abandoned neighborhoods and blight. Further, at page 122, it states that "the County is currently revising the Eden Area Plan, which covers the communities of Ashland, Cheryland, Fairview, Hillcrest Knolls, Mt. Eden, and San Lorenzo. In addition to Hillcrest Knolls "opting out" of the Eden Plan, according to the September 21, 2009, revised final draft, p. 1-2, the "Planning Area" for the "Eden Area is ... shown in Figure 1-2." Fairview is not included.

When the draft Eden Plan was earlier revised, it stated that "The Eden Area also includes the Fairview sub-area. However, Fairview is not included in this General Plan because a specific plan and existing conditions for Fairview can be found in the specific plan and its related documents." This is language I and others within the community relied on. Now, just recently, that language was struck and inserted is "The Eden AREA also includes the Fairview area. The 1997 Fairview Area Specific Plan contains the goals, policies, and zoning regulations that apply to this area." (9/21/09 Draft, p. 1-7.) Now, this Housing proposal states that the Eden Area Plan "covers" Fairview; there is no discussion as to consistency with the Fairview Plan which the Eden Plan states "contains the goals, policies, and zoning regulations that apply to this area."

In this regard, many of the lots identified in Fairview are located within 50 feet of creeks. This further confirms the necessity for the preparation of an EIR. The Fairview area also is home to several headwaters to various creeks in the area. In addition to failing to address the Fairview Specific Plan, the consistency section is completely silent on the proposed Creek Ordinance. Likewise, identified are large lots where the property owner has planted extensive grape fields, yet there is no environmental analysis provided as to the impact of adopting this plan on such property.

Also adjacent to this land identified as owned by a public utility is land which East Bay Regional Park identified as appropriate for a trail. (Compare Environmental Checklist: aesthetics, p. 5 & agriculture, p. 6, biological [adverse effect on riparian habitat], water quality, p. 19, public services, p. 25.)

As for satisfying the objections of the 2003 Housing Element Plan, under B-9, the report identifies the whether the program adopted was effective, such as the establishment of the Ordinance Review Advisory Committee. To date, although this committee has been ongoing, based on the information available, other than the garage conversion ordinance, not one ordinance has been generated, not even the fence issue.

In essence, this is to urge you to reject the proposal that "the proposed project will not result in any significant impacts" as stated in the Notice of Availability and Intent to Adopt a Negative Declaration. As far as the Fairview Unincorporated area, this simply is untrue and the project is inconsistent with the Fairview Specific Plan. (Compare, Environmental Checklist, identifying Fairview as "heavily urbanized," compare Fairview Specific Plan, identifying itself as "rural and semi-rural" and minimum zoning generally "suburban." Clearly, at least as to Fairview, and I believe other communities, this project would have a potentially significant impact on land use and planning, physically dividing established communities and conflicting with applicable land use policy documents, as well as inducing substantial population growth as revealed by the inventory of parcels subject to "mergers" and adversely impacting "public services" by identifying schools and other public facilities.
(Compare, Environmental Checklist, p. 24-25)

Lastly, this is to urge you to reject staff's proposal that there is "no impact" on the many issues identified in the Environmental Checklist. Starting with aesthetics: Identified are properties on Fairview which, under the Fairview Specific Plan, is designated a scenic road. Likewise, that there is "no impact" on air quality or greenhouse gas emissions is incorrect and inconsistent with the draft EIR on the Eden Plan's Air Quality Chapter which acknowledges that the proposed Eden Plan violates the Clean Air Act. Clearly this project of over 5,000 housing units would increase the use of existing parks and accelerate their deterioration as well as significantly impact transportation and traffic. (Environmental Checklist, pp. 26 - 27.)

Thank you for your consideration and I hope to look forward to examining a full EIR on this project.

Jewell Spalding
Fairview, zoned limited agricultural-residential.

RESPONSE TO LETTER 2

INTRODUCTION

The adoption of the draft Housing Element would not require any changes to the existing General Plan designation or zoned density for any parcel. State law requires that General Plan documents be internally consistent. Thus, the draft Housing Element is consistent with the policies and actions of the other current and proposed County General Plans, including the Eden Area Plan, the Central Metropolitan Plan, the Castro Valley General Plan, and the East County Area Plan. As a result, any potential environmental impacts arising from the adoption of the draft Housing Element have already been assessed in the CEQA's analysis for these County General Plans.

PUBLIC COMMENT PERIOD

The comment periods for the Draft Housing Element and the Initial Study/Negative Declaration fully comply with State law.

The draft Housing Element was released to the public on October 26, 2009 and the County has provided sufficient time to review and to comment on the document. Comments on the draft Housing Element may be submitted at any time until the document has been adopted by the Board of Supervisors; adoption is not anticipated until January 2010. In the interim, there are meetings scheduled with the Planning Commission on December 7, 2009 and the Board of Supervisors' Transportation and Planning Subcommittee on December 14, 2009 where the public may choose to comment on the draft Housing Element. Outside of these meetings, interested parties may provide their comments verbally or in writing to staff, the Planning Commission or the Board of Supervisors about the content of the Housing Element.

The comment period for the draft Initial Study/Negative Declaration began on October 26, 2009 and will end on November 30, 2009. State law requires a 20 day minimum for the circulation of an IS/ND; however, given the importance of the Housing Element and the fact that the comment period would overlap with the Thanksgiving Holiday, staff has provided a 36 day window to provide comments.

The purpose of November 2, meeting of the Planning Commission was for staff to provide the Commission and the public an overview of the changes to the document since its transmittal to the State Department of Housing and Community Development (State HCD) in July. The Commission was not expected to take action on that date. The Commissioners provided additional comments to staff about corrections and/or additions that they would like to be included in future revisions to the text. Staff will continue to take comments until the Board of Supervisors adopts the document.

ALAMEDA COUNTY'S REGIONAL HOUSING NEED

On pages ii and 76 of the draft Housing Element, the County briefly describes its housing needs for the 2009-2014 planning period. Under California Housing Element law (Government Code Section 65584) the regional Council of Government (COG) determines the projected housing need for all localities in its defined region. Here, the COG is the Association of Bay Area Governments (ABAG). Thus, housing need is not determined by the County, but rather by ABAG pursuant to its Regional Housing Needs Allocation (RHNA) process.

Under Housing Element law (Government Code Section 65583) the County is required to identify parcels with sufficient development capacity to meet its identified RHNA number as provided by ABAG. The County must perform a Sites Inventory and Capacity Analysis that demonstrates the County's capacity to meet its RHNA within the planning period. If the County is unable to meet its RHNA, then the County must describe the actions that it will undertake within one year of the adoption of the Housing Element, to

either identify additional housing sites, or if no available parcels exist, to rezone parcels at densities sufficient to meet the RHNA.

THE DRAFT SITES INVENTORY AND CAPACITY ANALYSIS

Realistic Development Capacity

The Sites Inventory lists those parcels that the County has determined are available and suitable for development within the planning period, and that have the potential to accommodate the County's RHNA of 2,167 additional units of housing. The development capacity proposed by the draft Housing Element is neither 5,058 units, nor is it 4,263 additional units of housing, but rather 2,398 (see Table III-5, page 84). The maximum capacity of 4,263 is a theoretical maximum that is infeasible given the provisions of the Building, Zoning, and Subdivision Ordinances, and various General Plan requirements. Ms. Spalding is correct that Staff calculated the maximum additional capacity and identified it in the Sites Inventory and Capacity Analysis; however, to achieve that level of development the County would either have to forgo any existing yard, setback or parking requirements; or rezone the identified parcels to higher densities. None of these actions are proposed in the draft Housing Element. The maximum capacity provided in the Sites Inventory table has been calculated to provide the basis of the "realistic development capacity". A description of the how staff determined realistic development capacity is provided in Chapter III, pages 80-82. Staff will review the language in the Housing Element to make sure this distinction is clear.

Excess Capacity

The development capacity proposed by the Housing Element does not exceed the County's RHNA number by 3,000 units. In Table III-6 on page 86, staff has provided a summary of the County's status in meeting its RHNA numbers. According to this table, the County has exceeded its RHNA by 1,340 units. There have been numerous discussions by the Planning Commission about the need to exceed the RHNA, and while the County is not required to do so, staff contends that providing a cushion is reasonable for the following reasons:

- The County must maintain an inventory of sufficient sites to accommodate its RHNA throughout the planning period. This is particularly important when one considers that 982 out of the 2,398 of the identified housing capacity are on parcels identified as Mixed Use (residential/commercial) zoning districts. If any of these parcels are developed exclusively for commercial uses, the County will have to demonstrate that it has enough surplus capacity to cover the lost residential development potential, or take actions to "make up" lost housing capacity under Government Code Section 65863 (b & c).
- Under Assembly Bill 2348 (AB 2348), Mullin, 2004, the County must also demonstrate that it has sites zoned at an appropriate density to accommodate affordable housing. Under AB 2348, sites zoned at least 30 dwelling units per acre are considered the minimum density to develop housing that may be affordable to extremely low-income households. Coincidentally, many of these sites are in Mixed Use districts. As was stated in the prior paragraph, any loss in residential capacity must be resolved under the "no net loss statute", Government Code Section 65863.
- Some of the excess capacity is due to the County's use of the "Alternative Adequate Sites" requirement. Under this requirement jurisdictions may credit a portion of their substantially rehabilitated, preserved affordable housing stock towards the attainment of its RHNA. While the County has proposed a credit of 219 units under this provision, State HCD in its comments dated September 25, 2009 has indicated that the County may not be able to credit some or all these housing units under the 2009-2014 planning period.

- The Illustrated Design Guidelines may provide additional constraints on developments, particularly for multifamily housing. While it is unclear what impact these guidelines will have on residential development capacity, staff has determined that there should be a buffer to cover lost residential development capacity.

In conclusion, the current buffer of 1,340 housing units 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 (HCD) recommends that jurisdictions produce an inventory with a buffer of at least 20% more than its calculated regional housing need (RHNA). The State HCD 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

HOUSING ELEMENT BOUNDARY

Parcels south of Hayward Acres and south of Fairview were excluded because they are part of the City of Hayward, not unincorporated Alameda County, and therefore not subject to the County’s Zoning Ordinance or General Plan. Parcels within East County (including Sunol) have not been included in the Sites Inventory due to the growth controls imposed by Measure D, 2002. Land in East County is zoned Agricultural, and may have additional General Plan designations such as “Large Parcel Agriculture”, “Resource Management”, etc. Building site status generally requires a 100 acre minimum parcel size, and many of these areas may not be appropriate for the development of housing for a variety of reasons such as lack of frontage on an approved County road, insufficient water supply, the presence of protected wildlife or vegetation, etc. Moreover, many of these lands are protected farmlands, and are under Williamson Act Contract. Thus given the various environmental and regulatory constraints on parcels within the East County area, parcels within East County were not included as a part of staff’s analysis.

CENSUS DATA

The commenter takes issue with the combining of Fairview and Cherryland in its demographic analyses. The County does not produce its own demographic data, and must rely upon data from the Census to provide information about the demographic make-up of the unincorporated areas. The 2000 Census made determinations regarding Fairview and Cherryland that required the data to be analysed in combination. After the 2010 Census, this will no longer be the case, but until that Census is complete, we must use the data that is provided. Staff will verify whether or not Five Canyons was included for data reported for Fairview or Castro Valley.

FAIRVIEW AREA

The draft Housing Element does not propose any goal, policy or action that would conflict with the Fairview Area Specific Plan.

The Use of the Terms Urban, Rural and Suburban

The draft Housing Element does not provide a definition of rural, urban or suburban. The Draft Housing Element glossary will be revised to include definitions of urban and rural as they are specifically mentioned in the draft. As part of their analysis, staff used the definitions for urban and rural development as provided in the East County Area Plan, as amended by Measure D, 2002. Generally speaking urban areas refer to those areas served by existing public infrastructure i.e. roadways/streets,

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

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

lighting, water, and sewer services. Urban areas are those areas that permit densities greater than 1 dwelling unit per acre. All of the parcels that were identified in the Sites Inventory that are located in Fairview have permit densities of 1 dwelling unit or more per acre, and thus may be referred to as “urban” under the definition provided in the East County Area plan. None of these sites are combined with the L district indicating that they are intended for limited agricultural uses.

Finally, on page 2 of the Fairview Area Specific Plan, under section ” A. Extent of the Urban Area”, the document states, “The line delineating the boundary between agricultural and residential land uses (Urban Area Boundary) shall be the limit of urban development within the Fairview Area. The Urban Area Boundary is intended to be permanent and to define the line beyond which urban development is not allowed.” None of the lands identified in the draft Housing Element Sites Inventory lie beyond the Urban Area Boundary as specified in the Fairview Area Plan, and thus urban development is permitted for these parcels under the plan.

Lot Size and Mergers within the Fairview Area Specific Plan

Ms. Spaulding’s statement that “prevailing existing lot size be considered,” is not clear. The draft Housing Element does not propose lot sizes less than those established in the Fairview Area Specific Plan.

There is no language within the Fairview Area Specific Plan that prohibits or discourages lot mergers. The draft Housing Element includes a listing of parcels that may be merged; however, there is no requirement that these parcels be combined. The Sites Inventory sub-table identifies those parcels that are adjacent or contiguous with one another, and thus may be candidates for merger, lot-line adjustment, or subdivision. Whether or not an individual or group actually purchases parcels with the intent of reconfiguration is not determined by the County, but rather by market forces outside of its purview. The realignment of parcels via merger, boundary adjustment, or subdivision is subject to review per the County’s Zoning and Subdivision Ordinances. In order for a parcel that has been reconfigured to retain its building site status, the resultant parcels must be consistent with the applicable Zoning and General Plan requirements, otherwise the applicant would need to apply for rezoning or a variance, which are both subject to public hearing, to establish building site status.

Consistency of the Draft Housing Element with the Fairview Area Specific Plan

Under State law, all areas within a jurisdiction must be covered under a General Plan. Although Fairview is part of what is referred to as the Eden Area, Fairview is not included in the existing Eden Area (portion) Plan, (adopted in 1983). Rather, the Fairview area is covered by the General Plan for the Central Metropolitan, Eden, and Washington Planning Units (adopted in 1981). In addition, more specific standards, policies, and goals are provided in the Fairview Area Specific Plan. Land use policies in Fairview are not being revised as part of the current update to the Eden Area Plan.

Thus, page 122, of the draft Housing Element will be revised to state, “In addition, the County is currently revising the Eden Area Plan. The plan update will covers the communities of Ashland, Cherryland, Fairview, Hillcrest Knolls, Mt. Eden, and San Lorenzo, as well as other small unincorporated pockets in the area. Although Fairview is considered part of the Eden Area, the Fairview Area is not included in the existing Eden Area Plan, the current update to the Eden Plan. The 1997 Fairview Area Specific Plan contains the land use goals, policies and zoning regulations that apply to this area.”

ORDINANCE REVIEW COMMITTEE

The Ordinance Review Committee was established following the adoption of the 2003 Housing Element to vet changes to the Zoning Ordinance. The respondent’s comments about the committee are duly noted.

ENVIRONMENTAL ANALYSIS OF THE DRAFT HOUSING ELEMENT

The commenter requests that the County perform a full EIR to determine the impact of large scale residential development; however an EIR is not required. The adoption and implementation of the Housing Element would not require changes to present zoning for any parcel or any amendments to the County's General Plan. As a result, the existing conditions and policies described in the County's current, adopted General Plan would be maintained. Furthermore, the Housing Element does not grant any entitlements or building site status to any parcel contained therein. Individual projects which may (or may not) be proposed during the Housing Element period will be subject to evaluation under the California Environmental Quality Act (CEQA), will be analyzed for compliance with the County's Zoning, Building, Grading and Subdivision Ordinances, and will be judged for their consistency with the County's General Plan. As a part of its analysis conducted for the Initial Study/Negative Declaration (IS/ND), the County relies on previous EIRs for the other General Plan Elements, including the current Eden, East County, the Central Metropolitan, and Castro Valley Area Plans.

Although the draft Housing Element requires environmental analysis under CEQA, the Housing Element does not propose or require the construction of additional housing. The draft Housing Element does not provide a housing production quota; rather it identifies sites that may be appropriate for the development of housing, and describes those policies and programs that the County currently administers to facilitate the development of housing. The draft Housing Element does not require any changes to the zoned density of a single parcel, change its present use, nor does it require the reconfiguration of any parcel. The Sites Inventory identifies sites whose location, current conditions, zoning, and General Plan requirements may support the development of housing. At no point, does the draft Housing Element state that an EIR is necessary.

Environmental Impacts

Creeks and Watercourses: Any development proposed on a parcel adjacent to a creek would need to comply with the County's Watercourse Ordinance, which requires a minimum setback of 20 feet from a creek. A larger setback may be required if warranted by site specific conditions such as the presence of riparian habitat. Of the 52 parcels identified within the boundaries of the Fairview Area Specific Plan, 15 are within 50 feet of a creek. Most of these are the parcels that are located on East Avenue and Kelly Street. While the Creeks Ordinance is still under development, there is no proposal under consideration that would prohibit development of a parcel located within 50 feet of a creek or watercourse. Standards may be imposed on these sites regarding siting and setbacks for proposed developments, but that does not constitute a prohibition on development. No additional action is required.

Existing Agricultural Uses: The commenter expressed concerns about properties that have other uses (such as grape fields). The Housing Element does not require that the owner of any property sell in order to accommodate a different use or a new development. In addition, as the specific property is not within an area zoned for Agricultural uses or is under Williamson Act contract, there is no requirement that the County consider the potential loss of grape fields, as a significant environmental impact for the purposes of CEQA. No additional action is required.

Trails and Open Space: None of the sites analyzed in the Sites Inventory have been identified by any public body for use as trails or dedicated opens space. No additional action is required.

Land Use and Planning: The adoption and implementation of the Housing Element will not divide an established community, as it does not propose the construction of any structure that would physically separate areas of a neighborhood from another. The draft Housing Element identifies sites within

Fairview that have been zoned to allow residential uses. The draft Housing Element does not propose any changes to the density, height, or setbacks for any parcel. No additional action is required.

Population Impacts: The Housing Element does not require any revisions to zoned density or General Plan Designation for any parcel. This programmatic update to the Housing Element does not propose any actions that would directly result in development of a specific site or fundamentally change a community within the unincorporated area. No additional action is required.

Aesthetics/Scenic Roads: Parcels within a Scenic Corridor may be developed, but must be consistent with applicable development standards. Staff could not identify any parcels within the Sites Inventory that were part of a recognized Scenic Route Corridor. No additional action is required.

Transportation: Any impacts on transportation and traffic would be indirect or within the parameters already assessed in the environmental assessments prepared for the adopted East County, Eden, Central Metropolitan, and Castro Valley Plans. Moreover, the draft Housing Element would create no additional environmental impacts beyond those analyzed in the EIRs for the draft Eden and Castro Valley Area Plans.

The draft Eden and Castro Valley plans assessed the cumulative impacts of residential, commercial and industrial growth on traffic through the year 2025. A separate EIR for the draft Housing Element would not produce any new knowledge about existing traffic/circulation conditions, or lead to additional mitigation measures. The draft Housing Element does not contradict any of the actions proposed in the draft Eden and Castro Valley Area Plans, nor would it create additional environmental impacts beyond what was assessed in these documents. The draft Housing Element is consistent with both the previously adopted plans and relies on their current policies, goals, land use designations, and zoning. No additional action is required.

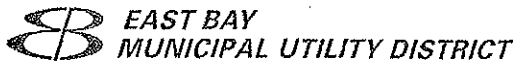
Air Quality: The draft Housing Element would create no additional environmental impacts beyond those analyzed in the EIRs for the Eden and Castro Valley Area Plans. The draft Housing Element does not identify sites where residential development may occur outside of existing residentially zoned parcels. The draft Housing Element is consistent with both the current General Plans, and it relies on its policies, goals, land use designations, and zoning. The adoption and subsequent implementation of the draft Housing Element would not conflict or obstruct implementation of the region's 2000 Bay Area Air Quality Plan and the 2005 Bay Area Ozone Strategy.

The draft Eden and Castro Valley plans assessed the cumulative impacts of residential, commercial and industrial growth on air quality through the year 2025. A separate EIR for the draft Housing Element would not produce any new knowledge about existing air quality conditions, or lead to additional mitigation measures. The draft Housing Element does not contradict any of the actions proposed in the draft Eden and Castro Valley Area Plans, nor would it create additional environmental impacts beyond what was assessed in these documents. Any mitigation measures or standard conditions of approval contained in the draft Eden and Castro Valley Area Plans would be applied to residential development activity occurring within their respective plan area. No additional action is required.

Greenhouse Gas Emissions (GHGs): The Housing Element, if adopted, must be consistent with, and would therefore be dependent upon, the Eden Area Plan and the Castro Valley Plan. These two plans in turn must legally demonstrate reduction in GHG emissions in conformance with current State and Federal law, and along with the proposed Community Climate Action Plan must result in reductions of GHG emissions to 1990 levels by the by Year 2025 or earlier, in order to achieve a less-than-significant impact on GHG emissions. The Housing Element could have no greater impact on GHG emissions than the

underlying Area General Plans on which it depends, and thus would have a less-than-significant effect on GHG emissions.

The draft Eden and Castro Valley plans assessed the cumulative impacts of residential, commercial and industrial growth on GHGs through the year 2025. A separate EIR for the draft Housing Element would not produce any new knowledge about existing conditions, or lead to additional mitigation measures. The draft Housing Element does not contradict any of the actions proposed in the draft Eden and Castro Valley Area Plans, nor would it create additional environmental impacts beyond what was assessed in these documents. Any mitigation measures or standard conditions of approval contained in the draft Eden and Castro Valley Area Plans would be applied to residential development activity occurring within their respective plan area. No additional action is required.



November 19, 2009

Elizabeth McElligott, Assistant Planning Director
Alameda County Community Development Agency
224 West Winton Avenue, Room 111
Hayward, CA 94544

Re: Notice of Availability and Intent to Adopt a Negative Declaration for Draft Alameda County Housing Element Update 2009-2014 -Revised

Dear Ms. McElligott:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Alameda County Housing Element Update 2009-2014 and the associated Negative Declaration. EBMUD has the following comments.

WATER SERVICE

The Alameda County Housing Element Update document does not reference specific development projects. Any development project associated with the Housing Element Update will be subject to the following general requirements:

Main extensions that may be required to serve any specific development projects to provide adequate domestic water supply, fire flows, and system redundancy will be at the project sponsor's expense. Pipeline and fire hydrant relocations and replacements due to modifications of existing streets, and off-site pipeline improvements, also at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department. All project sponsors should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions of providing water service to the development. Engineering and installation of new and relocated pipeline and services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

Please note that depending on the size and/or square footage, the lead agency for future individual projects within the Alameda County Housing Element Update areas should contact EBMUD to request a Water Supply Assessment (WSA) that meets the threshold of a WSA pursuant to Section 15155 of the California Environmental Quality Act Guidelines, and Section 10910-10915 of the California Water Code. EBMUD requires project sponsors to provide future water demand data and estimates for individual project sites for analysis of the

WSA. Please be aware that the WSA can take up to 90 days to complete from the day on which the request is received.

The project sponsor should be also be aware that EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants. Applicants for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the applicant must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater.

EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the applicant is insufficient EBMUD may require the applicant to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the applicant's expense.

WATER RECYCLING

EBMUD's Policy 8.01 requires that customers use non-potable water for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant life, fish and wild life to offset demand on EBMUD's limited potable water supply. EBMUD recommends that the County require developers of new or redevelopment projects within the County to coordinate and consult with EBMUD regarding the feasibility of providing recycled water for appropriate non-potable purposes.

WATER CONSERVATION

Individual projects within the Alameda County Housing Element Update may present an opportunity to incorporate water conservation measures. EBMUD would request that the County include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). Project sponsors for individual projects should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service

Elizabeth McElligott, Assistant Planning Director

November 19, 2009

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unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,



WRK
William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:AMW:sb

sb09_234.doc

RESPONSE TO LETTER 3

The comments from the East Bay Municipal Utility District (EBMUD) do not question the adequacy of the Draft Initial Study/Negative Declaration, but rather describes the general requirements that are imposed on development projects requesting water service from EBMUD.

The letter also recommends that the County consult with EBMUD on the feasibility of water recycling.

Although the County has not amended its Ordinance to include language taken from the Model Water Efficient Landscape Ordinance, it has taken several actions to promote water conservation. On June 10, 2008 the Board of Supervisors adopted a resolution establishing a goal of 75% reduction in waste going to landfills by 2010 for unincorporated areas and civic operations of the county of Alameda. Under this resolution, Bay-Friendly Landscaping Guidelines must be applied to County initiated projects and those described as "public-private partnerships." On May 5, 2009, the Board of Supervisors of Alameda County adopted the Green Building Program for unincorporated areas of Alameda County. Effective June 4, 2009, any covered projects submitted for building permit applications will be subject to Green Building standards. Projects covered under the ordinance include residential developments or additions in excess of 1,000 square feet and non-residential development in excess of 3,000 square feet. On July 14, 2009, the Board of Supervisors of Alameda County adopted Construction & Demolition Debris Management Program for unincorporated areas of Alameda County. Under this ordinance a minimum of 75% of inert solids and 50% of all other construction waste must be diverted from landfills. Vegetation and other debris associated with landscaping are subject to this requirement. As with the Green Building Ordinance, residential developments or additions in excess of 1,000 square feet and non-residential developments over 3,000 square feet are covered under this policy. Moreover, the County routinely requests comments from EBMUD about development proposals that are located within its service area. Comments received are incorporated into staff reports, and are addressed within the project's conditions of approval. Finally, the County is working on an ordinance to be based on the Model Water Efficient Landscape Ordinance to be adopted in 2010.

No additional action is required.

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711



*Flex your power!
Be energy efficient!*

November 30, 2009

ALAGEN244
SCH#2009102085

Ms. Elizabeth McElligott
Community Development Agency
Alameda County
224 West Winton Avenue, Room 111
Hayward, CA 94544

Dear Ms. McElligott:

Alameda County Housing Element Update (2009-2014) – Negative Declaration

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Alameda County Housing Element Update. The following comments are based on the Negative Declaration. As lead agency, the Alameda County is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process.

Community Planning

The Department encourages Alameda County to locate housing near major mass transit nodes, in addition to having a countywide street configuration that facilitates walking and biking. We also recommend that the County refer to, "Reforming Parking Policies to Support Smart Growth," a Metropolitan Transportation Commission study funded by the Department, for sample parking ratios and strategies that support smart growth and Transit Oriented Development. Doing so will encourage alternate forms of transportation, reduce regional vehicle miles traveled and alleviate future traffic impacts on the state highways.

Encroachment Permit

Any work or traffic control within the State ROW requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction

Ms. Elizabeth McElligott/Alameda County
November 30, 2009
Page 2

plans during the encroachment permit process. See the following website link for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Mail Stop #5E.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,



LISA CARBONI
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

RESPONSE TO LETTER 4

The comments from the California Department of Transportation (CalTrans) do not question the adequacy of the Draft Initial Study/Negative Declaration, but rather describes the general requirements that are imposed on individual development projects requiring roadway improvements. As the draft Housing Element does not propose the development of any specific site, no mitigations are required. No additional action is required.