

Sonoma County Housing Advocacy Group



1930 Alderbrook Lane
Santa Rosa, California 95404
voice/fax: (707) 780-1585
e-mail: hag@hagster.org

March 10, 2009
Via E-Mail and Mail

Mr. Paul McDougal
Housing and Community Development
1800 third Street, Suite 430
P.O. Box 952053
Sacramento, CA 94252-2053

Re: Cities of Santa Rosa Draft Housing Element

Dear Paul,

Thank you for the opportunity to comment on Santa Rosa's housing element. As the largest community in the north bay, Santa Rosa's decisions on affordable housing have a significant impact for the entire region. The Housing Advocacy Group (“HAG”) and the Non-profit Housing Association (“NPH”) have worked together to analyze the city’s draft housing element and these comments are on behalf of both organizations. HAG is a voluntary association which has been advocating for affordable housing in Sonoma County for more than a decade (see www.hagster.org). NPH has been promoting affordable housing throughout Northern California for more than thirty years (see www.nonprofithousing.org).

In general, Santa Rosa has done an excellent job building housing, especially for higher income households. But the city lacks a robust, distributed inventory of sites available and suitable for development of housing affordable to lower income households. Its policies to encourage – and programs to fund – affordable housing are also weak. These weaknesses are reflected in two serious deficiencies in housing production over the past twenty years: the city has failed to create enough deeply affordable housing; and new housing developed for lower income households tends to be concentrated in existing low-income neighborhoods, while very few multi-family sites are in large areas of the city designated for upper income development.

In addition to pointing out deficiencies in the city’s draft housing element, this letter will recommend ways the city can do better: by providing additional sites, by revising its “housing allocation plan,” by conforming its density bonus ordinance to state law, by adopting a linkage fee on commercial development, and by modifying its parking requirements for new residential construction.

Adequate Sites:

The draft housing element includes an inventory of potential sites for multi-family housing. Although we have not had an opportunity to review all of these sites in detail, we are concerned

that the city has not analyzed or disclosed constraints which would affect the feasibility of future development of some of the listed sites. Many are not served by water and/or sewer. Unless the City can show that these unserved sites will, in fact, be served with water and sewer at an early point in the 2009-2014 planning cycle, we do not believe they should be included in the city's inventory of sites to meet its affordable housing RHNA.

Additionally, the City identified sites 2 acres in size or greater in its current housing element at Table 4-37 which had a "land use" designation for medium and medium high density housing. In a settlement agreement reached in 2002 in a law suit brought by HAG, the City agreed to complete the rezoning of these "housing opportunity" sites no later than 2003, but a number of these sites have not yet been rezoned. We understood that the rezonings had been completed several years ago, but when a developer on one of these sites sought approval last summer for a multi-family project which included units as affordable to lower income, the City required *the developer* to process a zoning change for the parcel. We have since learned that the City has failed to rezone other sites listed in Table 4-37 that it promised to rezone during the current housing element period.

Because the City failed to rezone these sites as promised, its new Housing Element must include a program to identify and rezone sites to address this unaccommodated RHNA housing need in addition to the sites provided to meet its 2009-2014 RHNA. See Gov. Code §65584.09. The new Housing Element fails to acknowledge this obligation. Designating and rezoning of sites to meet this unaccommodated need - which we estimate to be 500 units of multi-family housing - should be completed within the one-year time frame in §65584.09.

Furthermore, the city should ensure there are sites available for affordable multi-family development in all areas. Residential development over the past 20 years in Santa Rosa has tended to be segregated by race and class. New development in the City's northeast quadrant ("Fountaingrove" and "Skyhawk") has been almost exclusively single family detached. Schools serving that area are predominately white and middle class. Over 90% of the students in the new high school for that area - Maria Carrillo - are white; while the school district in general is about 40% non-white. Most affordable housing development has occurred on the southern half of the city. Students in schools serving those areas are already mostly low-income and non-white.

Santa Rosa's Housing Allocation Plan

The City has had a 15% inclusionary zoning requirement in effect for close to 20 years. The requirement - set out in the City's "housing allocation plan" - allows developers to pay an in lieu fee unless the project exceeds 15 acres in area. Almost no units have actually been built on-site under the City's ordinance, and there are currently no 15-acre undeveloped parcels within the city limits. The plan has, in the past, generated considerable funding for affordable development, and has contributed to the City's generally good production numbers for affordable housing. But the

city also encouraged non-profit developers to use its funding to acquire cheap land in low-income neighborhoods and discouraged affordable housing development in the new wealthier single-family areas. This has aggravated the trend towards class and race segregation in the City.

The draft element includes a commitment at H-C-1 to change the inclusionary ordinance to a unit based trigger, and to delete the current exemption for "mixed use" development. We applaud both of these proposed changes (both have come under considerable fire from developer interests, and approval is far from assured). Given the draft element's emphasis on higher density infill development, we believe these changes are essential if affordable units are to be included in the new infill residential developments. Unfortunately, the draft element does not commit to a unit level for the trigger. Whether any affordable units will result will depend on whether the trigger is 5 units per acre (good) or 20 units (poor). Other local jurisdictions have an on site inclusionary requirement for projects having 5 or more units. Most new housing developments in Santa Rosa are much less than 20 units. In order for HCD to assess whether Program H-C-1 will actually result in any affordable housing in the new infill projects, the City's housing element should be more specific about the level at which the trigger will be set. And while the ordinance should allow developers some flexibility – including an option to dedicate land inside or outside the development for the affordable units – this flexibility should encourage 1) integration of affordable units with market rate units, and 2) cooperative arrangements between market rate developers and non-profits for the construction and management of the affordable units.

Santa Rosa's Density Bonus Ordinance

The City adopted a density bonus ordinance in the 1990's. The ordinance required a developer to apply for a zoning density increase and go through a public hearing process in order to receive approval for the increased density. HCD informed the City in 1999 that state law mandated a density bonus be granted without discretionary approval, but the City essentially ignored HCD. The policy was challenged by the Housing Advocacy Group in its 2002 housing element lawsuit, and the City agreed to remove the discretionary review requirement and grant density bonuses administratively to qualifying projects. The ordinance was, in fact, amended in 2003, but has not been revised since then to reflect the major changes in Government Code 65915 made by SB 1818. So while the City apparently does not currently require a developer to seek a zoning amendment to receive a density bonus, planning staff continue to require discretionary review (including public hearings and appeals) for "concessions and incentives" requested pursuant to Gov Code 65915.

Here's a recent example: A local developer is proposing a 200-unit multi-family and townhouse development which will include 20% affordable to very low and low income and 10% affordable to moderate income. The developer has requested as an incentive/concession under 65915 that the City allow it to include a small 5,000 sq ft retail mixed use component -- as specifically allowed by 65915(k)(2) and strongly encouraged by the city's current general plan at LUL-J-3.

The City -- apparently responding to NIMBY objections to the project -- has not been willing to waive what it contends is a local requirement that mixed use approval and other concessions or incentives allowed by §65915 must be applied for and approved via the City's discretionary approval and appeal process - which will add considerable expense to the project and a year or more to the development timetable.

Most developers are very reluctant to file lawsuits over these issues, preferring instead to either abandon the project, forego the requested incentive/concession or reduce/delete the affordable units. The City's failure to conform its ordinance and policies to §65915 should be considered a "constraint" to affordable housing development. The new housing element should analyze this and other constraints and include programs to address or remove them.

The draft element states that the City will consider changing its density bonus ordinance, but says it will not do so until 2012. The ordinance needs to be revised this year.

The Commercial Linkage Fee

In its current housing element (adopted in 2002), the City recognized the need for a local funding stream to support affordable housing and included a commitment to consider adopting a fee on commercial development similar to those in effect in Napa, Sacramento, San Francisco and other cities. See H-C-4. But the new draft housing element deletes this commitment. City council members said in 2002 that Santa Rosa would impose this "commercial linkage fee" if other nearby jurisdictions did so as well. The City asked other jurisdictions to help pay the cost of the required nexus study, and all but Cloverdale did so. The study confirmed that commercial development had a strong impact on the area's housing market - particularly on affordable housing. The other large jurisdictions in the area -- Sonoma County, Rohnert Park, Petaluma, Sebastopol and Sonoma -- went ahead and adopted commercial linkage fees, but Santa Rosa has not done so. Now and for the foreseeable future the city will receive very little money from "in lieu" fees. But local funding is essential in order for projects to meet requirements in state and federal housing programs for local "share of cost." The City's decision to delete future consideration of a linkage fee from the Housing Element is difficult to fathom in this economic climate -- particularly in light of the strong linkage which the nexus survey found between new commercial development and the demand for affordable housing.

If the City is not going to consider assessing a fee on commercial development, and if the funding which it generates from "in lieu" fees is drastically lower, the housing element should analyze and address how Santa Rosa will generate the essential local funding needed for affordable housing development in the upcoming planning period.

Parking Requirements as a Constraint

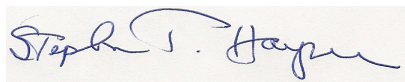
The City's zoning ordinance requires a developer to provide 1 parking space per unit for a studio or 1 bedroom and 2 spaces per unit for 2 or more bedroom units, with one space covered. In the downtown and transit-friendly areas of the city, residential development should not require more than one parking space per unit maximum. Because land is so expensive in these locations, requiring more than one space operates as a significant constraint to development. The draft housing element should analyze this parking requirement as a constraint and include a program to mitigate or remove it. We would also recommend that the city allow even further reduction of parking requirements – including allowing essentially car-free housing development in locations close to transit or downtown where ample public parking exists.

Conclusion

We would ask that HCD recommend changes to the City's draft element to address the foregoing points. We will be monitoring the process as the final version of the housing element proceeds through approvals in the Planning Commission and City Council. The composition of the City Council has changed significantly since the draft element was formulated, and we are optimistic that the new Council will be receptive to any changes that HCD would suggest.

If we can provide any further information or if you have any questions, please do not hesitate to contact us.

Sincerely,



Stephen T. Harper, Chair
Sonoma County Housing Advocacy Group



Evelyn Stivers,
Non Profit Housing Association of
Northern California

cc: Susan Gorin, Mayor
Wayne Goldberg, Director of Advanced Planning