



TO: Chair Knight and Commissioners

FROM: Steve Chase, Planning and Environmental Services Director
Anne Wells, Advance Planning Manager

CONTACT: Anne Wells, Advance Planning Manager

SUBJECT: Housing Element Amendment - Key Issues

RECOMMENDATION:

The Planning Commission's action should include the following:

1. Make recommendations to the City Council regarding key issues related to the Housing Element Amendment.
2. Make recommendations to the City Council regarding all other staff recommended revisions to the Housing Element, if desired.

DISCUSSION:

Background on State Law Requirements

All California cities and counties are required to include a Housing Element in their General Plan that establishes housing objectives, policies, and programs in response to community housing conditions and needs. State housing element law directs local governments to use their land use and zoning powers to make adequate provision for the housing needs of all economic segments of the community (Government Code §65580). Implementation of state housing policy rests in part upon the effective implementation of the housing elements of local general plans.

For contextual purposes, consider the General Plan as the "constitution" for land use decisions throughout the community. While jurisdictions must review and revise all elements of their General Plan on a regular basis to ensure that they remain up to date (generally, about every 10 to 15 years), state law requires that Housing Elements be reviewed and updated every 5 years. The process of updating Housing Elements is initiated by the state through the Regional Housing Needs Assessment (RHNA). As such, the Goleta Housing Element will be updated following the RHNA process in 2009.

State law also requires that every updated Housing Element be submitted to the State Housing and Community Development Department (HCD) to evaluate compliance with the state requirements. This certification process is unique among the General Plan

elements. When HCD determines that a housing element complies with the law it grants “certification.” The City submitted two draft Housing Elements, one in January 2005 and another in January 2006, and the adopted Housing Element in December 2006. HCD provided review letters related to each submittal that identified a number of issues to be addressed in order for HCD to conclude that the element was in compliance with the statutory requirements of housing element law (Article 10.6 of the Government Code). Many of HCD’s comment letters focused on the policies and implementing programs contained in the adopted Housing Element, as well as supporting conclusions in the background analysis contained in the Housing Element Appendices.

Status of the Housing Element and the Amendment Process

Currently, the Housing Element is adopted but it is not certified by HCD. The Housing Element meets the requirements of State law in that it was properly submitted to the State, most recently in December 2006. HCD reviewed the December 2006 submittal and provided a letter dated March 19, 2007 (Attachment 1) identifying specific issues that necessitate changes to the element in order to gain certification. Certification by HCD is voluntary; however, it affords the City protection from litigation and allows the City access to grant funding that is otherwise unavailable.

On April 16, 2007, the City Council initiated a General Plan amendment to revise the Housing Element in order to gain certification from HCD. The Housing Element is referred to as “Track 1” in the General Plan Amendment Work Program. The process for undertaking the modifications involved the following outreach efforts:

- a. Study Session with local housing experts conducted on September 20, 2007 (see Attachment 2 for summary).
- b. All-day workshop co-hosted by the Goleta City Council and Planning Commission with the State of California Department of Housing and Community Development Department (HCD) on October 5, 2007 (see Attachment 3 for summary).

The value of the two outreach activities are two-fold: (1) identify near-term modifications to the Housing Element directly in response to HCD’s Comment Letter of March 16, 2007; and, (2) identify other options and opportunities for future modifications to City housing strategies (policies, programs, etc.) that can be addressed when the Housing Element is updated again in 2009.

Since the completion of the outreach activities, staff and the City’s housing expert, Jeff Baird, have been engaged in revisions to the Housing Element in response to HCD’s comments. Key issues were identified that require Planning Commission and City Council feedback. The key issues are presented in the next section of this staff report and include options with staff recommendations. The key issues and related options take into consideration both public comment and best planning practice that ultimately address HCD comment.

The Planning Commission is asked to review those staff generated revisions, focusing on the key issue recommendations and either agree, disagree or modify them accordingly. The goal is to refine the revisions as a recommendation for Council consideration at a public meeting scheduled for March 25. Following Council direction, staff will proceed with draft revisions to be transmitted to HCD for preliminary review and feedback.

Upon receipt of HCD preliminary review comments, staff will proceed with final proposed Housing Element revisions in underline-strikethrough format. The final proposed revisions will be presented to the Planning Commission on July 14 for adoption recommendations to the City Council.

Environmental review of the Housing Element amendments will occur simultaneous with HCD preliminary review. On July 14, when the Planning Commission considers the Housing Element revisions, they will also consider the related environmental document, an Addendum to the General Plan Final Environmental Impact Report (FEIR), for certification recommendation to the Council.

The final step in the amendment process is City Council adoption of the Housing Element Amendment plus the Addendum certification. Following adoption, the final Housing Element revisions will be transmitted to HCD for certification consideration. HCD is required by State law to respond to our request for certification within 90 days.

Housing Element “Key Issues”

As previously noted, during the public workshop process and review of the comments received from HCD, key housing issues were identified and are the subject of this staff report. The key issues are related to the Housing Element, not the Technical Appendix. The proposed modifications to the Technical Appendix address requests by HCD for additional explanation, information, and clarification rather than policy direction. As such, the key issues focus mainly on the City’s Housing Element policies and programs, such as what the City’s affordable housing provisions.

Key Issues

The structure of the Housing Element workshop was on the issues identified in the March 19, 2007 HCD comment letter. Much of the discussion at the Housing Element workshop focused on inclusionary housing requirements establishing specific percentages of affordable units in market rate projects. HCD has prepared a position letter concerning inclusionary housing (Attachment 4) stating that “neither State law nor Department policy requires the adoption of any local inclusionary ordinance in order to secure approval of a jurisdiction's housing element. State law does require incentives for voluntary inclusionary development (State density bonus law), pronounces housing element law neutral relative to enactment of mandatory local inclusionary provisions, and circumscribes the responsibilities of local governments which do enact inclusionary policies.”

While the general perspective of the building industry in this regard is that market-rate builders should be provided with a choice of several options for producing the affordable homes, there also appears to be a desire on the community's part that there be some level of certainty that affordable housing reaching all income levels, including workforce, will be built. Several other concerns about missing components to the existing adopted affordable housing policies have been expressed and include:

- (1) *Apply inclusionary housing requirements uniformly throughout the City.* The current policy (HE 11.6) requires a higher affordable housing component in the mid-Hollister housing opportunity sites where land uses were rezoned from industrial-type uses to medium density residential.
- (2) *Enable flexibility in how inclusionary housing requirements are met through alternatives of equal value (such as land dedication, on-site construction, in-lieu fees, etc.).* The current policy (HE 11.4) provides flexibility via trade-offs of very low-income units for moderate-income units. Another policy (HE 11.3) provides flexibility, as a secondary priority to constructing housing onsite, via allowing construction of units off-site or the transfer of sufficient land and cash to the City or a nonprofit to develop the required number of affordable units. In-lieu fees or acquisitions and rehabilitation of existing units may also be considered under this policy. The existing policies already accommodate the concern for additional flexibility with the exception of guaranteeing the flexibility to the developer.
- (3) *Exclude rental housing from inclusionary requirements.* The current policy requires a rental component in the inclusionary requirement (HE 11.5).
- (4) *Identify a workable, financially feasible percentage and distribution of affordability for inclusionary requirements.* The current City-wide policy (HE 11.5) and the mid-Hollister housing opportunity sites policy (HE 11.6) require a 30% and 55% affordable unit percentage respectively.
- (5) *Link affordable housing to other possible City incentives or methods that encourage affordable housing, such as procedures for project review.* Additional incentives for onsite production of affordable inclusionary units are provided in existing policy (HE 11.8). These incentives include increased Floor Area Ratio (FAR) and Lot Coverage Ratio. In addition, Policy HE 10.1 includes a range of incentives such as granting a density bonus over the maximum otherwise allowable residential density where an applicant proposes to increase the affordable component of a new development. Streamlined development review is also supported in this policy. While the existing policies provide incentives, they lack the certainty and detail in exactly how the City proposes to streamline review, for example, that the development community is looking for.

The staff recommendations regarding modifications to the inclusionary housing policies are specifically intended to respond to HCD's March 19, 2007 review letter. They incorporate ideas received at workshops and written communications, as appropriate. Where public comment, written or otherwise, addressed non-HCD concerns, staff will

maintain records and will revisit the items during the 2009 comprehensive Housing Element update.

Staff Recommendations to Address Key Issues

The general approach to the housing policy amendments that are recommended by staff are to strive for a balance between prescriptive requirements and the establishment of more general standards, criteria or principles describing community expectations while allowing flexibility on a case-by-case basis. In addition, other ways to provide incentives for housing for all income levels while still assuring that other community goals are met have been included in the recommended modifications below.

Staff Recommendation #1: The objective of policy HE 10 is to provide incentives to encourage the development of long-term affordable housing. Add a new sentence to clarify that the density bonus units do not count towards inclusionary units. Staff also recommends removing policy HE 10.1 subpart b because new IP-10H better defines and provides support for project review procedures. Staff recommends modifications to housing policy HE 10.1 subpart c to clarify that the incentives provided in HE 11.8 also apply to sites using a density bonus as an incentive.

HE 10.1 Density Bonuses and Other Incentives for Affordable Housing Developments. [GP] The City will use density bonuses and other incentives consistent with state law to help achieve housing goals while ensuring that potential impacts are considered and mitigated. The City will consider the following possible incentives for residential developments where the applicant requests a density bonus over the maximum otherwise allowable residential density under the applicable zoning regulations and proposes to include the appropriate percentages of very low, low-, and/or moderate-income units on site or donate an appropriate amount of land for affordable residential development:

- a. **State Density Bonus Law.** Continue to offer density bonuses and incentives or concessions consistent with the State Density Bonus law (California Government Code Section 65915).
- b. **~~Streamlined Development~~Expedited Project Review.** Affordable housing developments shall receive the highest priority with expedited project review as specified in IP-10E., ~~and efforts will be made by staff and decision makers to (1) provide technical assistance to potential affordable housing developers in processing requirements, including community involvement; (2) consider project funding and timing needs in the processing and review of the application; and (3) provide the fastest turnaround time possible in determining application completeness.~~
- c. **Other Incentives.** In instances where a developer of a 5-acre or larger site designated as Medium-Density Residential by the Land Use Plan Map in Figure 2-1 agrees to construct additional on-site affordable

units in excess of the inclusionary unit requirements set forth in HE 11.5, the City shall consider incentives or concessions. These may include modifications in zoning requirements that will facilitate increased density, such as modifications to Floor Area Ratio (FAR), Lot Coverage Ratio, parking, setbacks, open space, and solar access requirements as specified in the zoning ordinance.

Staff Recommendation #2: Delete housing policy HE 10.3 to provide uniform inclusionary requirements throughout the City. An option to this recommendation is to retain the policy but reduce the inclusionary requirement of 55% set forth in HE 11.6. Refer to Key Issue #1 – Staff Recommendation #7 for amendment options to HE 11.6.

~~**HE 10.3 “Designated” Affordable Housing Sites. [GP]** Given the limited availability of developable land within its boundaries, housing opportunity sites or areas are designated. These sites are vacant and designated for densities of 20 units per acre or greater (see maps, policies, and programs under Policy HE 6). Development proposals on these sites may be subject to special affordability provisions, pursuant to the Inclusionary Housing Policy set forth in Policy HE 11, in recognition of the substantial increases in the land values as a consequence of rezoning of these sites from nonresidential zones to Medium-Density Residential.~~

Staff Recommendation #3: Modify IP-10D to consolidate expedited project review procedures into new IP-10E.

IP-10D Apply Density Bonus Zoning and Related Incentives. Administer the zoning ordinance provisions to encourage an increase in the supply of well-designed housing for very low-, low-, and moderate-income households. Evaluate the following:

- a. Consider requests by applicants for density bonuses and related incentives or concessions pursuant to the new zoning ordinance and consistent with state law.
- b. Maintain a tiered impact fee structure that correlates the amount of fees with the level of impacts of housing projects, including projects that have lower impacts and are more likely to be affordable by virtue of design characteristics, such as small-sized units. Consider methods to allow deferred payment of fees for affordable rental housing, and encourage other agencies to provide similar mechanisms.
- c. ~~Establish “fast track” processing procedures in the new zoning code, California Environmental Quality Act (CEQA) processing efficiencies, and other mechanisms to fit with funding requirements and encourage desirable affordable housing projects that have a significant portion of their total floor area committed to affordable housing. Consider opportunities to streamline environmental review for individual residential projects, such as~~

~~preparation of specific plans and specific plan EIRs, particularly in the North Willow Springs and mid-Hollister areas.~~

Time period: Through 2009

Responsible party: Planning and Environmental Services Department

Staff Recommendation #4: Add a new housing program (IP-10E) to modify review procedures and expedite project review while still assuring excellence of design and consistency with other City policies and standards. Note that the concepts in IP-10D subpart c. are relocated to new IP-10E subpart d. to consolidate procedures for project review into one policy.

IP-10E Modify Procedures and Materials to Expedite Project Review.

Modify procedures and materials to expedite project review to encourage an increase in the supply of well-designed housing for very low-, low-, and moderate-income households. Specific procedures include, but are not limited to:

- a. Establish a “concept review” process by the Planning Commission to enable early feedback and direction for development design.
- b. Establish an “in-house” processing team to assist developments which are beneficial to the City and provide a significant number of affordable units.
- c. Create a specific project review checklist of General Plan and other City requirements appropriate for each project application submitted.
- d. Establish “fast track” processing procedures in the new zoning code, California Environmental Quality Act (CEQA) processing efficiencies, and other mechanisms to fit with funding requirements and encourage desirable affordable housing projects that have a significant portion of their total floor area committed to affordable housing.

Time period: Through 2009

Responsible party: Planning and Environmental Services Department

Staff Recommendation #5: Modify Policy HE 11.2 to include an incentive that allows for a lower income second unit for new single family homes in place of an impact fee. An option to this recommendation is to keep the incentive for the second unit in place of an impact fee but not require a deed restriction.

HE 11.2 Applicability of Inclusionary Requirements. [GP] Inclusionary requirements shall apply to residential projects as follows:

- a. Projects consisting of one individual single-family unit shall be exempt from the inclusionary requirement, except that units of 3,000 square feet

or larger, excluding area within a garage, shall be subject to payment of an impact fee, unless a deed restricted lower income second unit is provided.

- b. Projects consisting of two to four housing units shall be required to pay an in-lieu fee based on the number and sizes of the units.
- c. Projects of five or more units shall be required to construct the applicable number of units, except that the City, at its sole discretion, may allow the inclusionary requirement for these projects to be satisfied by alternative means as set forth in Subpolicies HE 11.3 and 11.4.

Staff Recommendation #6: The trend in setting inclusionary percentages in higher priced housing markets is to increase the percentage. The City's inclusionary percentage is no exception. The Housing Element sets a 30% citywide standard, with 20% falling in the very low-, low-, or moderate- income categories, much higher than other South Coast and high-priced housing market inclusionary percentages. HCD has indicated to the City that the 30% citywide and 55% mid-Hollister area inclusionary percentages are uncommon in the State and are likely to be a barrier to the construction of new units.

In light of HCD's comments regarding the City's inclusionary percentage, staff recommends modifying policy HE 11.5 subpart b. to reduce the citywide inclusionary percentage from 30% to 25% with the following distribution: 5% very low; 5% low; 5% moderate; and 10% "workforce" income categories. The "workforce" category is set at 120 to 150% of the medium income. Alternatively, the Planning Commission should consider further reduction in the "workforce" income category to 5% for a 20% citywide inclusionary percentage, a more common and justifiable (to HCD) inclusionary percentage.

The HCD letter regarding inclusionary zoning (Attachment 4) documents that local government must analyze whether inclusionary programs act as constraints to the creation of new housing. If the Planning Commission recommends retaining the existing inclusionary percentage, then further analysis of inclusionary as a constraint is required, and the regulatory and financial incentives to new development must be more detailed, time certain, and with more financial assistance guarantees in order to respond to the HCD comment letter (Attachment 1). Staff does not recommend maintaining the existing inclusionary percentage because it would be very difficult to provide the HCD-required guarantees that would justify the 30% rate.

In addition to the inclusionary percentage changes, staff recommends deletion of the reference to HE 11.6 in order to establish uniform inclusionary requirements throughout the City. See Staff Recommendation #7 for options related to HE 11.6. Staff also recommends modification to policy HE 11.5 subpart a. to allow for exemption of rental housing developments from the inclusionary requirement *if* at least 50% of the units proposed will be rented at market rate rents affordable to moderate income households, and to modify for-sale requirements.

HE 11.5 Establishment of Unit Percentages and Income Levels. [GP]
~~Except for designated affordable housing sites as set forth in HE 11.6, The~~
inclusionary housing requirement shall be as follows:

- a. Proposed rental projects shall be required to provide 5 percent of the total number of units within the project at rent levels affordable to very low- and low-income households unless at least 50% of the units proposed will be rented at market rate rents affordable to moderate income households.
- b. Proposed for-sale projects, including subdivisions for purposes of condominium conversions, will be required to provide 5 percent of the units at prices affordable to very low-income households, 5 percent affordable to low-income households, 5-10 percent affordable to moderate-income households, and 10 percent affordable to households earning 120 to 150 percent of the median income.

Requirements for provision of inclusionary units in for-sale projects for very low- and low-income households may be satisfied by providing the same number of rental units at rent levels affordable to these households.”

Staff Recommendation #7: Delete policy HE 11.6 to allow for a uniform inclusionary policy that applies citywide. An option to this recommendation is to retain the policy but reduce the inclusionary requirement of 55% to a percentage that is higher than the citywide number but lower than 55%. See note above in Staff Recommendation #6 about HCD’s feedback regarding the Goleta inclusionary percentage.

~~**HE 11.6 Inclusionary Requirement for Affordable Housing Opportunity Sites. [GP]** Vacant sites rezoned from nonresidential districts to Medium-Density Residential at 20 units per acre to meet the City’s RHNA of units for very low- and low-income households are hereby designated as Affordable Housing Opportunity Sites. These sites, shown in Figure 10A-3, include site numbers 20, 21, 24, 25, and 26. In recognition of the substantial increases in property values that may be associated with the rezonings, proposed projects on these sites shall be subject to a greater inclusionary requirement than is applicable to projects at other locations. The inclusionary requirements shall be the same percentages as the RHNA to the City for each household income category. The requirements for the affordable housing opportunity sites, including for-sale and rental projects, are as follows:~~

- ~~a. 24 percent of the units within the project shall be provided at prices or rents affordable to very low-income households.~~
- ~~b. 17 percent of the units within the project shall be provided at prices or rents affordable to low-income households.~~

~~c. 14 percent of the units within the project shall be provided at prices or rents affordable to moderate-income households.~~

~~Requirements for provision of inclusionary units in for-sale projects for very low- and low-income households may be satisfied by providing the same number of rental units at rent levels affordable to these households. Participation by nonprofit housing organizations is encouraged.~~

Housing Element Amendments

The staff recommended Housing Element amendments, in underline-strikethrough format, are presented in Attachment 5. If the Planning Commission so desires, any of Attachment 5 amendments may be pulled for consideration and direction.

Submitted By:

Approved By:

Anne Wells
Advance Planning Manager

Patricia S. Miller
Planning Commission Secretary

ATTACHMENTS:

1. HCD Comment Letter Dated March 19, 2007
2. Summary of Housing Work Session on September 20, 2007
3. Summary of Public Workshop on October 5, 2007
4. HCD Letter Regarding Inclusionary Zoning Ordinances
5. Housing Element with Staff Recommended Amendments