

TO: JAMES L. APP, CITY MANAGER
FROM: BOB LATA, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: HOUSING ELEMENT AMENDMENT
DATE: JUNE 15, 2004

Needs: To consider comments on the December 2003 Housing Element made by the State Department of Housing and Community Development (HCD). HCD is seeking an amendment to the element to address several items of information and policy.

- Facts:
1. On December 16, 2003, the City Council adopted the Update to the General Plan, which included an updated Housing Element.
 2. California Government Code Section 65585 requires that, prior to their adoption, HCD review all draft Housing Elements for compliance with State Housing Element Law. The same code section also requires that HCD review all adopted elements for the same purpose.
 3. On December 12, 2003, HCD sent a letter to the City stating that they found the draft Housing Element not to be in compliance with State Law and listing issues to be addressed in amending the element to attain compliance.
 4. A two-page summary of the issues raised by HCD as well as a copy of HCD's letter of December 12 are attached.
 5. In order to meet the legal deadline to have a new Housing Element by the end of 2003, the City proceeded to adopt the Housing Element as it was an integral part of the General Plan Update. The City did so knowing that the Housing Element would have to be amended at a later date to achieve compliance with State law.
 6. Per Government Code Section 65585, any new draft revised/amended housing element must be sent to HCD for their review prior to its adoption. State law provides that HCD has 60 days to complete this review.
 7. The Planning Commission is scheduled to review HCD's comments at its meeting of June 8, 2004. A verbal summary of the Planning Commission's discussion will be made to the City Council on June 15.

Analysis and
Conclusion:

The majority of HCD's comments in their letter of December 12 call for the City to provide the following:

- Additional analysis of issues that HCD found not to be adequately addressed (e.g., discussion of constraints to affordable housing);
- Enhanced analysis to support/substantiate the conclusions policies, programs, and action items set forth in the element (e.g., provide proof that the number of dwelling units required to meet the City's share of the Regional Housing Needs Allocation can be met);

- To add and/or enhance programs and action items to address needs that may be revealed as a result of the additional and enhanced analyses called for (e.g., providing zoning regulations for homeless shelters, transitional housing, and farmworker housing);
- To demonstrate that the City is committed to taking certain actions (e.g. reinstating a rehabilitation loan program).

Completion of a draft amended Housing Element will require a month of staff time (i.e., the month of June). To enable the amended Housing Element to be adopted by the end of October and accommodate the 60 day review period, the following schedule is proposed.

June 28 (Mon)	Send revised draft Housing Element to HCD
August 30 (Mon)	Receive comments on draft element from HCD
September 10 (Fri)	Send Notice of Completion of Negative Declaration to State Clearinghouse
September 17 (Fri)	Complete any further revisions that HCD might recommend
September 28 (Tue)	Planning Commission Public Hearing
October 19 (Tue)	City Council Public Hearing

In order to meet the above schedule, it will be necessary to send a draft to HCD at the same time that the Planning Commission and City Council review the draft's contents.

The draft amended Housing Element will be presented to the Planning Commission and City Council in July as an information item. Should, at that time, the Planning Commission recommend and the City Council desire changes to the draft, those changes would be forwarded to HCD. However, if the scope of changes is regarded by HCD as being substantial, the commencement of the 60 day review period may be reset to the date HCD receives the recommended changes, thereby lengthening the overall process.

Policy

Reference: Housing Element; State Housing Element Law (Government Code Sections 65580 et seq.)

Fiscal

Impact: Most of the programs and action items listed in the Housing Element would be accomplished with monies from Community Development Block Grant (CDBG) Funds, HOME Funds, a variety of state funds, and Redevelopment Low and Moderate Income Housing Funds. General Funds would be used for normal activities accomplished by city staff.

Options:

- a. That the City Council receive and file HCD's letter of December 12, 2003 with the understanding that staff will be preparing and submitting a draft amendment to HCD at the same time that draft contents are being reviewed with the Planning Commission and City Council.
- b. Amend, modify or reject the foregoing option.

Attachments:

1. Summary of HCD's Comments
2. Letter from HCD dated December 12, 2003

HOUSING ELEMENT AMENDMENT SUMMARY

June 3, 2004

Regional Housing Needs Allocation (RHNA): Provide analysis to prove that the City has sufficient vacant and underdeveloped land designated to meet the City's Regional Housing Needs Allocation (RHNA) share for all income groups. If land needs to be annexed to meet the RHNA numbers within the Planning Period, then the element needs to provide a policy/program/action item to affect it. (Note: The figures in Tables H-1a and H-1b show that the City does not need to annex any land to meet its RHNA share.)

Higher Density Multi-Family and Mixed-Use and Senior Housing Overlays:

- Clarify the number and size of parcels within the RMF-16 and RMF-20 land use categories and prove that the City has the ability to make the RHNA numbers reported in Table H-1a.
- Clarify the relationship between the RMF-16 and RMF-20 land use categories and the Mixed Use and Senior Housing Overlays.
- Provide an analysis of the feasibility of "smaller parcels" accommodating densities of 16-20 units per acre and, if necessary, include a lot consolidation program.
- Analyze the ability of Mixed Use and Senior Housing Overlays to meet the numbers reported in Table H-1a.

Constraints to Affordable Housing: Expand the analysis of constraints to affordable housing posed by the following factors:

- **Land-Use Controls:** include analysis of standards for lot coverage, lot sizes, unit sizes, floor area ratios, setbacks, and open space requirements, etc.; and address development code amendments underway pursuant to the City's general plan update.
- **On- and Off-Site Improvement Requirements:** Describe and analyze improvement requirements including street widths, curb, gutter, and sidewalk requirements, water and sewer connections, circulation improvement requirements; describe any generally-applicable level of service standards or mitigation thresholds.
- **Fees and Exactions:** Include discussion of permit, development and impact fees, in-lieu fees, land dedication requirements (e.g. streets, public utility and other rights-of-ways, easements, parks, open space, etc.) and other exactions imposed on developers.
- **Permit Processing:** Expand the description of the development application process to include the following: typical permit approval and processing timelines, discretionary approval procedures, and processing times required for various types of residential projects. As a part of this analysis, the element should describe the permit and approval process for a typical single-family subdivision and a typical multifamily project. The element should analyze El Paso de Robles' design review process and analyze its potential impact on affordable housing development.
- **Codes and Enforcement:** Indicate whether the City has adopted any amendments to the Uniform Building Code (UBC) and describe the degree and type of enforcement of the UBC.

- **Constraints on Housing for Disabled Persons:** Include a description and analysis of any potential or actual governmental constraints on the development of housing for persons with disabilities and to document the City's efforts to remove such constraints. This analysis should include approval procedures for group homes of more than six people and processing procedures for ADA retrofits, among other things.

Conversion of Subsidized Housing: Expand the analysis of those existing subsidized housing developments that are eligible to convert from low-income to market rate within the next 10 years. Include an estimate and analysis of replacement versus preservation costs; identify local public agencies, nonprofit corporations, and for-profit organizations with the legal and managerial capacity to acquire and manage at-risk projects; and identify the amount of federal State, and local funds available to preserve at-risk units.

Household Characteristics: Expand the analyses of household and housing characteristics to include the following

- The number of households, by tenure.
- The percent of lower-income households overpaying for housing, by tenure.
- The number of over-crowded households, by tenure.

Emergency Shelters, Transitional Housing and Farmworker Housing: Address the following:

- Describe zones where housing for farmworkers could be developed and demonstrate the City's zoning and development standards encourage and facilitate the development of housing for farmworkers.
- Specify a timeline for implementation, identify the zoning districts where shelters and transitional housing will be permitted, and indicate how the City's zoning and development standards facilitate and encourage such development.

Timelines for Implementing Programs: Include timelines for implementing the following action items:

- Working with developers to provide a market-driven inventory of 219 units per year.
- Providing a down payment assistance program
- Reinstating the housing rehabilitation loan program (HCD wants to see a firm commitment to implement this) and an estimate of the number of households the City expects to assist.
- Actions to conserve subsidized units at risk of conversion to market rate, including any assistance the City might provide to displaced tenants.
- Development of design and construction standards to encourage development of affordable housing, including a commitment that any new and/or revised standards will not impose a constraint on the cost and timing of multifamily construction.
- Applying for state and federal funds necessary to implement the programs, policies, and goals described in the element.

Equal Housing Opportunity: Include a program to promote equal housing opportunity including describing how information about the City's referral program is disseminated to the public and indicate if the City provides financial assistance to California Rural Legal Assistance or other fair housing organization.

Low and Moderate Income Housing Fund: Describe the utilization of moneys in low- and moderate-income housing funds.

~~STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY~~~~ARNOLD SCHWARZENEGGER Governor~~**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
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DEC 15 2003

Community Development

December 12, 2003

Mr. Bob Lata
Community Development Director
City of El Paso de Robles
1000 Spring Street
El Paso de Robles, California 93446

Dear Mr. Lata:

RE: Review of the El Paso de Robles' Draft Housing Element

Thank you for submitting El Paso de Robles' draft housing element, received for our review on October 15, 2003. As you know, the Department of Housing and Community Development (Department) is required to review draft housing elements and report our findings to the locality pursuant to Government Code Section 65585(b). Our review was facilitated by a telephone conversation with you on December 2, 2003. Supplemental materials regarding the City's housing element were faxed to the Department on December 8, 2003.

El Paso de Robles' draft housing element is well prepared and includes many promising programs, including land-use policies that will permit development at densities of 20 units to the acre. However, revisions are required to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element should include an analysis of the sites located in the area designated for the overlay zone, identify sites or zones where farmworker housing can be accommodated, and include an analysis of governmental constraints that have the potential to impact the development of housing for disabled persons. These and other changes needed to bring the City's housing element into compliance with State law are summarized in the Appendix. We hope our comments are helpful and we are available to assist the City in revising its housing element. If you have any questions or would like to arrange a meeting in El Paso de Robles or Sacramento, please contact Michelle Woods, of our staff, at (916) 327-8881.

In accordance with requests received pursuant to the Public Records Act, we are forwarding a copy of this letter to the individuals listed below.

Sincerely,

Handwritten signature of Cathy E. Creswell in black ink.

Cathy E. Creswell
Deputy Director

Enclosure

Mr. Bob Lata
Page 2

cc: Mark Stivers, Senate Committee on Housing & Community Development
Suzanne Ambrose, Supervising Deputy Attorney General, AG's Office
Terry Roberts, Governor's Office of Planning and Research
Nick Cammarota, California Building Industry Association
Marcia Salkin, California Association of Realtors
Marc Brown, California Rural Legal Assistance Foundation
Rob Weiner, California Coalition for Rural Housing
John Douglas, AICP, Civic Solutions
Deanna Kitamura, Western Center on Law and Poverty
S. Lynn Martinez, Western Center on Law and Poverty
Alexander Abbe, Law Firm of Richards, Watson & Gershon
Michael G. Colantuono, Colantuono, Levin & Rozell, APC
Ilene J. Jacobs, California Rural Legal Assistance, Inc.
Richard Marcantonio, Public Advocates

APPENDIX**El Paso de Robles**

The following changes would bring El Paso de Robles' housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change we cite the supporting section of the Government Code. The particular program examples or data sources listed are suggestions for your use.

Housing element technical assistance information is available on our website at www.hcd.ca.gov. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Elements section contains the Department's publication, *Housing Element Questions and Answers (Qs and As)* and the Government Code addressing State housing element law.

A. Housing Needs, Resources and Constraints

1. *Expand the inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and analyze the relationship of zoning and public services available to these sites (Section 65583(a)(3)).*

Further analyses are needed to determine if El Paso de Robles has identified adequate sites with appropriate zoning and development standards, to accommodate its new construction need for lower- and moderate-income households as required by Section 65583(c)(1).

- a. Table H-23a (page H-38) includes over 6,000 units El Paso de Robles intends to accommodate on sites that are currently located outside of the City limits. If the City wishes to apply these units towards its regional housing need, the element should include an annexation program demonstrating the sites will be available during the 2001- 2008 planning period.
- b. The element should clarify whether the City has adopted the RMF-16 zoning designation. If not, the element should include a program to adopt the designation early enough to allow for development to occur during the current planning period. The element should also clarify the following:
 - The number and size of parcels within the RMF-16, RMF-20, and RMF-20/student designations (Table H-23a, page H-38).
 - The relationship between the overlay areas and the RMF-16, RMF-20, and RMF-20/student zoning designations. For example, are these designations limited to the overlay areas?
- c. Action Item #4 (page H-11): The element should indicate if the parcels identified for multifamily student housing require re-zoning or annexation. If yes, the element should include a program to accomplish the re-zoning or annexation. The program description should include a timetable indicating when action will be taken. The annexation or re-zoning should occur early enough to allow for development to occur during the current planning period.

Based upon our December 2nd and December 12th conversations, it is our understanding that the RMF-20/student zone will accommodate market-rate, multifamily units on sites in the vicinity of a community college campus and not dormitory style units. Furthermore, housing units developed in the RMF-20/student zone will not be limited to students but will be available to the general population. This information should be included in the element.

- d. For smaller parcels, located both inside and outside overlay areas, the element should analyze the feasibility of accommodating housing at 16-20 units to the acre and, if necessary, include a lot consolidation program. For under-used parcels, the element should include a description of the existing use and an analysis of the feasibility (based upon recent or historical development trends and regulatory and financial incentives) of the site converting to multifamily residential use during the current planning period. Please note, the element's Appendix (December 2002: Multi-Family Raw Land) includes obsolete zoning designations which are not applicable to Table H-23a.
- e. The analysis of the overlay areas should also include the underlying zoning of the overlay areas and a description of other types of permitted development and the permitting and approval process for housing developed in the overlay zone. Estimates of development capacity should reflect the realistic development potential given projects can use either the overlay or the underlying standards.

In addition, Section 65008 of the Government Code bars a locality from using its planning or zoning powers to discriminate against residential development on the basis of the age of the intended occupants. The City should review its senior overlay in light of the proscriptions of Section 65008.

2. *Expand the quantification of El Paso de Robles' existing and projected needs for all income levels (Section 65583(a)(1)). Include the City's share of regional housing need in accordance with Section 65584.*

The element (page H-35) states that 880 dwelling units have been built in El Paso de Robles since January 2001. The City's RHNA (regional housing need allowance) can be reduced by the number of new units built since 2001, however, the element must assign the units to the appropriate income category based on actual sales prices and/or rents.

3. *Expand the analysis of potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels, including land use controls and local processing and permit procedures (Section 65583(a)(4)).*

- a. The element (pages H-38 and H-45 through H-46) should be expanded to address the following statutory requirements. For assistance, please refer to page 21 of the Department's Qs & As publication.

Land-Use Controls: While the element includes an analysis of residential zoning categories and parking standards, it should also describe and analyze other relevant standards such as lot coverage, lot sizes, unit sizes, floor area ratios, setbacks, and open space requirements, etc.; and address development code amendments underway pursuant to El Paso de Robles' general plan update.

On- and Off-Site Improvement Requirements: The element does not address this requirement. Expand the analysis to describe and analyze improvement requirements including street widths, curb, gutter, and sidewalk requirements; water and sewer connections; and circulation improvement requirements. It should also describe any generally applicable level of service standards or mitigation thresholds.

Fees and Exactions: The description in the element (page H-47) should be expanded to include permit, development and impact fees (e.g. park, school, open space, parking district, etc.) in-lieu fees, land dedication requirements (e.g. streets, public utility and other rights-of-ways, easements, parks, open space, etc.) and other exactions imposed on developers. The element should also describe any contribution or payment required as an authorized precondition for receiving any type of development permit.

Permit Processing: The description of the Development Plan, Site Plan, and Plot Plan application process should be expanded to include the following: typical permit approval and processing timelines, discretionary approval procedures, and processing times required for various types of residential projects, including overlay zones, community plan implementation zones, and hillside overlay zones. The element should also describe landscaping, planned districts, and other applicable regulations. As a part of this analysis, the element should describe the permit and approval process for a typical single-family subdivision and a typical multifamily project. The element should analyze El Paso de Robles' design review process and analyze its potential impact on affordable housing development (page 3-52). While clear, objective design standards are appropriate, development of such standards should consider cost impacts, including those related to materials and time of processing.

Codes and Enforcement: The element should indicate whether El Paso de Robles has adopted any amendments to the Uniform Building Code (UBC) and describe the degree and type of enforcement of the UBC. A strict code enforcement program which specified expensive materials and/or methods, etc. can pose a significant constraint to housing development or maintenance.

Constraints on Housing for Disabled Persons: In accordance with recently enacted legislation (Chapter 671, Statutes of 2001), housing elements are now required to include a description and analysis of any potential or actual governmental constraints on the development of housing for persons with disabilities and to document El Paso de Robles' efforts to remove such constraints. This analysis should include approval procedures for group homes of more than six people and processing procedures for ADA retrofits, among other things. To assist the City with this analysis, we have enclosed the recent statute and technical assistance resources.

- b. *Expand the analysis of existing assisted housing developments that are eligible to change from low-income uses during the next 10 years (Section 65583(a)(8)(A-D)).*

In addition to the information provided in the element and in the supplemental materials received on December 8th, the element should expand the analysis of units at-risk and include the following information.

- The element (page H-33) indicates that the Riverview Apartments are at-risk, however the December 8th fax (page 4) indicates that the owner has applied to Rural Development for a new contract. The element should clarify the status of the Riverview Apartments as well as the Hacienda Del Norte Apartments and the Paso Robles Gardens Apartments.
- The element should clarify whether any assisted housing developments are at-risk of losing affordability controls over the next ten years.

- The element should include an estimate and analysis of replacement versus preservation costs; identify local public agencies, nonprofit corporations, and for-profit organizations with the legal and managerial capacity to acquire and manage at-risk projects; and identify the amount of federal State, and local funds available to preserve at-risk units.

For assistance with the required analysis, please refer to the Department's publication *Qs and As* (page 11).

4. *Expand the analyses of household and housing characteristics (Sections 65583 (a)(1), (a)(2)).*

The analysis of household characteristics should be revised to include the information listed below. This information will help El Paso de Robles prioritize its housing needs and identify appropriate program responses. Please refer to the Department's *Qs & As* publication (page 7) and the enclosed data from the 2000 Census.

- The number of households, by tenure.
- The percent of lower-income households overpaying for housing, by tenure.
- The number of over-crowded households, by tenure.

B. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

- a. Absent a complete land inventory, the adequacy of existing and planned sites can not be demonstrated. El Paso de Robles may need to include additional policies or programs to accommodate its remaining need. In addition, the following program should be revised:

Policy H-1B, Action Item 6 (page H-11) should include a timeline for implementation, indicate the areas where the Overlay Land Use Category will be applied, and describe the permitting and approval process for housing built in the overlay area. See comment A.1.d above.

- b. The City has identified an unmet need for emergency shelters, transitional housing, and farmworker housing; therefore, the element will need to address the following:
- Describe zones where housing for farmworkers could be developed and demonstrate the City's zoning and development standards encourage and facilitate the development of housing for farmworkers

- Policy H-1B, Action Item 5 (page H-11) should specify a timeline for implementation, identify the zoning districts where shelters and transitional housing will be permitted, and indicate how the City's zoning and development standards facilitate and encourage such development
 - c. For your information, Proposition 46 funding provides new resources, available to local governments to improve and construct additional emergency shelters and farmworker housing throughout the State.
2. *The housing element should include a program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element (Section 65583(c)).*

To address this requirement, some of the element's programs require a more specific description of the City's role in implementation and more specific timelines. For example, while it may be appropriate for some program timelines to be ongoing, programs or policies which require action to implement or initiate should include a more specific deadline. Programs that should be revised/strengthened include, but are not limited to, the following:

- a. Policy H-1B, Action Item 1 (page H-11): Include a timeline for implementing this program and indicate how El Paso de Robles will work with developers.
 - b. Policy H-1B, Action Item 4 (page H-11): Include a timeline for implementing this program.
 - c. Policy H-2A, Action Item 3 (page H-12): To firmly commit El Paso de Robles to the implementation of this program, the element should include a timeline and an estimate of the number of households the City expects to assist.
 - d. Policy H-2A, Action Item 5 (page H-12): Include a timeline for implementing this program and commit El Paso de Robles to responding to federal and/or state notices of Intent to Pre-Pay. The element should also indicate, if the City will assist with the relocation of any displaced tenants.
 - e. Policy H-3B, Action Item 1 (page H-13): Describe design and construction standards the City intends to adopt, include a commitment that any new and/or revised standards will not impose a constraint on the cost and timing of multifamily construction, and specify an implementation timeline.
 - f. Include a program that commits the City to apply for state and federal funds necessary to implement the programs, policies, and goals described in the element. For example, for policies H-1B (actions 2-4) and H-2A (actions 3 and 5) and ones similar, describe the type of funding for which the City will apply and estimate the date when application will be made.
3. *The housing element shall contain programs, which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

El Paso de Robles' housing element requires a more thorough analysis of potential governmental constraints (see comment A.2). Depending upon the results of the required analysis, the City may need to add programs to remove or mitigate any identified constraints.

4. *Include a program to promote equal housing opportunity (Section 65583(c)(5)).*

Policy H-4A (page H-13) should describe how information about El Paso de Robles' referral program is disseminated to the public and indicate if the City provides financial assistance to California Rural Legal Assistance or other fair housing organization. For assistance with this revision, refer to the Department's *Qs & As* publication (page 42).

5. *Describe the utilization of moneys in low- and moderate-income housing funds (Section 65583(c)).*

The information transmitted by facsimile on December 8, 2003 only describes fund balance and proposed uses through 2004. The element should project revenues and uses over the planning period. In addition, the description of the uses of the housing fund should reflect uses proposed among the element's programs (policies).