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NCHB

"committed to affordable housing"

Northern California Association of Home Builders

April 16, 2009

Michael Richardson, Senior Planner
Humboldt County Planning Division
Department of Community Development Services
3015 H Street
Eureka, CA 95501

Re: Comments on the Draft Environmental Impact Report for the
Housing Element, Chapter 8, Humboldt County General Plan Update

Dear Michael:

We appreciate this opportunity to comment on the Draft Environmental Impact Report for the Housing Element, Chapter 8, of the Humboldt County General Plan Update (DEIR). We thank you for all of the work staff has put into the drafting of this document. Upon its review of the document, the NCHB offers the following questions we would like addressed in writing within the time allotted by the California Environmental Quality Act.

The NCHB is concerned that this DEIR in and of itself is flawed because it was drafted prematurely, before the Housing Element itself has been revised and voted upon by the Planning Commission. The Housing Element is as of yet an incomplete project that has not had the benefit of complete process at the Planning Commission to date. How can the County draft a DEIR without knowing what the project will be in its complete form, much less state with any certainty what the ramifications and impacts of the project will be on the environment?

The NCHB is concerned that until the Regional Housing Needs Assessment process (RHNA) is completed and housing numbers have legally been allocated and adopted by our Humboldt County Association of Governments, (HCAOG) any consideration of a DEIR on a Housing Element using place holder numbers is flawed. We are concerned that in its effort to focus on meeting a State deadline in order to have its Housing Element certified, the County has prematurely drafted a flawed DEIR document that is inaccurate.

It is our understanding that DEIR's are not only to analyze the differences between a proposed 'new' document and its predecessor, they are also, most importantly, to look at the DIER project and analyze what the impacts the current proposal will be in the current environmental setting. Because there is no discernable analysis of either the differences between the current and past Housing Element EIR projects as purported, nor any analysis of the potential impacts to the current environmental setting, this DEIR is flawed. Indeed, the decision to title the DEIR a "Supplemental EIR", and use the State Clearing House number (#1996-052011) from a 1996 or 1998 document (not the most recent 2002 iteration) is diametrically opposed to staff's verbal position at a recent Planning Commission; (paraphrased) 'this document stands on its own as a separate EIR', that the preceding EIR is 'incorporated by reference'. Further, statements of incorporation of documents by reference are not adequate comparative analysis or analysis of impacts on the current environmental setting that the proposed DEIR may present.

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How can the County draft a DEIR without describing the project in a complete form, much less analyze the differences it must, according to state law between the current proposal and its predecessor and how can an adequate lawful analysis be completed with regard to potential impacts to the current environmental setting? How can the County say that “there no new impacts with the proposed project (the Housing Element) considered significant and unavoidable” based on no analysis of current environmental settings?

The DEIR for the proposed Housing Element should evaluate the impacts of the action resulting from the policies, standards and implementation measures that are included in the Housing Element itself.

The DEIR’s adequacy should be discerned by being able to rely on the project and the base information being consistent. In the current case, however, there are many examples of the DEIR presenting more detail than is presented in the Housing Element, rendering the DEIR flawed. This is backwards. In many recent Planning Commission hearings for the Housing Element we have heard staff respond to questions from the Commissioners that they can find the details of a given subject or program within the DEIR as opposed to the Housing Element. Why does the County describe the policies, standards and implementation measures that trigger impacts within the DEIR that are not contained in the Housing Element itself?

The DEIR is flawed because it lacks adequate definition of terms and is overly vague; leaving interpretation up to many questions. How can impacts be analyzed or measured if term definitions are lacking, citations to specific state law is lacking? It cannot. The Draft Housing Element establishes "Inclusionary Zoning" under a different name (“Affordable Housing Program”) than was originally denied by the Board of Supervisors in 2007 as a priority, that this Housing Element says can be applied to any site by the Community Development Services Department (Planning staff), the Planning Commission or the Board of Supervisors **without having to meet any findings per state law in a public hearing.** Following are items that we would like answers to with respect to the proposed Inclusionary Zoning program:

1. Are we correct in our understanding that staff proposes Inclusionary Zoning within the General Plan under the name “Affordable Housing Program” that would require developers to build housing for the low, very low incomes within all residential development projects as a means of implementing the Housing Element within proposed new zones to be called “Housing Opportunity Zones”?
2. Would you agree that such a program is a tax on market rate housing within these projects?
3. Specifically, what form of Inclusionary Zoning does staff propose?
4. Will the proposed Inclusionary Zoning require payment of a fee each time a building permit is issued?
5. How much does staff propose that fee to be, and how will it be calculated (e.g. parcel size, gross floor area or net usable area)?
6. Will the Inclusionary Zoning fee be applied to all building permits including commercial, professional office, industrial and retail uses?

7. Has staff prepared any forecasts or models of effectiveness of their proposed Inclusionary Zoning plan? Where is it? When will that be made available for at least 30 days for the commission and the public to review?
8. What will be the administrative cost burden for such a program? How much will it cost on an annual basis for Inclusionary Zoning to be managed? Which County department will be charged to manage Inclusionary Zoning? Will that department have assessment, valuation and accounting qualifications to do so?
9. Will all resulting generated housing be restricted in price and merchantability by covenants? If so, what model will be used? What term of affordability restrictions are proposed (e.g. 10 years, 20 years, 30 years)?
10. If the Inclusionary Zoning units are not sold within 6 months of construction due to the current economic climate, would the County be responsible to buy the units back from the Developer? At what percentage of market rate?
11. How are the following factors of affordability going to be figured into such a program?
Land cost, land use regulation, construction materials costs, construction labor costs, prices and rents of comparable properties in the same market, household incomes (both the median and the range), vacancy rates, property maintenance, availability of government subsidies (for planning, construction, operations, and rent or mortgage payments) infrastructure costs, impact fees?
12. How many single family homes will this tax build per year?
13. How many apartments will this tax build per year?
14. Where will these units be built?
15. Does the County NOW have sufficient lands to build these apartment units?
16. Specifically, how will this program assure the tenants or occupants or buyers not unnecessarily penalize and prohibit average wage earning families with children in their quest for the benefits of equity in home ownership?

This IZ concept has been proven elsewhere in California not to work. We have heard many times from staff how many jurisdictions have IZ ordinances in place, approximately 150. Those jurisdictions that have IZ are densely populated cities and metropolitan areas, not rural areas like ours. What is good for San Diego is not necessarily good for Humboldt County.

- Forcing residential occupancies to group with commercial uses adds inherent traffic, noise, and safety conflicts within a given neighborhood. NCHB would like to see the concept be voluntary, without taking away property rights (a local ordinance that dictates use without proper notice to landowners etc.), and the continuance of commercial, industrial entitlements on commercially zoned property.

This element does NOT allow for the zoning of additional commercial, industrial land in the County which NCHB feels is not economically viable. This in and of itself makes the Housing Element inconsistent with the Economic Development Element.

- The requirements being added to existing Multi Family zoning may, in fact, be a "Taking".

- The assumptions within the document that the California Building Code can be changed to facilitate certain goals of the Humboldt County Plan are incorrect.
- The calculation of densities must recognize ALL regulations and physical constraints.
- Density increases in some commercial areas will force housing into mid to high rise buildings, which will change the character of Humboldt county communities. New high rise residential buildings have never been considered (or perhaps never even applied for in a permit) locally, and in and of itself may present issues if considered within the coastal zone, or in areas with geologic issues or other physical constraints and this concept would be inconsistent with the noise and safety elements. It would necessitate costly additions to fire fighting equipment, and need to take into consideration access issues, parking and the like.
- This document also discusses the concept of redevelopment in the General Plan in a fashion that also circumvents a proper public process that includes the public, noticing of property owners etc. A recent Redevelopment plan was denied by the Board of Supervisors, because it would take away funding from our Fire Protection Districts, Community Services Districts and other vital service providers of our communities, among many other failings within that plan itself. The money would also NOT be protected from being taken by the State should it desire to do so. Any proposal through the Housing Element for Redevelopment without specifics details of that plan itself would be improper, and lacking in due process.
- This document also requires minimum development based on mid point density. There is no requirement to do so per state law. This local policy does not make sense in our county because of all of the physical constraints; it may or may not be the desire of the landowner to build out at such high density. Zoning provides a density range that should be observed, mid-point or higher densities should remain optional. Further, this is contrary to State law that is included within this document: "Parcels shall be developed at a residential density **equal to or greater than the calculated minimum density** unless the County makes findings supported by substantial evidence according to Government Code Section 65583 (b), (c)". The term "mid-point density" is language from a local policy, not state law, and it curtails affordable housing and reduces property rights and property values.
- Mandatory proximity of residential development to transportation and work as a requirement as called for in this document is a term from the "new urbanism" ideology.

People want to choose where they want to live and work and decide for themselves if they want to commute when doing so. Any regulations suggesting otherwise would be considered social engineering, and THAT does NOT belong in our General Plan. Further, this concept is in the form of a mandate as opposed to a voluntary measure would likely ruin the existing character of many of our local communities that were established over 100 years ago, and that grew in the existing patterns that cannot always accommodate large scale residential development.

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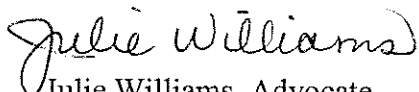
- This document states a commitment by the County to maintain an adequate supply of residentially zoned land to accommodate projected housing needs for all income categories ...**"Once the residential land inventory is adopted"** (bold added for emphasis). The State requires the County to do so at all times and is to include all lands with in the county its consideration of housing in the County - not just housing to be located in areas that staff would like to see housing located (the "Urban Study Areas"), or whether or not the residential land inventory is completed and adopted.
- The NCHB does not support a special additional restrictive designation of "Housing Opportunity Zones". It appears that staff is using a land use planning trend such as HOZ's as "incentive" to encourage infill development in the County. However, at the same time, staff is also proposing to impose mandatory Conditional Use Permits for any and all rural development in the county to "curtail sprawl". This can be construed as a taking of property rights of those owning rural lands. Further, the entire "sprawl" issue is a non-starter; Humboldt County is over 2.2 million acres in size with just over 130, 000 people, and only approximately 70,000 homes in the rural county lands. The NCHB recognizes this as only a political fear tactic to discourage healthy organic growth in our economy, and in homes for those that wish to live a rural lifestyle as generations have done for over 100 years.

Any and all lands that include residential uses as principally permitted should retain those entitlements without a special designation. NCHB sees this proposed language as a significant impact that affects property values and financing opportunities for those who need it as well.

- Incentives for higher density and/or second units such as the reduction of local standards and regulations i.e., modified parking standards, reduced set-back requirements and solar shading requirements are, and should remain, voluntary options that applicants may pursue via exception requests or variances within the permit process as currently allowed by State law.

NCHB supports the above mechanisms (and others) that are already allowed under state law that exist that would help realize affordable housing for those of all incomes within our County. These tools are its disposal to create affordable housing at little or no cost, in a positive manner, merely by implementing the available methods above. We do not need more restrictive, burdensome designations. The NCHB cannot support many of the proposed goals, policies, standards and implementation measures in the DEIR at this time because of the above stated reasons. We will submit completed voting charts for the Housing Element under separate letter. Thank you for the opportunity to send our questions along as the process continues. Thank you for your consideration.

For the NCHB,



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