



PLANNING DIVISION
COMMUNITY DEVELOPMENT SERVICES
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DATE: June 13, 2007
TO: Humboldt County Planning Commission
FROM: Kirk A. Girard, Director of Community Development Services
SUBJECT: **Staff Report # 5 for June 21st Meeting**

RECOMMENDED COMMISSION ACTION:

It is recommended that the Commission take the following actions:

STAFF RECOMMENDATIONS:

1. Open the public hearing and receive the staff report.
2. Take public input on Group 5 Chapters: 12-Conservation and Open Space; 14-Biological Resources; 15-Cultural and Scenic.
3. Provide Commission direction on suggested modifications.

SUMMARY

Planning Commission Review Process

At the Planning Commission's fourth meeting on May 17, 2007, the Commission received a staff report and briefly discussed the Economic Development Chapter.

The Commission received testimony from 28 people, including 26 written comments. A summary of the public comments is included as Attachment A. A summary of the Commissioner comments is included as Attachment B.

The following information and Groups 2-4 is repeated from previous staff reports to provide continuity:

Group 2 (Chapters 16, 17, 18, and 19) Comments

Staff have reviewed the comments and have started preparing revisions to these chapters based on the input received thus far. Since the Commission didn't finish receiving public input and didn't get a chance to discuss and provide input on these chapters, revised chapters are not included in this staff report.

In response to some of the general comments received:

Chapter 16 Mineral Resources:

This chapter is not an element but is a topic that is required to be addressed by the general plan. The proposed plan Alternative B (presented as the main body text of the chapter) largely follows existing County policies, regulations, and permit decisions, and was largely supported by mining operators in their comments. Pursuant to State statutes, this chapter has been forwarded to the Department of Conservation for review and comment.

Chapter 17 Energy Element:

This chapter is an optional element for the general plan. The Board of Supervisors directed it be included and be based on the work of the Redwood Coast Energy Authority. Alternatives C and D provide options for less general plan involvement in energy issues. The proposed project Alternative B attempts to sort out land use policy from energy conservation programs which could more effectively be run by an agency such as RCEA. The county cannot cede its land use authority to an advisory agency, and the wording of policy **E-P1** in Alternative B was modified from the original RCEA draft to reflect this concern.

Chapter 18 Waste Management:

This chapter is not an element but is a topic that is required to be addressed by the general plan. The proposed plan Alternative B directs that the Humboldt Waste Management Authority, a joint powers agency, administer the Integrated Waste Management Plan. It is recognized that the Integrated Waste Management Plan is due for revision, and it is recommended that the Humboldt Waste Management Authority take the lead in the revision process. This may trigger the need for revisions or subsequent amendments to this chapter.

Chapter 19 Air Quality:

This chapter is an optional element for the general plan, and the Commission has the discretion to exclude it. Because the area is in non-attainment status for fine particulates, policies to support implementation of the Air District's Attainment Plan can help avoid significant effects and costs associated with project by project CEQA compliance.

Group 3: Chapter 20-Noise Element, Chapter 21-Safety Element

These chapters were distributed to the Commission previously and posted on the web March 21, 2007. These chapters are largely updates and reformatting of the Framework Plan, with the exception of the Fire section of the Safety Element, which reflects the work of the Master Fire Protection Plan. Comments received to date on these chapters were attached to the April 19th staff report as Attachment D, received at the meeting on the 19th or are attached here as Attachment C.

Group 4: Economic Development

The Board of Supervisors requested that the Plan include an Economic Development Element. The Element as presented reflects the adopted comprehensive economic development strategy, as well as key trends and emerging industries. The policy recommendations support maintenance of existing, traditional industries as well as the growth of new industries. Inclusion of this element helps to coordinate County land use and economic development policy.

Group 5: Conservation and Open Space, Biological Resources, and Cultural and Scenic Resources

Chapter 12-Conservation and Open Space is a coordinating chapter which explains how the Plan addresses the requirements of the State-mandated conservation and open space elements. The Biological Resources, and Cultural and Scenic Resources chapters are topics that are required to be addressed in the conservation and open space elements. The Biological Resources chapter largely follows the 1984 Framework Plan, with some edits based on policy adopted in the McKinleyville Community Plan and others are a result of the adoption of the Streamside Management Area ordinance. The Cultural Resources section also largely follows the 1984 Framework Plan, with updates and edits based primarily on Native American consultation requirements of SB 18. The Scenic Resources sections is a rewrite to address the issues of inland scenic policy as directed by the Board of Supervisors.

ATTACHMENTS

Attachment A: Summary of public comments at May 17th, 2007 meeting.

Attachment B: Summary of Commissioner comments at May 17th, 2007 meeting.

Attachment C: Written comments on Group 5 received as of June 11th, 2007.

Attachment D: State statutes for conservation and open space elements.

Attachment E: Chapter 12 - Conservation and Open Space Elements

Attachment A:

Summary of public comments
at May 17th, 2007 meeting.

**Public Comments
General Plan Update
Preliminary Hearing Draft**

Planning Commission Hearing 5/17/07 – Group 2, 3 and 4

Index #	Synopsis of comments received during Planning Commission meeting
Group 3 Comments (Noise and Safety Element)	
V84	Bob Bronkall- Department of Public Works - Submitted comments previously for the Department and would like to elaborate. Concerned that new policies within the Safety and Noise Elements would be restrictive to building new roads (habitat protection, SMA's and flood issues, noise setbacks) – we won't be able to provide the infrastructure for new development when these more restrictive policies are in place.
W45	Written comments mirror verbal testimony as summarized above with additional suggestions regarding Table 20-1(Inventory of Prominent Sources of Noise within Communities of Humboldt County), Figure 21-1 (Airport/Land Use Compatibility Criteria), and specific edits to proposed policy language.
V85	Chris Rall – discussion of quality of life – we enjoy small town life with civility - enjoy open space and knowing farmers that grow our food – enjoy the ability to bike around and we are concerned about the future safety for our children when biking. Increasingly more dangerous with the number of cars on the road. Safety Element does not address this. We should look to ways to reduce the number of automobiles on the road to make a safer place to live and travel. The Element should include policies that support mass transit and increased bike lanes and other forms of alternative transportation in order to reduce cars on the road and lessen traffic issues.
W39	Written comment suggests Noise, Land Use, and Circulation Elements should contain policies to reduce vehicle trips and vehicle noise. Commenter also makes specific recommendations to increase safety by reducing the incidence of vehicle accidents through reducing vehicle trips, increase the use of transit, biking, and walking through land use and circulation policy
V86	James Bisiar – Chapter 20 – Noise Element - read from submitted comments.
W68	Written comment suggests adding detail to Figure 20-1 and Table 20-1 regarding specific types of noises and noise levels. The commenter expresses specific concerns regarding the licensed use of County property by the Humboldt Trap and Skeet Club and the resulting noise levels in relation to Section 4, Exceptions, and Section 7, Sound Measurement Standards in the Draft Noise Ordinance.
V87	Tina Christensen – HAR – read submitted letter into the minutes.
W43	The commenters discourage the implementation of a noise ordinance or the use of noise impact combining zones because of the potential to over-regulate. Additionally, the commenters state that noise standards should not result in locating housing projects away from major roadways, and that noise attenuation or insulation requirements would increase housing costs.
V88	Kristy Wrigley – safety issues – specifically flooding. I am concerned about flooding as effected by land use activities from timber harvesting (FEMA does not address this). Timber activities have caused flooding on our property which is downstream form these activities. State agencies and their regulations do not address

	these flooding issues. Many times a year, our road is not passable due to flooding caused by logging activities upstream from us. The Safety Element should provide the link with timber activities and downstream flooding. The County should address this. The state does not care about the quality of life for the landowners, and does not regulate for it – the County should care and should provide policies within the code to address this gap.
V89	Patrick Higgons – Agrees with Ms. Wrigley regarding flood risk – increase with timber harvest but also with road construction, especially in wildland areas. Also referred to spokesperson from HAR and their remarks, and requested including language regarding compaction as it relates to increased flooding. Concerning road construction and its effect on riparian areas and flooding – the use of bioengineering is much more stable and environmentally sound – please include policies to address this. Road and road failures have a big impact on flooding and are costly. Maintaining culverts – we should go to bridges for new road construction. Pay attention to global warming and begin to plan (changes in sea level and flooding) for it. Airport noise – don’t increase the size of the runway and size of jets.
V90	Diane Ryerson – echo comments regarding gunshot noise in McKinleyville area. That is part of the reason I moved from that area (also there was increased gunshot noise in the timbered areas on the weekends). There should be some kind of disclosure to new owners. Coast Guard noise with flight patterns also was disturbing. In Arcata, even though my lot is smaller, it is actually quieter than it was in McKinleyville. I support a Noise Ordinance that addresses this. Concerning the Safety Element and storm drains - I’m hoping you will provide incentives to homeowners to use porous systems for increased drainage and protection of water resources. Also, decreasing auto dominance and increase safety for bicycles would be great.
V91	Mark Lovelace – Healthy Humboldt – staff note taking – I’ve had the opportunity to address many levels of government and it is rare to see this level of transparency and staff should be commended for the note taking. Regarding the Noise Element (read from submitted comments) - work on reducing source of noise instead of just separating people from the noise source. Sound walls are an admission of failure – not a solution. Should be a last resort. Regarding the Safety Element – we should recognize where we should and should not develop and how to develop to avoid hazardous situations.
W40, A, B W41	Written comments mirror verbal testimony as summarized above; however, much more detail is offered regarding recommended policy changes with attached policy chart revision recommendations.
V92	Jennifer Culp – CA Native Plant Society – I have comments concerning the Safety Element, specifically the flood hazard policies. I was astounded when I saw Option B regarding the policy for flood zones in agricultural areas stating “whatever is zoned Ag land will remain in ag use” and not be available for development. Offered policies from another county regarding water storage in flood areas and policy language regarding leachfield and utilities in floodplains. Locate public facilities out of floodplains. Regarding roads – only allow repair and upgrades to existing bridges. Regarding fire hazards and the “fire safe” zones around a house – native plants should be used around a house because they are more fire resistance. State requires clearing up to 100 feet around a structure which causes major impacts on native plants.
V93	Shannon Tracy – thanks to staff and Planning Commission for their work.

	Regarding safety issues – the major issues is the 101 corridor. I would like a better bike corridor. Increase alternatives to automobile usages. If we provide alternative transportation systems to automobiles we will reduce traffic and reduce hazards. Increase the hours of public transportation. Regarding the Noise Element – where traffic noise is a problem we should look to reduce traffic and get people out of their cars – find different ways to get around. Remember how linked all this is – housing, traffic, safety; how we plan our communities will impact these issues (more compact equals safer communities). Global warming issues and planning for them – also addressed energy usage and future flooding.
V94	Julie Williams – NCHB- submitted written comments earlier (W-69). Speaks to alternatives for Sketch Plans (not included in written comments). The Sketch Plan Report falls short of the current conversation. The (Alternatives) report that was presented to the BOS is even shorter. It is difficult to identify these alternatives from the Sketch Plan Report. So what alternatives are we looking at now? We would like to see the existing General Plan policies identified and analyzed with each alternative. We understand the process is in flux – the current alternatives do not reflect the spirit of the sketch plan alternatives. We ask that staff discuss all four alternatives and be able to compare them easily with one another. Safety Element – we do not see a discussion on ingress and egress and impacts on water systems for fire suppression when they are at their peak usage.
W69	Written remarks provide comments and a detailed review and comprehensive edits of the Draft Noise and Safety Elements. Commenters have in many instances substituted text, policy, and implementation measures from the Framework Plan for proposed new Noise Element language, and delete the draft noise ordinance. Comments relating to the Draft Safety Element include specific requests for additional background information, suggest changes in policy language.
V95	Kay Backer – HELP – I would like to address 3 areas- safety – concern that there isn't reference to circulation and safety. The county staff statement of “We won't be building any new roads” – have you heard this? Do you get to decide this? Do the existing roads provide adequate safe circulation? Last meeting the Planning Commission asked staff that the Framework Plan policies be presented along with the proposed policies and we have not seen this. We are making transcripts of the meeting and would like to make it available to the County for their website.
W38	Glenn Ziemer - Humboldt Fire Protection District No. 1 – This comment provides a correction to a code reference contained in Standard S-S10, Uniform Fire Code, where the reference should be to the California Fire Code. The California Fire Code is now based on the International Council Code (ICC), not the Uniform Fire Code.
W44	Margaret Draper – Attorney at Law – This comment suggests that the Safety Element should address 100 or 500 year flood levels which inundate highways 101 and 299 and cut off the populated areas in the Humboldt Bay area. The commenter asks if sea level rise is taken into consideration in the development of the 100 and 500 year flood maps. The commenter states that the Safety Element must address abrupt sea level rise, and asks when land use and transportation planning should be done to take into consideration seal level rise. The commenter further states that General Plan CEQA review should consider sea level rise.
W46	Charles Ciancio - Comments do not relate to the Noise or Safety Elements.
W48	Jesse Robertson – Caltrans – Caltrans supports Alternative B with one exception: Policy N-P5, US 101 Speed Limits/Noise Barriers, should be deleted from all Alternatives. Caltrans states that speed reductions of 20.5 miles per hour, rather than

	five miles per hour, would be required to produce a noticeable decrease in noise. Also, Caltrans does not finance or construct noise barriers after initial highway development is complete, unless required as mitigation for a subsequent Caltrans project.
W56	Dave Spreen – Commenter supports the recommendations of the Healthy Humboldt Coalition, plus the following additional comments: Noise sources listed in Table 20-1 are limited and should include all quarries; the County should develop ordinances to regulate quarries on TPZ land and noise associated with helicopter logging; back up alarms and other noise associated with mining and timber and other operations should be regulated when appropriate; the Air Quality, Mineral Resources, and Safety Elements should be consistent, specifically as it relates to the regulation of Asbestos Airborne Toxic Control Measures.
W59	Jessica Doremus – Commenter recommends improving pedestrian walkways, bike paths, and transit systems to reduce automobile traffic, which will reduce noise and improve safety.
W60	Stephanie Bennett – Elk River residents are subject to safety issues resulting from failing septic systems and flooding due to upstream timber operations, regulated by State agencies. Commenter suggests that this may be a “taking.”
Economic Development Element:	
V96	Hillary Moser – I am a business owner in McKinleyville, I commend the authors for including child care in this report. Much of my income goes to pay for county permits and I am struggling. We need a special zone that allows for child care without permits. My permit fees could have been spent on supplies for my business. Child care is a critical component to economic development. If we do not have enough quality child care, we cannot support growth.
V97	Tom Waltz – Sierra Pacific Industries – (submitted comments included in the supplemental package) I want to address how the goals/policies are set up in the document. It is easier to read if you have the specific policies numbered in the same way so they relate to the goal. In particular, Goal ED G8 concerning natural resource assets - we have a terrific potential for bio fuels – the new ED P8 for natural resources development that encourages biofuels dev with ag and timber resources. If we are going to talk about economy in Humboldt County, let’s look at trees and new products with bio fuels – there is a huge opportunity here.
W72	Written comments mirror verbal testimony as summarized above and provides specific policy recommendations relating to biofuels and financial incentives to enhance the productive use of resource lands.
V98	Charles Cianco – submitted written comments - regarding the Economic Development Element, I detected a bias or omissions – a lot of emphasis on the beauty, but not the use of natural resources – that’s what has been keeping us going. The goals and conclusions miss the most important issue in the document is the impact of regulations on businesses, in particular, the timber industry.
W70	Written comments mirror verbal testimony as summarized above.
V99	David Cobb – Democracy Unlimited of Humboldt County – your staff has been involved in a 7 year democratic process. The previous scoping process illustrated that the overwhelming majority supported Sketch Plan A. This process has been hijacked by other groups. Alternative A actually supports the reason why people are coming here (less sprawl, infill development, etc).
V100	Hans Partial – I like to comment on Commissioner Emad’s comments on quality of

	life and the prevention of crime, etc. We also need strong educational services to adequately prepare our citizens. I think that you (the Planning Commission) need to be driving the bus. I like you a lot more than I like staff.
V101	Virginia Graziani – submitted written comments – curious omissions in alternative A. I think the Planning Commission should have a share in driving the bus (preparing the plan) and staff should also be driving but the public should really be in charge. I do support having the commission comment as we go along. I support the idea of protecting prime economic lands (in particular agriculture). These industries have seen growth in organic industries and Humboldt County serves those sectors well. Transportations has been very constraining to businesses in this area, but our geography is naturally constraining to moving goods, and we need to realize this. What we do have in this county is very creative innovative people here - we will probably not be able to move them faster or more efficiently but we should foster our creative citizens.
W66	Written comments recommend that policies relating to skilled and ready workforce, transportation networks, and public water and wastewater be included in Alternative A; contain the policy alternative voting ballot; and specific policy recommendations.
V102	William Kelly – HSU economics student – submitted a study he prepared as a student of HSU (general development pattern study). Comparison between businesses in old town and the Bayshore mall. Surveyed ownership patterns – 90% were partnership, family owned or proprietary in old town versus 70% in Bayshore mall are owned by a corporation. Also looked at pay scale between these businesses. Found in old town lends itself better to mixed use type of development. Average # of employees per business was also compared. Results of his study showed that Old Town is more diverse, more locally owned businesses with better pay (however, cautioned that this is a limited study).
W71	Written comments contain detail regarding ownership patterns.
V103	Chris Rall – Green Wheels – \$423 million is what Humboldt County spends on owning and servicing automobiles. People spend a lot of money to own/operate cars – why – we have auto dependency. We have created automobile land use patterns, which adds to congestion. This begins to impact economic capabilities of the citizens. Focus on compact mixed use development to break the auto dependency. Need better choices available in land use patterns and mass transit availability. Moving away from auto dependency good for our economy.
W65	Written comments mirror verbal testimony as summarized above.
V104	Shannon Tracy – I like to respond to Commissioner Emad. My car was stolen yesterday and I agree, with firsthand experience, that crime and child care are important issues here. I believe that these are a “given” as a quality of life issues and that we expect these from our communities. I believe that our unique quality of life here in Humboldt County needs to be addressed and should be protected. Our high quality of life should be protected and that is one of the reasons we can attract such quality and creative workers. The % of my salary that goes to housing is dependent on my housing choices. Should consider compact development and alternative transportation. Support protection of resource lands and a function of our economy. Not just open space lands for trails.
V105	Bob Higgons – HAR- submitted a letter and would like to hit the highlights in the letter.

W74	<p>Construction industries should not just be considered as a support industry. Support the section in the element regarding regulations and costs/timelines for permitting. Comment on infrastructure – new water and wastewater – we agree with the comments In the report. Infrastructure is vitally important for economic growth.</p> <p>Written comments mirror verbal testimony as summarized above and provide additional detail. Voting chart included.</p>
V106	<p>Dave Spreen – support of Healthy Humboldt Coalition letter and recommendations. Submitted written comments.</p>
W73	<p>Written comments recommend the inclusion of the “restoration industry” as an emerging local eco-marketplace; assess the feasibility of incubating start-ups vs. attracting large industry; a discussion of Foreign Trade Zone was omitted; and a living wage ordinance should be considered.</p>
V107	<p>Richard Dorn – glad to see the airport mentioned – should put 30% effort to a new airport – referred to Yakima moving out of the County because they couldn’t get in/out from the airport on time. Airport here is not reliable - people use other airports because they can’t rely on it. Out of the area buyers for homes ask about the airport. I have to tell them the truth and often this makes a big difference in a sale. A seller I’m representing is moving out of the area because of the airport. If we had better air service, how many more jobs could we attract here? My quality of life would increase if we had more reliable air service.</p>
V108	<p>Kay Backer - HELP – I would like to commend staff for including the Economic Development Element in the General Plan. It was one of the recommendations of HELP. We included it our Plan H and are now in the process of developing. We will be submitting written comments. I would also like to speak to the comments that Hillary Moser made regarding almost being put out of business because of the permitting process. It was troubling that the county did not have the proper regulations for permitting this preschool. Handicap railing barred the use of the sinks for the children. Look at that segment of the zoning to provide for preschools.</p>
V109	<p>Nesie Wade – airport and economic development – we are a bunch of privileged folks. Our lifestyles are very consumptive. We need to think about modifying our lifestyles and how we live our lives so that they are sustainable. We need to think about keeping our spaces open and available for future sustainability. I grapple with this every day – I want to take an airplane and visit my son. If I take one plane trip, I wipe out all the positives actions I’ve done for sustainable living.</p>
V110	<p>Mark Lovelace – Healthy Humboldt – we have provided written comments and a full markup. We are very supportive of what staff has brought forward. A number of policies have been omitted for Alternative A and we don’t know why. We would ask that staff revisit adding those policies back into Alternative A.</p>
W64	<p>Written comments mirror verbal testimony as summarized above and provide additional detail. Voting chart included.</p>
V111	<p>Charlie Bean – Commission Emad mentioned representation from the Trinity\Hoopa area in the Economic Development Element. I would like to respond that it is very difficult to get down here for meetings. Section 11.2 – when I first read that – I thought it was wrong to include for the whole county – it should just read “the southern tip of Siskiyou County and western tip of Trinity County” for using Eureka as a hub for their business.</p> <p>Hand bars for the disabled in the preschool – I have seen a lot of handicapped access</p>

	improvements in this county that are not reasonable. We should get the disabled involved in the discussion as to what is really needed. We are also not included in the Economic Development policies. We need more education on what is needed for the disabled in buildings – there is currently a lot a fear to ADA policies. Don't go overboard – need reasonable policies. Let us get involved in the decisions.
W61	Jacquelyn Hulsey – Humboldt County Airports - Recommends that the Economic Development Element include the other five general aviation airports and the need to protect their viability along with Arcata/Eureka Airport by creating policies to limit or eliminate new conflicting land uses adjacent to each Airport. Each airport is critical to the community it serves during natural disasters due to the rural nature of Humboldt County.
W62	Chris Crawford – Commenter questions if the railroad was shut down in 1990 or 1997 and suggests that more needs to be said about the shortcomings of the Arcata/Eureka Airport.
W63	Jonathan Speaker – Commenter suggests that supervisors should receive education on broadband technology to get them to equate broadband with other infrastructure, such as roads and bridges.
W75	Michael Newman – Supports the position of the Humboldt Association of Realtors and includes their comment letter as an attachment.

Attachment B:

Summary of Commissioner comments
at May 17th, 2007 meeting.

**Planning Commission Comments
General Plan Update
Preliminary Hearing Draft
Planning Commission Hearing 5/17/07
Chapter 11 (Economic Development Element)**

Planning Commissioner:	Comments
Hansis	Regarding the Economic Development Element - I liked that you looked into the future with these issues.
Emad	Regarding the Economic Development Element - I'm concerned about the reference to regional importance of Mendocino, Del Norte, Siskiyou - requesting that staff give clarifications to this section. Page 11.3 insert "clarity and simplicity of policies" we need to be very clear to what our policies are and can be easily understood by the investors. Quality of life – see this defined by a lot of trees, dogs barking and neighbors waving hello – I would like to add that quality of life includes safe neighborhoods and healthcare, child care etc. Where we have a community where we like to raise our kids. Regulatory policy – excellent – big box comment is fine. Wastewater – insert a sentence – situation is resulting of exposure of residents to health hazards – contaminated water. In order to have a vibrant community we need to provide quality drinking water. Airport – like to add a sentence – county must consider relocation of an airport with less fog and have longer runways. Our airport is a joke – can't depend on it for transportation of goods and people. If you remove the tools for development – we can keep the county small (quality of life) airport is an important factor for economic development. We need a new location for it. 11.6 – goals – I'd like to see comments under quality of life policies – include water quality and wastewater. And airport expansion included under policies. 11.8 – Implementation measures – need clarification on this. Staff response – it should include a reference to the County's economic strategy for implementing these items – (EMAD – if you include this- I am okay)
Murguia	When are we going to address these issues (changes to the document)– I do not believe relocating the airport will solve our problems – so how do we proceed with these comments? Are they automatically incorporated into the document?
Herman	Staff is sifting through what we say and capture the essence of what we say and will put it in the alternative that is most appropriate.
Murguia	I thought we had an understanding on how we would proceed – that we would take all comments from the public and then weigh in at the end.
Herman	I think staff would appreciate comments as we go along.
Emad	I think it is a necessity to express our views as we go a long. As we may not be present to comment on the designated night. I appreciate the opportunity to comment as we go along.
Gearheart	I got stuck on the quality of life issue. I want to see how we are going to preserve the amenities that we have – and how are we going to attract those creative people here because of our great quality of life. (not necessarily "young").
Kelly	Airport – as a compromise – the county should consider looking to alternative sites for the airport (not too confident will find it) but we should look at it.
Herman	I would agree that the major constraint in this county economically is access – harbor – airport and highways.

Attachment C:

Written comments on Groups 4 and 5
received as of noon, June 14, 2007

(See link to Written comments W76, W79).

Attachment D:

State statutes for conservation
and open space elements.

income, as defined in Section 50093 of the Health and Safety Code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(3) “Area median income” shall mean area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for the lower income households in accordance with the provisions of this subdivision for 30 years.

(4) “Neighborhood” means a planning area commonly identified as such in a community’s planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(i) If any city, county, or city and county denies approval or imposes restrictions, including a reduction of allowable densities or the percentage of a lot which may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, which have a substantial adverse effect on the viability or affordability of a housing development affordable to low- and moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d).

(j) When a proposed housing development project complies with the applicable general plan, zoning, and development policies in effect at the time that the housing development project’s application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that

the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, unavoidable impact, as provided in written standards, policies, or conditions.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(Added by Stats.1982, c. 1438, § 2. Amended by Stats.1990, c. 1439 (S.B.2011), § 1; Stats.1991, c. 100 (S.B.162), § 1, eff. July 1, 1991; Stats.1992, c. 1356 (S.B.1711), § 1; Stats.1994, c. 896 (A.B.3735), § 2.)

Conservation Element

§65302(d): [The general plan shall include] a conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

The conservation element may also cover:

- (1) The reclamation of land and waters.
- (2) Prevention and control of the pollution of streams and other waters.
- (3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (4) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (5) Protection of watersheds.
- (6) The location, quantity and quality of the rock, sand and gravel resources.
- (7) Flood control.

Open-Space Element

§65302(e): [The general plan shall include] an open-space element as provided in Article 10.5 (commencing with [Government Code] §65560).

§65560: (a) “Local open-space plan” is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to §65563.

(b) “Open-space land” is any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in this section, and which is designated on a local, regional or state open-space plan as any of the following:

(1) Open-space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lake shores, banks of rivers and streams, and watershed lands.

(2) Open-space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open-space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lake shores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open-space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

§65561: The Legislature finds and declares as follows:

(a) That the preservation of open-space land, as defined in this article, is necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use of natural resources.

(b) That discouraging premature and unnecessary conversion of open-space land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage noncontiguous development patterns which unnecessarily increase the costs of community services to community residents.

(c) That the anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make definite plans for the preservation of valuable open-space land and take positive action to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods.

(d) That in order to assure that the interest of all its people are met in the orderly growth and development of the state and the preservation and conservation of its resources, it is necessary to provide for the development by the state, regional agencies, counties and cities, including charter cities, of statewide coordinated plans for the conservation and preservation of open-space lands.

That for these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in open-space land.

§65562: It is the intent of the Legislature in enacting this article:

(a) To assure that cities and counties recognize that open-space land is a limited and valuable resource which must be conserved wherever possible.

(b) To assure that every city and county will prepare and carry out open-space plans which, along with state and regional open-space plans, will accomplish the objectives of a comprehensive open-space program.

§65563: On or before December 31, 1973, every city and county shall prepare, adopt and submit to the Secretary of the Resources Agency a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction.

§65564: Every local open-space plan shall contain an action program consisting of specific programs which

the legislative body intends to pursue in implementing its open-space plan.

§65566: Any action by a county or city by which open-space land or any interest therein is acquired or disposed of or its use restricted or regulated, whether or not pursuant to this part, must be consistent with the local open-space plan.

§65567: No building permit may be issued, no subdivision map approved, and no open-space zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local open-space plan.

Public Resources Code §5076: In developing the open-space element of a general plan as specified in subdivision (e) of §65302 of the Government Code, every city and county shall consider demands for trail-oriented recreational use and shall consider such demands in developing specific open-space programs. Further, every city, county, and district shall consider the feasibility of integrating its trail routes with appropriate segments of the state system.

Noise Element

§65302(f): [The general plan shall include] a noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practical, as determined by the legislative body, current and projected noise levels for all of the following sources:

- (1) Highways and freeways.
- (2) Primary arterials and major local streets.
- (3) Passenger and freight on-line railroad operations and ground rapid transit systems.
- (4) Commercial, general aviation, heliport, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
- (5) Local industrial plants, including, but not limited to, railroad classification yards.
- (6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise

contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

Uniform Building Code: The Uniform Building Code includes Sound Transmission Control standards for building construction under Appendix 12, Division 2/2a.

Safety Element

§65302(g): [The general plan shall include a] safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with §2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the

Attachment E:

Chapter 12 - Conservation and Open Space Elements

(See link to Plan text.)