

SUMMARY OF PUBLIC COMMENTS

The Housing Element update was initiated in January 2009 with the creation of a Housing Element project team consisting of staff from the Community Development Agency's Planning and Housing and Community Development Departments. The update process was proposed to the Planning Commission at its January 20th meeting. At that meeting the Commission established a Subcommittee to oversee the development of the Housing Element update. The following table summarizes the meetings held by both the Planning Commission and the Housing Element Subcommittee to guide the revision of the Housing Element.

Meeting Body	Date	Purpose
Planning Commission	January 20, 2009	Establish Housing Element Subcommittee
Housing Element Subcommittee of the Planning Commission (HES)	March 2, 2009	Review Housing Goals, Needs and Constraints
BOS, Transportation and Planning Committee	February 9, 2009	Inform Committee about the Housing Element Update
HES	April 6, 2009	Discuss Housing Sites Inventory
HES	May 4, 2009	Evaluate the implementation of the previous Housing Element; discuss Housing Goals and Needs
HES	June 1, 2009	Discuss Sites Inventory
HES	June 15, 2009	Discuss Sites Inventory
BOS, Unincorporated Services Committee	June 24, 2009	Provide the Committee with an update of the project and to discuss the Sites Inventory
Planning Commission	July 6, 2009	Review and comment on the first draft of the Housing Element; discuss transmittal of the draft to the State
BOS, Unincorporated Services Committee	October 28, 2009	Review the draft environmental documents released October 26, 2009, and changes made to the draft Housing Element as of October 23, 2009
Planning Commission	November 2, 2009	Discuss revised draft Housing Element and related environmental documents
Planning Commission	January 19, 2010	Discuss revised draft Housing Element and related environmental documents. Item continued to January 25, 2010.
BOS, Unincorporated Services Committee	January 27, 2010	Provide an update on the development of the Housing Element Update

At the July 6, 2009 meeting of the Planning Commission, the Commission recommended that a copy of the draft Housing Element be sent to the California Department of Housing and Community Development (State HCD) for an initial 60 day review period. Comments were received from State HCD via telephone on September 21 and by facsimile on September 25, 2009. A subsequent draft was prepared and released on October 26, 2009 which incorporated the comments received from the State. Copies of the revised draft and the letter received from State HCD were delivered to each Supervisor on October 26. Since that time, the Housing Element has been discussed at Unincorporated Services Committee meetings on October 28,

2009 and January 27, 2010 and by the Planning Commission on November 2, 2009 and January 19 and 25, 2010. At the January 25, 2010 meeting, the Planning Commission evaluated the proposed revisions to the draft Housing Element and passed a motion recommending that the document be sent to the Board of Supervisors for review adoption.

The following text summarizes the most frequent comments received to date on the Alameda County Housing Element.

- **RHNA Methodology** – During the process several residents expressed concerns over the methodology that was developed by the Association of Bay Area Governments (ABAG) to calculate the Regional Housing Needs Allocation (RHNA). Specifically residents were concerned that the statistics did not sufficiently consider the existing densities of the unincorporated communities; the presence of an Urban Growth Boundary limiting the intensity of development of the East County Area; the rate of unemployment and resulting migration from the Bay Area due to job loss, as opposed to the job and population growth predicted by the State and ABAG; and the large inventory of unsold housing. Staff responded by providing information from ABAG regarding its methodology and by encouraging those concerned constituents to participate in any future RHNA process to be undertaken by ABAG.
- **Individual Parcels** – Some residents expressed concern about the listing of individual parcels on the Sites Inventory, and requested clarification about what “status” is implied by placement on the Sites Inventory. Staff’s response was that the inventory is required by State Housing Element law and the placement, or lack thereof, does not confer or deny any privileges to the property owner pertaining to the use, development or disposition of their property. There is no requirement that parcels be developed to their “realistic development capacity” as quantified in the Sites Inventory. Moreover, the number of units that are constructed are determined by factors beyond the control of the County, among them the demand for new housing and the availability of financing for residential construction.
- **Rezoning** – In 2005-2006 the County began to implement a rezoning program to implement its 2003 Housing Element. Several questions arose relating to how and why parcels were rezoned. In response to these questions, staff briefly described the County’s RHNA and why it became necessary to rezone so many parcels. In addition, there were questions about the Density Variable “DV” combining district. Staff described the requirements for the DV district as provided in the County’s Zoning Ordinance.
- **Equitable Distribution** – There were several questions about the distribution of parcels throughout the various unincorporated communities. Residents were concerned that some communities would be required to support more units of housing while others would not. In response to those concerns, staff reevaluated the Sites Inventory to ensure a reasonable and equitable distribution of sites throughout the unincorporated sites.
- **Realistic Development Capacity** – During the proceedings there were inquiries about how staff derived the realistic development capacity that was used in the Sites Inventory. Some respondents were concerned that the calculation did not take existing general plan and zoning requirements into consideration, as well as historic patterns of development in the area. Staff responded by providing data on densities for recent projects, and adjusted the calculation to produce a reasonable estimate of development capacity.

- Impact of Design Review – The Home Builders Association of Northern California (HBANC) drafted a letter to express their concerns over the potential impact of a design review process on unit yield. In response to this letter, staff informed the HBANC that the design guideline process, while underway, is not yet complete and therefore the extent to which built densities will be impacted by the guidelines is unclear at this point. In keeping with Housing Element law the County will seek to create a design guidelines process which balances community concerns and does not pose an excessive constraint to the development of housing.
- The Impact of Increased Density- Several residents and members of the Planning Commission were concerned about the potential negative impacts of increased density, particularly in the areas of crime, public services and infrastructure (i.e. police and fire services, schools, park and recreation facilities, traffic, and water and sewer capacity). Staff explained that these concerns may be addressed through existing and proposed policies, permits fees and other standards that would be applied to any project that occurs within the unincorporated areas. The Zoning and Subdivision Ordinances have requirements to ensure a vigorous public process and vetting by members of the community. The California Environmental Quality Act is used to ensure that individual projects are evaluated for negative impacts. Should adverse environmental impacts arise from the proposed development mitigation measures will be imposed to reduce those identified impacts to a less than significant level. Once they are complete, the Illustrated Design Guidelines will be used to ensure that residential development is consistent with the community's character.
- Commercial vs. Residential development- Staff received comments about losses to commercially zoned properties to residential development. The implementation of the Housing Element would not require the rezoning of any parcel; therefore, no parcel currently zoned commercial will be rezoned to a residential use. The properties included in the Sites Inventory that are located within commercial corridors allow mixed use (residential and commercial) development. The pending Eden Area Plan contains an implementation program that promotes economic development while accommodating future population growth and respecting community standards.

Draft Housing Element Comment Letters

Steering Committee:

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Jacki Fox Ruby
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March 25, 2009

Angela Robinson Pinon
Alameda County Community Development Agency
224 W. Winton Avenue
Hayward, CA 94544

Dear Angela,

I'm writing to ask that you consider including child care in the Housing Element for Unincorporated Alameda County. As you know, child care is an important piece of our local economy and quality of life. It is estimated that in Castro Valley alone, child care generates approximately \$14 million in revenue and supports nearly 537 local jobs. And in a recent San Lorenzo survey conducted by the office of Supervisor Alice Lai-Bitker, the respondents "disagreed" that they had access to affordable, quality preschool and child care. The only stronger "disagreement" was that they had access to youth services.

Child care, commercial, transportation and housing planning are interconnected uses. For example, if child care and housing are not conveniently located, parents are forced to drive out of their way to programs, resulting in more traffic and child and family time in cars.

Numerous other jurisdictions have included child care in their Housing Elements, and I have attached sample language for your review and consideration for Unincorporated County.

I welcome your recommendations on an appropriate approach, but based on my knowledge of the area would recommend that policies are included in the "Housing Goals, Policies Action Section" that:

- **State the importance of child care to the area**, for example: "Quality child care is an essential service in Unincorporated Alameda County which promotes health and welfare, generates economic returns, and supports parent workforce participation and children's educational success."
- **Encourage the development of child care opportunities in conjunction with residential development**, for example: "It is the intent of the County to encourage the development and support of child care services in the county by proactive and coordinated planning for child care with jobs, housing and transportation."
- **State the intent of the County to develop policies and procedures that support the development and operation of child care in conjunction with housing**, such as: "Assure that child care needs are reviewed with new development or redevelopment, particularly in affordable housing developments. City staff shall consult with child care intermediaries such as the Child Care Coordinating Council of Alameda County when initiating new proposals for publicly funded projects regarding local child care needs and develop added incentives for projects that review the need for child care such as: parking reductions and density bonuses and consider creative mechanisms for



supporting the financing of new housing linked child care such as development agreements for child care, public funding of the child care component, and/or other strategies.”

Thank you for your consideration and please let me know if you have any questions.

Sincerely,

Ellen Dektar

HOME
BUILDERS
ASSOCIATION



OF NORTHERN CALIFORNIA

May 5, 2009

Albert Lopez
Planning Director
Alameda County
224 W. Winton Avenue, Room 110
Hayward, CA 94544

Re: Housing element site inventory—request for adequate time for public review

Dear Mr. Lopez:

The Home Builders Association of Northern California (“HBANC”) wishes to express concern about the amount of time that the public will have to review and provide meaningful input on the draft site inventory being prepared by the County as part of its housing element update. As I understand the County’s current schedule, the County intends to hold a housing element workshop on May 18 to discuss the draft site inventory, and to adopt a final draft of the housing element some time in June. However, to date the draft site inventory has not been released to the public and the County has not committed to providing the public with a minimum period to analyze this vital component of the housing element. Providing a sufficient review period is all the more important given that the County is simultaneously working on revisions to its design review guidelines—revisions which are almost certain to have a substantial impact on the actual housing unit “yield” for the sites identified in the inventory. HBANC respectfully requests that the County release the draft inventory at least 30 days before holding a workshop to receive public comment and provide detailed responses, and that this be done before taking the draft housing element to either the Planning Commission or Board of Supervisors.

Thank you for considering our request.

Yours very truly,

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cc: Chris Bazar, Director, CDA
Cathy Creswell, Deputy Director, HCD



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Claire Bainer, Vice Chair
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Amy Clough
Miquel Dwin
Lisa Erickson
Vicki Fall
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June 29, 2009

Alameda County Planning Commission
224 W. Winton Avenue
Hayward, CA 94544

Dear Planning Commissioners,

I'm writing to you to ask you to consider addressing child care in the Housing Element for Unincorporated Alameda County. As you know, child care is an important support for our local economy and quality of life. Child care programs in Castro Valley alone support an estimated 537 local jobs and the area has the highest labor force participation rate in the County: 63% of families with children under age six have one or both parents in the labor force vs. 55% of families County-wide.

In a recent San Lorenzo survey conducted by the office of Supervisor Alice Lai-Bitker, the respondents "disagreed" that they had access to affordable, quality preschool and child care. The only stronger "disagreement" was that they had access to youth services. Cherryland had the highest birthrate in the County between 2003-2005, according to 2007 data from the County Department of Public Health.

Child care, commercial, transportation and housing are interconnected uses. For example, if child care and housing are not conveniently located, parents are forced to drive out of their way to programs, resulting in more traffic and child and family time in cars instead of engaged in the community. Alameda County's child care program just developed a new report which details the benefits of child care near transit for planners and developers.

Alameda County general plans recognize the link between child care and community planning. The East County Area Plan and draft Eden Area and Castro Valley Plans reference child care. Making child care and housing linkages explicit in the Housing Element would solidify this approach.

Jurisdictions which have included child care in housing elements have generally

- **Stated the importance of child care to the area**, for example: "Quality child care is an essential service in Unincorporated Alameda County which promotes health and welfare, generates economic returns, and supports parent workforce participation and children's educational success."
- **Encouraged the development of child care opportunities in conjunction with residential development**, for example: "It is the intent of the County to encourage the development and support of child care services in the county by proactive and coordinated planning for child care with jobs, housing and transportation."
- **Stated intent to develop policies and procedures that support the development and operation of child care in conjunction with housing**, such as: "Assure that child care needs are reviewed with new development or redevelopment, particularly in affordable



housing developments. Staff shall consult with child care intermediaries such as the Child Care Coordinating Council of Alameda County when initiating new proposals for publicly funded projects regarding local child care needs and develop added incentives for projects that review the need for child care such as: parking reductions and density bonuses and consider creative mechanisms for supporting the financing of new housing linked child care such as development agreements for child care, public funding of the child care component, and/or other strategies.”

Given time pressure to submit a draft and the Draft Housing Element that is posted online, I am asking you to consider referencing child care programs more explicitly in one or all of the following:

- 1) Amend Goal 7/Principles p.109, to cite child care as an example of an existing service or facility near which new residential development should be considered:
“Encourage new residential development....where development would result in more efficient use of existing public services, such as child care or health care,...”

And/or

“Improve housing opportunities close to employment centers, shopping and preschools and schools, and major transportation facilities.

- 2) Amend Goal 4, Policy 4.4, p.102 “Provide adequate funding for maintenance and improvement of public facilities within and services such as child care provided to residential areas.”
- 3) Amend Goal 7, Programs, Mixed Use and Transit Oriented Developments, p.12, “Minimizing traffic congestion by providing housing and services such as child care close to employment centers.”

Thank you for your consideration and please let me know if you have any questions or comments.

Sincerely,

Ellen Dektar

-----Original Message-----

From: Jewell Spalding [REDACTED]

Sent: Monday, November 02, 2009 3:21 PM

To: Glenn Kirby; Glenn Kirby; Kathie Ready; Ken Carbone; [REDACTED];

alaneloisel@comcast.net; Rich Rhodes; McElligott, Elizabeth, CDA

Cc: Lopez, Albert, CDA; Palmeri, Maria, CDA; [REDACTED]; Bazar, Chris, CDA;

gail.steeleg@acgov.org; Nate Miley; Lai-Bitker, Alice, Supv BOS Dist 3; Kaplan, Seth, BOS

Dist. 4; Swanson, Bob, BOS Dist 4; Lewis, Alison, BOS Dist 2; Wilson, Shawn, BOS Dist 3; Dawn

Clark-Montenegro; Charles & Ruby Snipes; Suzanne Barba; Howard Beckman

Subject: Initial Comments on Draft Housing Element UPDATE & Initial Study/Negative Declaration

Dear Mr. Chairman Kirby and Ms. McElligott,

I would have included Commissioner Frank Imhof on this message, however, staff did not have an email contact for him. By copy this is to request that staff provide Commissioner Imhof with a copy of this correspondence for your meeting this evening. I also telephoned Elizabeth McElligott this morning, but apparently she has not had an opportunity to return my telephone call. Although I would like to attend the hearing on this matter, due to other pre-existing obligations at this time and the short notice that you would be addressing this today, I am unsure whether I can attend.

This is to initially address the "Initial Comments on Draft Housing Element Update & Initial Study/Negative Declaration" dated October 23, 2009 which was distributed on Wednesday afternoon, October 28, 2009 to members of the Board of Zoning Adjustment. First, I would like to point out that providing two to three business days to review over 200 pages single spaced, a 123 page single spaced report, approximately eight single spaced appendices exceeding 35 pages, and six inventories totaling over 62 pages, for a hearing to be held on Monday, November 2, 2009 is simply an inadequate amount of time. Given these circumstances, this is to urge you to continue this hearing to allow the public to present to you more substantive comments after having an adequate time for review.

Initially, this also is to urge you to require that staff provide a full EIR on this project. Based on the draft site inventory for "all" communities, there are 795 existing housing units and a maximum additional capacity of 4,263. Applying various statements made by staff in the draft Eden General Plan, this proposal contemplates the identification of 5,058 housing units. From what I understand, although it is not readily apparent in the voluminous documents to review on short notice, is that approximately 2,167 units were identified as "needed." (See p. 55.) Given this proposal exceeds the needed number by almost 3,000 units (MORE than double needed - almost triple), a full EIR should be performed to enable you to make an informed and educated review and analysis, including the impacts which are likely from such large substantial development.

Also, excluded from the areas to provide such housing is all of the East County, and all lands south of Hayward Acres and Fairview, including Sunol. Staff should either identify for you what lands within these areas may serve the Housing Element purposes or confirm in writing that not one single parcel of land exists within these areas to contribute to the Housing Element Plan. In this regard, as to the Environmental Checklist, numbers 6 and 7, this project is site specific as identified in the October 20, 2009 Map provided and detailed inventory list.

Page 2 of the Report provides table 1-1 discussing population growth, which, without explanation, combines the unincorporated districts of Cherryland and Fairview together, although they are distinct areas which are not even physically close or adjacent to one another. The population growth for Cherryland and Fairview should be separately identified, including their numerical increase and growth. Additionally, there should be clarification as to whether the 5 Canyons development, now identified as Castro Valley but falling within Fairview is included in the growth numbers for Fairview or Castro Valley.

Beginning at page 51, under "Environmental and Safety Constraints," there is the identification of the County's "unincorporated urbanized areas (e.g. Castro Valley), most of the remaining undeveloped parcels are infill that have one or more physical constraints, such as slope, drainage or traffic circulation" and "must be evaluated under the environmental review process mandated" by CEQA. However, there is no EIR provided outlining alternatives or which is the least environmentally damaging. The necessity for such an examination is particularly acute given the San Lorenzo and Cherryland areas have now been newly designated floodplains, a significant consequence due to increased development (a point not recognized on page 53). Will the addition of over 5,000 housing units expand this flood plain further or raise the new water level even higher? This cannot be addressed in a "mitigated negative declaration" as proposed. By staff's own admission, this project needs an EIR yet none is provided.

Related to this is the discussion on page 52 under Hillsides and Slopes, Creeks and Watercourses and p. 53, Flooding and Mudflows. Page 52 states that "Hillsides exist in both urbanized and rural parts of the County." First, what is not apparent, is where is the definition as to what is "urban." The vast majority of areas within Fairview are zoned suburban, limited combined residential agriculture or agriculture. Is staff distinguishing between "urban" from "suburban?" What is the definition of "urban" v. "suburban." On what hillsides does "urban" development exist within each of the distinct unincorporated districts.

As to "consistency with other general plan elements and other planning documents," this plan is not consistent with the Fairview Specific Plan and Staff has agreed that the Fairview Specific Plan needs to be amended so that the implementing language actually accomplishes the stated purposes. In this regard, encouraging "mergers" of lots is not consistent with the Fairview Specific Plan or the requirement that the "prevailing" existing lot size be considered. (Compare p. B-13, principles/goal "encourage housing preservation and rehabilitation.") For that matter, any EIR should examine the consequence of mergers which can have the consequence of ripping down existing housing, creating abandoned neighborhoods and blight. Further, at page 122, it states that "the County is currently revising the Eden Area Plan, which covers the communities of Ashland, Cheryland, Fairview, Hillcrest Knolls, Mt. Eden, and San Lorenzo. In addition to Hillcrest Knolls "opting out" of the Eden Plan, according to the September 21, 2009, revised final draft, p. 1-2, the "Planning Area" for the "Eden Area is ... shown in Figure 1-2." Fairview is not included.

When the draft Eden Plan was earlier revised, it stated that "The Eden Area also includes the Fairview sub-area. However, Fairview is not included in this General Plan because a specific plan and existing conditions for Fairview can be found in the specific plan and its related documents." This is language I and others within the community relied on. Now, just recently, that language was struck and inserted is "The Eden AREA also includes the Fairview area. The 1997 Fairview Area Specific Plan contains the goals, policies, and zoning regulations that apply to this area." (9/21/09 Draft, p. 1-7.) Now, this Housing proposal states that the Eden Area Plan "covers" Fairview; there is no discussion as to consistency with the Fairview Plan which the Eden Plan states "contains the goals, policies, and zoning regulations that apply to this area."

In this regard, many of the lots identified in Fairview are located within 50 feet of creeks. This further confirms the necessity for the preparation of an EIR. The Fairview area also is home to several headwaters to various creeks in the area. In addition to failing to address the Fairview Specific Plan, the consistency section is completely silent on the proposed Creek Ordinance. Likewise, identified are large lots where the property owner has planted extensive grape fields, yet there is no environmental analysis provided as to the impact of adopting this plan on such property.

Also adjacent to this land identified as owned by a public utility is land which East Bay Regional Park identified as appropriate for a trail. (Compare Environmental Checklist: aesthetics, p. 5 & agriculture, p. 6, biological [adverse effect on riparian habitat], water quality, p. 19, public services, p. 25.)

As for satisfying the objections of the 2003 Housing Element Plan, under B-9, the report identifies the whether the program adopted was effective, such as the establishment of the Ordinance Review Advisory Committee. To date, although this committee has been ongoing, based on the information available, other than the garage conversion ordinance, not one ordinance has been generated, not even the fence issue.

In essence, this is to urge you to reject the proposal that "the proposed project will not result in any significant impacts" as stated in the Notice of Availability and Intent to Adopt a Negative Declaration. As far as the Fairview Unincorporated area, this simply is untrue and the project is inconsistent with the Fairview Specific Plan. (Compare, Environmental Checklist, identifying Fairview as "heavily urbanized," compare Fairview Specific Plan, identifying itself as "rural and semi-rural" and minimum zoning generally "suburban." Clearly, at least as to Fairview, and I believe other communities, this project would have a potentially significant impact on land use and planning, physically dividing established communities and conflicting with applicable land use policy documents, as well as inducing substantial population growth as revealed by the inventory of parcels subject to "mergers" and adversely impacting "public services" by identifying schools and other public facilities.
(Compare, Environmental Checklist, p. 24-25)

Lastly, this is to urge you to reject staff's proposal that there is "no impact" on the many issues identified in the Environmental Checklist. Starting with aesthetics: Identified are properties on Fairview which, under the Fairview Specific Plan, is designated a scenic road. Likewise, that there is "no impact" on air quality or greenhouse gas emissions is incorrect and inconsistent with the draft EIR on the Eden Plan's Air Quality Chapter which acknowledges that the proposed Eden Plan violates the Clean Air Act. Clearly this project of over 5,000 housing units would increase the use of existing parks and accelerate their deterioration as well as significantly impact transportation and traffic. (Environmental Checklist, pp. 26 - 27.)

Thank you for your consideration and I hope to look forward to examining a full EIR on this project.

Jewell Spalding
Fairview, zoned limited agricultural-residential.

From: Susan Beck [REDACTED]
To: Lopez, Albert, CDA; cca.bod@gmail.com <cca.bod@gmail.com>
Sent: Mon Nov 30 23:42:23 2009
Subject: Housing Element Comments

Dear Albert,

I apologize these comments are coming through so late but it was a long day.

I don't have Liz's email so please forward to whoever else I need to send these comments to. I don't know if these are the correct type of comments, but here they are

It seems a horrific recommendation to create low-income high-density housing in a flood zone, particularly if this type of housing does not require an environmental impact report.

CH64, 65, 66 recommendation to combine properties as a "potential merger" - this brings what is currently 11 units up to 24 units on streets that are already over-run with planned housing developments that are blights to the street (fully paved front concrete, parking in front, poorly designed), in addition to being recognized as a high-crime, drug trafficking and gang-infested area. The recommendation to infill open space on this particular street is unwise given the County's resources to respond to the increased population and further destruction of community character.

207 Laurel going from 1-8 units. This is a potential urban farm property that the community should be given the opportunity to preserve. Even though the housing element does not "require" these properties to be built-out, this is a property that I as a resident of Laurel Ave would find to be a huge loss to community character. It is one of the few remaining urban farm properties in Southern Cherryland. If a developer ends up buying it and builds 8 units there, that is one thing, but we do not want it listed in a State document as a property that is ideal for development. The highest and best use of this property would be to serve a community need, or to be maintained as a single family home.

CH70-CH71

These properties are directly next door to 279 Laurel Ave, a large, characteristic single family home, and also next to a towering (poorly) Planned Development. The suggestion to merge these two properties completely changes the design pattern on Laurel Ave from Princeton Ave to the middle of the block, thereby changing the development pattern of the street and the character of the street completely. CH71 has potential as an urban farm property and its highest and best use is for community need or being maintained at existing density levels.

To merge these properties in the housing element recommends a development pattern that is inconsistent with what residents want on this street.

Finally - regarding the mergers listed above, there are not sidewalks on all of Laurel Avenue.

If we are able to make requests at this time my request is that the merged properties be un-merged.

Susan

February 8, 2010

Via Email

Madame President Lai-Bitker and Hon. Members of the Board
Board of Supervisors of Alameda County
1221 Oak Street, 5th Floor,
Oakland, California 94612

Re: Planning & Transportation February 8, 2010 Agenda Item No. 3 &
Board of Supervisors Meeting on February 9, 2010 at 1 p.m.:
2009 Housing Element Update Plan.

Dear Madam President and Members of the Board:

On behalf of the Fairview Community Club, which was established in 1955/1956, this is to urge you to either delete the properties listed in the proposed 2009 Housing Element Updated inventory for Fairview totaling 223 units or to modify the negative declaration and to require that a full environmental impact report be prepared for the properties located in the Fairview Unincorporated District.

Throughout the December 2, 2009 Revised Negative Declaration, your Planning Department finds that this development would be either "less than significant," i.e. "a given impact would not occur or would be less than significant, no mitigation measures are required" or "No Impact" . . . that the basis of adequately supported project-specific factors or general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a basic screening of the specific project)." (Rev'd Neg Decl., p. 3.) Additionally,

The discussions of the replies to the Checklist questions must take account of the whole action involved in the project, including off-site as well as on-site effects, both cumulative and project-level impacts, indirect and direct effects, and construction as well as operational impacts. Except when a "No Impact" reply is indicated, the discussion of each issue must identify:

a) the significance criteria or threshold, if any, used to evaluate

each question; and b) the mitigation measure identified, if any, to reduce the impact to less than significance, with sufficient description to briefly explain how they reduce the effect to a less than significant level. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063(c)(3)(D) of the Guidelines). In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

(Rev'd Neg Decl. pp. 3-4.) As to Fairview, this document is fatally flawed and must be rejected.

Checked off as having "No Impact" are aesthetics, p. 5, agriculture, p. 6, biological resources, p. 10, cultural resources, p. 12. Geology and soils, p. 14, air quality and greenhouse gas emissions, pp. 8 and 16, hazards and hazardous materials, p. 18, hydrology and water quality, p. 19, land use planning, p. 21, noise, p. 23, population and housing, p. 24.

Justified is that "Any possible impacts on aesthetics are within the parameters already assessed in the Environmental Impact Reports (EIRs) prepared for the East County Area, Central Metropolitan, Eden Area and Castro Valley Plans." The Fairview Specific Plan is not environmentally analyzed under these documents and as acknowledged by the most recent Eden Area Plan, Fairview is not included in those environmental documents. As a resident who has resided in Fairview since the 1960s and aware of those planning documents, none of these documents ever analyzed Fairview. Further, properties included are those on Fairview Avenue which the 1997 Fairview Specific Plan instructs County staff to adopt as a scenic corridor. Although to date staff has unfortunately failed to perform this task over the past 13 years, their omission

does not take away the scenic value to the community or eliminate the potential adverse impact.

Likewise, as to agriculture, although staff dismisses residents observation that they are including lands which are presently developed as agriculture as not falling within a combined "agricultural" use zoning, this fact does not eliminate the impact. (Neg. Decl., pp. 6-7.)

As to air quality and greenhouse gas emissions, the finding of "no impact" (and "less than significant for green house gas) verges on the ridiculous. Alameda County, which is non-attainment for 8 Hour Ozone and effectively non-attainment for PM 2.5 (awaiting just a signature) is one of the most polluted counties of the 9 Bay Area Counties (see recent newspaper articles –cites available upon request) and the proposed final amended EIR for the proposed Eden General Plan finds that the plan will violate the Clean Air Act.

In urging the Planning Commission to adopt the amended Final EIR and proposed Eden Area Plan, staff informed the Commission that it was necessary to make findings of overriding considerations. As established by Fairview resident Jewell Spalding in those proceedings, the EIR for the Eden Plan does not include Fairview and, contrary to staff's responses, neither do the EIRs for Castro Valley, the East County, or others include an environmental review of Fairview with these number of units. As your records establish, no EIRs were prepared for either the 1980 or 1997 Fairview Specific Plans and your staff has resisted preparations of EIRs such as for the Wong Project on Bayview Court which residents have challenged and is pending before the Court of Appeal.

Likewise, as to biological resources, fifteen of the 52 parcels for Fairview are identified as within fifty feet of creeks. Unlike highly developed "urban" areas, none of the creeks in Fairview are covered and Fairview is the home to the headwaters of many creeks, as exemplified by its canyon lands. Along creeks come sensitive riparian corridors which provide nesting and habitat to migratory wildlife. Not only did the biological report for the Wong development on Bayview identified protected bird species and migratory bird population in Fairview, but the Five Canyons Project Specific EIR and other EIRs related to that development identified Fairview as home to the federally protected endangered whipsnake. As to Fairview, this finding under biological resources is directly contradicted and must be modified to check off "A" that it could have a potentially significant effect. This discussion equally applies to the section for hydrology and water quality. (Neg. Decl. p. 19.)

As to cultural resources, the finding of "no impact" is directly contradicted by the studies performed for the Wong development which identified the presence of multiple sites within one-half mile of Bayview which fall within the

range of properties listed on the inventory. Also, there are many older homes in Fairview built during the 1800s which this project would allow to be ripped down.

We also object to "no impact" being checked off for geology and soils. Many of these parcels are located along hillsides with slopes. Presently the County is revising its grading ordinance, a long overdue exercise which we applaud. Also, the 1997 Fairview Specific Plan is in the process of being amended. Given the experience of the Pacific Terrace development in Fairview resulting in substantial silt filling the creek resulting in the State Department of Water Resources issuing a stop work order, this finding is contradicted and minimally "b" must be checked off for "potentially significant impact."

As to hazards, as the inventory for Fairview reflects, the fact that over one-quarter of the parcels identified are located within 50 feet of a creek, obviously "expose[s] people or structures to a significant risk . . . involving wildland fires ... where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands." As acknowledged in the responses to Ms. Spaldings comments, the urban limit line goes through Fairview. Clearly, this project presents "significant impacts" under "h." (Neg. Decl. p. 18.)

Based on the above analysis, and given the Fairview Specific Plan is in the process of being amended, clearly this project threatens to physically divided established communities in violation of the Fairview Specific Plan which expressly requires that any project be consistent with the existing neighborhood and attempts to protect riparian habitats and canyonlands.

As for those categories checked off as "less than significant" for public services, p. 25, recreation, p. 26, transportation/traffic, p. 27, utilities and service systems, p. 28, your department never referred this to the Fairview Fire Protection District, of which I am an elected member. For that matter, no where in the record are any comments summarized from the Sheriff, Hayward Area Recreation District or East Bay Regional Park District, all public entitles which provide services to Fairview. Based on our information, the San Felipe Community Center is generally "booked" full time and these public entitles like others suffer from budget shortfalls and face challenges just satisfying the needs of the present community, let alone hundreds of additional housing units for which no environmental studies exist to provide any guidance or proposed mitigations.

Further, we submit that the administrative record developed in the Wong case pending before the Court of Appeal in *Tomlinson v. County of Alameda*, California Court of Appeal No. A125471, directly contradicts these findings. The initial study requires for those categories not checked with "No Impact," the discussion of each issue must identify:

a) the significance criteria or threshold, if any, used to evaluate each question; **and b) the mitigation measure identified**, if any, **to reduce the impact** to less than significance, ***with sufficient description to briefly explain how they reduce the effect to a less than significant level.***

This has not been satisfied as to Fairview. No traffic studies have been prepared analyzing this impact and they certainly have not been addressed in any of the EIRs prepared for the East County, Eden Area, Central Metropolitan and Castro Valley Plans, which do not provide an up to date environmental analysis for Fairview at all.

As has been pointed out already, you can delete the properties in Fairview and still satisfy your ABAG requirements. As for "equity," which staff told the Planning Commission was the justification for including Fairview, given the absence of any environmental review, unlike other communities which have had recent environmental studies performed or are underway, such an inclusion of Fairview under such circumstances is highly ***inequitable***.

Sincerely,

Charles Snipes,
President

Cc: w/out encl.

Albert Lopez, Planning Director

Elizabeth McElligott, Assistant Planning Director

HAYWARD HILLS PROPERTY OWNERS ASSOCIATION
3833 STAR RIDGE ROAD
HAYWARD, CA 94542

March 15, 2010

Ms. Elizabeth McElligott
Alameda County Planning Dept.
224 W. Winton Ave., Room 111.
Hayward, CA 94544

Dear Ms. McElligott:

The Board of the Hayward Hills Property Owners Assn. is writing to go on record in opposition to the Revised Housing Element Plan because we object to its statements that the housing units planned will have "no impact" or "less than significant impact" environmentally on Fairview.

In this regard we wish to go on record in support of The Fairview Community Club's correspondence dated February 8, 2010 to the Board of Supervisors in asking that the negative declaration (or mitigated negative declaration) be rejected and that you require that a full Environmental Impact Report be prepared for unincorporated Fairview before any such plan is submitted to the State of California.

The addition of up to 223 units on 52 parcels in the Fairview District, for example, cannot help but affect our aesthetics, land use planning, noise, population, creeks, and traffic among other things. It is wrong for the report to state otherwise. Additionally Fairview should be given the same consideration as any other unincorporated area of Alameda County that did have the benefit of a recent EIR performed although in relation to the accompanying amendment of the Eden General Plan.

We thus respectfully request that an EIR for the Fairview District be prepared before this plan is advanced and that you decline to certify the negative declaration (or mitigated negative declaration). We also request that this letter and the Fairview Community Club's February 8, 2010 letter be included in the documents you submit to the State.

Thank you.



HAROLD E. BANCROFT
President, Hayward Hills Property Owners Assn.
hebabcroft@msn.com 581-3335

Enclosure: Fairview Community Club letter dated February 8, 2010

Copies: Mr. Albert Lopez
Supervisor Nate Miley
Supervisor Gail Steele
Alameda County Board of Supervisors