City of Brisbane
Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 11/18/10

FROM: Tim Tune, Senior Planner, and Ken Johnson, Associate Planner, via John Swiecki, Community Development Director

SUBJECT: **Study Session:** General Plan Amendment GPA-1-10, Housing Element Update and Proposed Negative Declaration

Purpose: The purpose of this study session is to bring the Planning Commission current on the progress of the Housing Element update, in preparation for the upcoming public hearing. The study session will also provide the public an opportunity to comment orally on the proposed Negative Declaration for the 2007-2014 Housing Element.

Background: The 2007-2014 Housing Element update cycle began with the California Department of Housing and Community Development (HCD) establishing statewide population projections and assigning a share of the state housing needs from those population projections to the Association of Bay Area Governments (ABAG) and the City/County Association of Governments of San Mateo County (C/CAG). The share is then apportioned to individual jurisdictions as the Regional Housing Need Allocation (RHNA). As a result, Brisbane's Housing Element must demonstrate sufficient zoning capacity during the 2007-2014 planning period to provide at least the allocated number of units affordable to households under the following income categories:

- Very low income (=50% of County median income): 91 units
- Low income (51-80% of County median income): 66 units
- Moderate income (81-120% of County median income): 77 units
- Above moderate income (>120% of County median income): 167 units
- Total: 401 units

Government Code Section 65583.2(c) requires that the Housing Element "... determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period..." In zoning districts with a minimum required unit density, that minimum density is used as the basis for calculating each site's total unit capacity [Government Code Section 65583.2(c)(1)]. Minimum unit density requirements of at least 20 units per acre on minimum site areas sufficient to permit at least 16 unit per site are assumed by the State to accommodate housing affordable for lower (very low and low) income households per Government Code Sections 65583.2(c)(3)(B)(iii), 65583.2(f) & 65583.2(h).

Government Code Section 65583.2(h) requires that, "At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential uses and for which nonresidential uses or mixed uses are not permitted...." Also, discretionary development review of these presumed-affordable sites is limited by state law. The entire set of State requirements applicable to the Housing Element (California Government Code Sections 65580-65583.2 & 65589.5-65589.8) is attached. An accounting of the City's compliance with these requirements is summarized in the revised draft Housing Element's Appendix D.

The Planning Commission publicly held study sessions on April 30 and May 14, 2009 to provide recommendations to the City Council on the draft Housing Element goals, policies and programs, as well as on potential areas for rezoning to help meet the City's RHNA numbers (see attached minutes). In particular, the Commission recommended that a portion of the TC-1 District adjoining the Community Park be rezoned for mixed use to allow housing. The City Council then held public meetings on June 1, 15 and 29, July 13 and September 28, 2009, but differences in approach to complying with the RHNA requirements led to some changes in direction that required revisions to the preliminary draft Housing Element. On June 28, 2010, the City Council approved the revised draft for submittal to HCD for review. Proposed is rezoning of the southern portion of the Southwest Bayshore subarea to residential, as well as mixed use zoning for the 3 sites in the TC-1 District bounded by the Brisbane Village Shopping Center, Community Park, Park Lane and Park Place. In response to HCD's comments, dated August 31, 2010 (attached), staff has prepared the attached revised draft Housing Element.

Staff anticipates receiving final comments from HCD in time for the draft Housing Element and Environmental Initial Study/Proposed Negative Declaration to be brought back to the Planning Commission for formal public hearing and recommendation to the City Council in December. Staff then intends to schedule the matter for Council adoption in January. It should be noted that the statutory deadline for adoption of the Housing Element was July 1, 2009.

Discussion: To fully comply with State law per HCD's initial review, further revisions are proposed to the draft Housing Element accepted by the City Council in June.

To qualify as potentially affordable in the low and very low income (lower income) categories, a zoning district must have a minimum density of at least 20 units per acre with a required minimum building site area large enough to accommodate at least 16 units. The new NCRO-3 District mixed use zoning proposed for the 3 parcels in the TC-1 District would have a minimum required dwelling density of 1 unit per 1,815 sq. ft. of land area (24 units per acre) and a minimum lot size of 29,040 sq. ft. This would be sufficient to accommodate 16 units per lot with a requirement for 25% of the lot area dedicated to public space (see Housing Element Table 37).

The portion of the SCRO-1 District south of the mobilehome park proposed to be rezoned residential (as the new R-SWB District) would have a minimum density of 1 unit per 2,178 sq. ft. (20 units per acre) on a minimum lot size of 34,848 sq. ft. to accommodate 16 units or more per

lot. As recommended in HCD's review, the Housing Element acknowledges that to meet this minimum lot size, clusters of existing small lots in the district will have to aggregated and repurposed, as indicated in Housing Element Appendix F (Table F.12) and Figure H.5. To facilitate lot consolidation, Housing Element Program H.B.9.b has been revised to note this as one of the purposes for land banking.

The following table illustrates how Brisbane's potential, based on recent trends and proposed zoning, would provide the City's RHNA share for the 2007-2014 planning period, with at least 50% of the very-low- and low-income housing need being accommodated in residential districts (as opposed to mixed use districts) as required by State law. Although the potential units identified as being affordable to moderate income households are less than the RHNA allocation for that level of affordability, the proposed zoning changes will provide an excess of potential units at densities high enough to accommodate housing affordable to low and very low income households so as to make up the difference (a unit affordable to a low income household would be affordable to a moderate income household as well).

RHNA Summary: Residential vs. Mixed Use Districts

Income Level	**RHNA**	**2007-2014 Built & Potential Units**		
		Residential Districts	**Mixed Use Districts**	**All Districts [A]**
Very Low	91	0	2	2
Low	66	0	2 + 2 = 4	4
Lower		8 + 93 = 101	23 + 20 + 82 = 125	101 + (125 – 53) = 173
Very Low + Low + Lower	**157**	**101**	**131**	**179**
50% Maximum Mixed Use [A]	[78]		[78]	
Minimum Required Very Low + Low	[157]			[157]
Lower/Moderate [A]			**53**	**16**
Moderate	77	10	0	10
Lower/Moderate [A] + Moderate			**53**	53 + 16 + 10 = **78**
Above Moderate	167	77 + 67 + 4 = 148	13 + 45 = 58	148 + 58 = 206
TOTALS	**401**	**259**	**189**	**448**

[A] Per Government Code Section 65583.2(h), a maximum of 78 (no more than 50% of 157) of the very low and low income housing need may be accommodated on sites designated for mixed use. Those units in mixed use districts in excess of 78 may be considered affordable to moderate income households. Those units in excess of the 157 minimum RHNA requirements at the very low and low income levels may also be considered affordable to moderate income households.

In response to HCD's comments, Chapter III and Appendix F of the revised draft Housing Element have been expanded to address the realistic development capacity and potential development constraints of the sites considered. A new Table 44 has been added to analyze the

Design Permit and Use Permit findings regarding their potential impact on project approval and certainty. Section IV.1.1.6, addressing constraints on housing for persons with disabilities, has been revised to include the issues raised by HCD. Also revised in response to HCD are Programs H.B.1.b & H.B.3.i, Policy H.B.5, Program H.B.5.a, Policy H.B.9, Programs H.B.9.d., H.B.9.k, H.A.1.b, H.B.7.a., H.B.7.b & H.E.1.d, and a new Program H.H.2.e.

Environmental Determination: Adoption of the 2007-2014 Housing Element will not result in any direct environmental impacts, according to the attached Environmental Initial Study. Per State CEQA Guidelines Sections 15151 and 15064(d)(3), the environmental analysis at this level is limited to what is "reasonably feasible" and "reasonably foreseeable." Given how speculative it would be to do otherwise (see State CEQA Guidelines Section 15145), this analysis assumes that the various programs addressing the availability, affordability and quality of units permitted under current zoning will not in and of themselves have an environmental impact.

Of 79 programs proposed by the Housing Element (see Appendix G.2.), 4 would change existing development regulations so as to increase the current potential dwelling unit count:

> Program H.B.1.a would rezone 125 Valley Drive, 25 Park Place and 41-43 Park Place to allow 125 to 199 units as part of a mixed-use development under a new NCRO-3 District. It would also rezone the properties at 3832-4090 Bayshore Boulevard, 1093-1107 San Bruno Avenue and on McLain Road to multi-family residential (R-SWB District) to allow a net total of 136 to 196 residential units.
>
> Program H.I.1.d would establish a "modification" process to potentially allow 5 developed sites (253 Humboldt Road, 1145 Humboldt Road, 10 Kings Road, 315 Kings Road and 119 Tulare Street) in the R-1 District to be split into 5,000 sq. ft. minimum parcels, even though they would not comply with the minimum 50 ft. by 100 ft. lot dimensions for the district.
>
> Program H.I.1.e would expand the current "substandard lot" provisions to potentially allow 2 vacant properties at 193 San Benito Road and 100 Lake Street in the R-1 District to qualify as additional building sites.
>
> Program H.B.5.a would increase the potential number of units possible under the density bonus provisions. Due to site-specific constraints (steep slopes, parking requirements, endangered species' habitat) in addition to zoning district unit density regulations, an estimate of the potential number of additional units would be speculative at this point.

All projects proposed pursuant to the Housing Element will be subject to individual environmental review to determine if they would result in significant impacts (such as exposure to air pollution, liquefaction, landslides, flooding and noise or increased traffic reducing the level

of service at the intersection of Bayshore Boulevard and San Bruno Avenue), given existing development regulations to limit such impacts. In addition, a number of proposed Housing Element Programs (see Appendix G.2.) would serve to pre-mitigate some potential impacts, by supporting the 2010 Bay Area Clean Air Plan, by complying with the Bay Area Air Quality Management District's CEQA Air Quality Guidelines and by requiring adoption of development regulations and form-based codes to address specific issues.

The Environmental Initial Study concludes that the project will not have a significant environmental effect and recommends approval of a Negative Declaration.

Attachments:

Revised Draft Housing Element
8/31/10 California Department of Housing and Community Development Review
10/5/10 Response to HCD
City Council Minutes (Excerpts) for the Meetings of 6/28/10, 9/28/09, 7/13/09, 6/29/09, 6/15/09 & 6/1/09
Planning Commission Minutes (Excerpts) for the Meetings of 5/14/09 & 4/30/09
California Government Code Sections 65580-65583.2 & 65589.5-65589.8
Environmental Initial Study

DRAFT

2007-2014
Housing Element
City of Brisbane

FOR

November 18, 2010
Planning Commission Study Session

PROVIDED SEPARATELY

H.1.6.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177 / FAX (916) 327-2643
www.hcd.ca.gov

August 31, 2010

Mr. John A. Awiecki
Interim Community Development Director
City of Brisbane
50 Park Place
Brisbane, CA 94005

Dear Mr. Awiecki:

RE: Review of the City of Brisbane's Draft Housing Element

Thank you for submitting Brisbane's draft housing element received for review on July 2, 2010. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). Communications with you, Mr. Ken Johnson, Associate Planner, and Mr. Tim Tune, Senior Planner, facilitated the review.

The Department commends Brisbane for creating a program to expand density bonus incentives for projects that meet or exceed specifications. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must analyze the suitability and availability of identified sites. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department appreciates the cooperation and assistance of you and Messrs. Johnson and Tune throughout the course of the review. We are committed to assist Brisbane in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Raquel Medina, of our staff, at (916) 324-9629.

Sincerely,

Cathy E. Creswell

Cathy E. Creswell
Deputy Director

Enclosure

H.1.7

APPENDIX

CITY OF Brisbane

The following changes would bring Brisbane's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on the Department's website at. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at www.hcd.ca.gov/hpd/housing_element2/index.php, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

   The City of Brisbane has a regional housing need allocation (RHNA) of 401 housing units, of which 157 are for lower-income households. To address this need, the element relies on mixed-use and residential sites, some of which will require rezoning. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses as follows:

   Multiple Parcels: Appendix F lists some sites comprised of multiple parcels. While the inventory may aggregate parcels, it must also list sites individually by size, General Plan designation, zoning, and capacity. *For parcels anticipated to be developed individually,* the element should include an analysis demonstrating the potential of these sites to accommodate new residential development, given necessary economies of scale particularly for new multifamily rental development affordable to lower-income households. While it may be possible to build housing on a very small parcel, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units. *For parcels anticipated to be consolidated*, the element could describe the potential for lot consolidation, including conditions rendering parcels suitable and ready for redevelopment, trends or information on the number of owners and indicating where sites have been assembled.

Realistic Capacity: The element did not address this requirement. The element must describe the methodology for determining the development capacity of sites listed in Appendix F. The estimate of potential unit capacity must account for land-use controls and site improvements and could reflect recently built densities. Refer to the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.

Non-Vacant Sites: While the element generally describes existing uses and briefly mentions some recent redevelopment trends in zones, it must sufficiently detail existing uses to demonstrate the potential for redevelopment on identified sites within the planning period and analyze the extent existing uses may impede additional residential development. This description and analysis is particularly important for candidate sites for rezoning since most have existing uses. For sites with residential uses, the inventory could generally describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For non-residential sites, the inventory could generally describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. Refer to the sample analysis on the Building Blocks' website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#nonvancant.

Environmental Constraints: While the element broadly discusses environmental constraints (pages III-11 to III-13), it should include a general discussion of how these or other conditions may impact development capacity in the planning period.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Local Processing and Permit Procedures: The element includes information on permit types by zone for various housing types and describes multifamily development is subject to design review by the Planning Commission. The element also concludes design review findings are "clearly articulated" and focused on site design and safety. However, the element should include a complete description and analysis of all decision-making criteria related to the approval of multifamily housing, including design review. Among other things, the element should identify findings of approval for the design review permit and analyze their potential impact on approval timing and certainty.

Constraints on Housing for Persons with Disabilities: The element must include a complete analysis of potential constraints on the development, maintenance, and improvement of housing for persons with disabilities. While the element addresses

various potential constraints such as reasonable accommodation and parking requirements, it should also identify and analyze (1) the City's definition of family, (2) any spacing requirements and (3) approval procedures for group homes with seven or more persons for impacts on housing for persons with disabilities and include programs as appropriate. Please see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

B. Housing Programs

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

   As noted in Finding A-1, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition:

   Adequate Sites: The element identifies a shortfall of sites to accommodate the City's housing needs for lower-income households. To address the shortfall, the element identifies several candidate sites (Appendix F) and Programs H.B.1.a and H.B.1.c. Pursuant to Government Code Sections 65583(c)(1), and 65583.2(h) and (i), adequate sites programs must allow a minimum of 16 units per site. Some identified sites allow less than 16 units per site and do not address the statutory requirements. The Program to provide adequate sites must commit to:

   - Permit owner-occupied and rental multifamily uses by-right sufficient to accommodate the remaining need for lower-income households. Pursuant to Section 65583.2 (h) and (i), "by-right" means local government review must not require a conditional use permit (CUP), planned unit development or other discretionary review or approval.
   - Allow a minimum of 16 units per site.
   - Require a minimum density of 20 units per acre.
   - Ensure at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only.
   - Rezone specified acreage and identify the proposed zone.
   - Reference candidate sites by parcel number or unique reference.

Emergency Shelters (Program H.B.3.i (page VI-8)): The Program should be revised to clarify emergency shelters will be permitted without discretionary action and commit to only subject shelters to the same development and management standards that apply to other allowed uses within the identified zone. See the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

2. *The housing element shall contain programs which "assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households (Section 65583(c)(2)).*

While the element includes Program H.B.1.F to allow single-room occupancy units which can assist in meeting the needs of single-person ELI households, it does not address the needs of family or larger ELI households. As a result, pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should either be revised or added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this requirement, the element could revise programs to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as supportive housing, which address some of the needs of this income group. In addition:

Programs H.B.7.a and H.B.7.b (page VI-10): These programs should commit to discrete timelines (e.g., at least annually) and describe how Brisbane will encourage development.

3. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in Finding A-2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition:

Height limits: While the element commits to increase height limits in areas within a quarter mile of a transit stop, it should commit to also continue allowing three story buildings for multifamily development as noted (page IV-2).

C. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).

Brisbane should note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 207 [AB 162]) which requires amendment of the safety and conservation elements of the General Plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009. For additional information, please refer to Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf.

City of Brisbane
50 Park Place
Brisbane, CA 94005-1310
415-508-2100
415-467-4989 Fax

October 5, 2010

Raquel Medina
California Department of Housing and Community Development
1800 3rd Street, #430
P.O. Box 952053
Sacramento, CA 94252-2053

Dear Ms. Medina:

Enclosed for your review are the City of Brisbane's responses to HCD's comments on Brisbane's draft Housing Element (see attached). As we discussed on September 21st, we have provided only those sections of the Housing Element where revisions have been made in response to HCD's comments.

Thank you for your consideration. Should you have any questions regarding the document please contact me, Senior Planner Tim Tune or Associate Planner Ken Johnson at 415-508-2120.

Sincerely,

John A. Swiecki, AICP
Community Development Director

Enc: Draft Housing Element Revisions

H. 1. 12.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

   The City of Brisbane has a regional housing need allocation (RHNA) of 401 housing units, of which 157 are for lower-income households. To address this need, the element relies on mixed-use and residential sites, some of which will require rezoning. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses as follows:

   Multiple Parcels: Appendix F lists some sites comprised of multiple parcels. While the inventory may aggregate parcels, it must also list sites individually by size, General Plan designation, zoning, and capacity. *For parcels anticipated to be developed individually,* the element should include an analysis demonstrating the potential of these sites to accommodate new residential development, given necessary economies of scale particularly for new multifamily rental development affordable to lower-income households. While it may be possible to build housing on a very small parcel, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units. *For parcels anticipated to be consolidated,* the element could describe the potential for lot consolidation, including conditions rendering parcels suitable and ready for redevelopment, trends or information on the number of owners and indicating where sites have been assembled.

The sites comprised of multiple parcels in Appendix F are in common ownership and are either recognized by the City as a single building site or have been proposed by the owner for development as a single building site. This point of clarification will be added to the notes on the tables in Appendix F. The revised tables in Appendix F are broken down by General Plan designation. The zoning and capacity columns have been clarified on the tables, including the "Realistic Potential 2007-2014". Also as requested in Appendix F, we have included in the notes an analysis of the sites with existing development that are proposed for redevelopment. This is to demonstrate the viability of individual sites for redevelopment to housing.

In the case of the new R-SWB district on the southern end of Southwest Bayshore, we are designating a new minimum lot size and development density to meet both the 20 units per acre minimum density and the 16 unit minimum lot size to count towards both the total RHNA and the lower income categories. The minimum lot size will be designated at 34,848 sq ft. Also, the City will not impose a requirement of public space dedication. These changes result in an increase in the potential supply (total and lower income) from 85 units for this district to 145 units; or essentially over-zoning by 60 units. If one were to conservatively assume that the sites that have existing residential development will not be redeveloped in this planning period, the

aggregation of the remaining vacant and commercial sites alone results in 93 units for this district, or 8 over the lower income RHNA requirement for the planning period. Likewise, these changes will increase the total potential supply by 8, for a total of 47 units over the requirement of 401.

The proposed new minimum lot size will necessitate aggregation of a number of the lots in the new R-SWB district, and this will be shown in the revised Appendix F (**see revised Appendix F, attached**). We anticipate that this new minimum lot size combined with the certainty provided by the proposed rezoning will help expedite redevelopment. A new Figure H.5 has been added to show the potential aggregations of vacant and commercial properties for the planning period, plus potential aggregation of existing underdeveloped residential properties which shows the theoretical maximum build-out for this new district. Edits were also made to Figures H.1 and H.2 to reflect the changes to the R-SWB district (**see attached figures**)

We will add a new section called "Realistic Development Capacity" in Chapter III (Land Inventory and Identification of Adequate Sites for Regional Housing Needs) that will discuss lot size and potential for multifamily development in general, with specific examples cited here and in the new Table 38. **See attached.**

As stated, to encourage lot consolidation, a new minimum building site standard will be adopted for the proposed R-SWB District, and Program H.B.9.b will be revised:

> ***Program H.B.9.b Purchase appropriate vacant sites to land bank for future affordable housing projects*, as well as small underdeveloped properties in the R-SWB District in order to assemble standard building sites.**

Realistic Capacity: The element did not address this requirement. The element must describe the methodology for determining the development capacity of sites listed in Appendix F. The estimate of potential unit capacity must account for land-use controls and site improvements and could reflect recently built densities. Refer to the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.

A "Realistic Potential 2007- 2014" column has been added to the Appendix F tables. This renames the column, "Site Specific Analysis", but includes some revisions as discussed for the the R-SWB district. The figures shown will take into account the land-use controls and site improvements required.

The new "Realistic Development Capacity" section and the new Table 38 in Chapter III will discuss examples of projects that met the R-3 District's maximum unit density and other zoning requirements, along with those that were able to provide affordable housing in the R-3, NCRO-2 and SCRO-1 Districts. Assumptions for units projected to meet the City's RHNA allocation for lower income households will be explained.

Non-Vacant Sites: While the element generally describes existing uses and briefly mentions some recent redevelopment trends in zones, it must sufficiently detail existing uses to demonstrate the potential for redevelopment on identified sites within the planning period and analyze the extent existing uses may impede additional residential development. This description and analysis is particularly important for candidate sites for rezoning since most have existing uses. For sites with residential uses, the inventory could generally describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For non-residential sites, the inventory could generally describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. Refer to the sample analysis on the Building Blocks' website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#nonvancant.

Additional site specific notes will be added for the non-vacant sites in Appendix F.

The new "Realistic Development Capacity" section and the new Table 38 in Chapter III will also spell out the methodology for determining the development potential of nonvacant sites, referring to recent development trends and factors that do not make existing improvements an impediment to higher density development.

Environmental Constraints: While the element broadly discusses environmental constraints (pages III-11 to III-13), it should include a general discussion of how these or other conditions may impact development capacity in the planning period.

We will add a new section called "Potential Development Constraints" in Chapter III (**see attached**) that will address environmental and utilities supply constraints. There will also be a new Appendix G (**see attached**) listing environmental constraints and mitigations for each of the residential zoning districts and Housing Element policies and programs.

2. . *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

   Local Processing and Permit Procedures: The element includes information on permit types by zone for various housing types and describes multifamily development is subject to design review by the Planning Commission. The element also concludes design review findings are "clearly articulated" and focused on site design and safety. However, the element should include a complete description and analysis of all decision-making criteria related to the approval of multifamily housing, including design review. Among other things, the element should identify findings of approval for the design review permit and analyze their potential impact on approval timing and certainty.

Design Permit and Use Permit findings will be analyzed individually in a new Table 44 in Section IV.1.1.5 **(see attached)**.

Constraints on Housing for Persons with Disabilities: The element must include a complete analysis of potential constraints on the development, maintenance, and improvement of housing for persons with disabilities. While the element addresses various potential constraints such as reasonable accommodation and parking requirements, it should also identify and analyze (1) the City's definition of family, (2) any spacing requirements and (3) approval procedures for group homes with seven or more persons for impacts on housing for persons with disabilities and include programs as appropriate. Please see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

We will add in Section IV.1.1.6:

The Municipal Code, through its definitions of 'family' and 'group care' adopted in 1998, already treats group care homes for 6 or fewer persons (regardless of relationship) as single-family residences. Group care homes (for 7 or more persons) are conditionally permitted in all residential and mixed-use districts (Table 38). The City has no requirement that such homes be located a specified distance from one another, as evidenced by the previous approvals of two such homes next door to

one another in the Southwest Bayshore subarea (page II-5). The Use Permits for those two projects were approved in 1 ½ months subject to a minimum of conditions.

B. Housing Programs

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

   As noted in Finding A-1, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition:

With the changes already discussed, we will meet the state's requirements for a complete site analysis, and we will have adequate sites.

Adequate Sites: The element identifies a shortfall of sites to accommodate the City's housing needs for lower-income households. To address the shortfall, the element identifies several candidate sites (Appendix F) and Programs H.B.1.a and H.B.1.c. Pursuant to Government Code Sections 65583(c)(1), and 65583.2(h) and (i), adequate sites programs must allow a minimum of 16 units per site. Some identified sites allow less than 16 units per site and do not address the statutory requirements. The Program to provide adequate sites must commit to:

- Permit owner-occupied and rental multifamily uses by-right sufficient to accommodate the remaining need for lower-income households. Pursuant to Section 65583.2 (h) and (i), "by-right" means local government review must not require a conditional use permit (CUP), planned unit development or other discretionary review or approval.
- Allow a minimum of 16 units per site.
- Require a minimum density of 20 units per acre.
- Ensure at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only.
- Rezone specified acreage and identify the proposed zone.
- Reference candidate sites by parcel number or unique reference.

We will revise Program H.B.1.b to include the first 3 listed bullet points:

> *Program H.B.1.b For* **the new NCRO-3 and R-SWB** *zoning districts, adopt development regulations (including public space standards as appropriate)* **that permit owner-occupied and rental multifamily uses by right, require a minimum of 16 units per site, require a minimum density of 20 units per acre and allow three-story development**, *as referenced in Sections III.1 and III.2.*

Emergency Shelters (Program H.B.3.i (page VI-8)): The Program should be revised to clarify emergency shelters will be permitted without discretionary action and commit to only subject shelters to the same development and management standards that apply to other allowed uses within the identified zone. See the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

We will insert this language in Program H.B.3.i:

> *Program H.B.3.i Include emergency shelters as a permitted use in the Southwest Bayshore R-SWB district,* **not subject to discretionary action or to any development or management standards that would not apply to other allowed**

uses within the zone, except as provided by Government Code Section 65583(a)(4)(A).

2. *The housing element shall contain programs which "assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households (Section 65583(c)(2)).*

While the element includes Program H.B.1.F to allow single-room occupancy units which can assist in meeting the needs of single-person ELI households, it does not address the needs of family or larger ELI households. As a result, pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should either be revised or added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this requirement, the element could revise programs to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as supportive housing, which address some of the needs of this income group. In addition:

We will expand Policy H.B.5 and Program H.B.5.a to include supportive housing units for extremely-low-income families and larger households among those for which a density bonus and/or other incentives could be granted. We will specifically reference supportive housing for ELI families and large households as potential Redevelopment Low & Mod Income projects in Policy H.B.9 and Program H.B.9.d, and for subsidized fees under Program H.B.9.k:

Policy H.B.5 Encourage utilization of the density bonus program to provide housing affordable to extremely-low, very-low- and/or low-income households, **including supportive housing for extremely-low income families and larger households.**

Program H.B.5.a Amend the Affordable Housing Ordinance (BMC Chapter 17.31) to permit the City to grant a proportionately lower density bonus and/or incentives for affordable housing projects that do not qualify under Government Code Section 65915 due to their small size or other limitations, as well as to grant a density bonus and/or other incentives greater than required for projects that meet or exceed the qualifications for a density bonus (as provided by AB 2280), **such as those that include units for extremely-low-income families and larger households.**

Policy H.B.9 Study alternatives for use of the City's Redevelopment Low and Moderate Income Housing Fund to provide affordable housing for extremely-low-, very-low-, low- and moderate-income households, **including supportive housing for extremely-low income families and larger households,** *and support affordable housing proposals as opportunities arise and funds become available.*

Program H.B.9.d Acquire and rehabilitate vacant/abandoned/deteriorated residences and make them available as affordable housing, **supportive housing and other forms of housing to help address unmet needs in the community.**

Program H.B.9.k Evaluate City fee schedules for processing development applications and consider providing a subsidy for projects providing affordable housing for extremely-low-, very-low- and low-income households, **including supportive housing for extremely-low-income families and larger households.**

Programs H.B.7.a and H.B.7.b (page VI-10): These programs should commit to discrete timelines (e.g., at least annually) and describe how Brisbane will encourage development.

We will revise these programs to specify that they will be encouraged through annual public information efforts. Program H.A.1.b will then be expanded to include posting of the inventory of potential housing development sites on the City's website:

Program H.A.1.b Continue to inform Brisbane residents and businesses, developers, non-profit housing development organizations and other groups about housing policies and opportunities in Brisbane. Use local publications such as the Brisbane Star and the Chamber of Commerce newsletter, bulk mailing, flyers, the City's website and other means of distributing information on City housing policies, **the City's inventory of potential housing development sites**, *local achievements, programs of other agencies, housing information and counseling programs, and State housing laws.*

Time Frame: Ongoing
Responsibility: Community Development Department
Funding Source: City funds

Program H.B.7.a **Through public information efforts (see Program H.A.1.b),** *encourage housing developers to participate in available affordable housing programs sponsored by governmental agencies, such as:*

- *Mortgage Credit Certificate Programs*
- *State and Federal Homeownership Assistance Programs*
- *State Multifamily Housing Program*
- *Other programs as they become available*

Time Frame: **On an annual basis**
Responsibility: Community Development Department

Funding Source: City funds

Program H.B.7.b **Through public information efforts (see Program H.A.1.b),** *encourage housing developers to work in concert with nonprofit housing development organizations and lending institutions to incorporate affordable housing units in development projects.*

Time Frame: **On an annual basis**
Responsibility: Community Development Department
Funding Source: City funds

3. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in Finding A-2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition:

No constraints requiring further action were identified.

Height limits: While the element commits to increase height limits in areas within a quarter mile of a transit stop, it should commit to also continue allowing three story buildings for multifamily development as noted (page IV-2).

This will be referenced in the new Table 37 **(see attached)** and Program H.B.1.b regarding the new NCRO-3 and R-SWB Districts, as well as noted in Program H.E.1.d:

Program H.B.1.b For **the new NCRO-3 and R-SWB** *zoning districts, adopt development regulations (including public space standards as appropriate)* **that permit owner-occupied and rental multifamily uses by right, allow a minimum of 16 units per site, require a minimum density of 20 units per acre and allow three-story development**, *as referenced in Sections III.1 and III.2.*

Program H.E.1.d Consider changes to the zoning ordinance for multifamily housing as part of transit oriented development (within ¼ mile of a transit stop), such as:

- *Reduce parking minimums and establish parking caps*
- *Increase building height limits* **to allow three-story development**

- *Provide for flexible setbacks and increased lot coverage*
- *Promote adaptive reuse of existing buildings*
- *Allow TOD housing that meets the requirements of the zoning ordinance without the requirement of a use permit.*

C. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).

Brisbane should note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 207 [AB 162]) which requires amendment of the safety and conservation elements of the General Plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009. For additional information, please refer to Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf.

We will add a new program:

Program H.H.2.e Amend the Safety and Conservation Elements of the General Plan to include analysis and policies regarding flood hazard and management information per Government Code Section 65302.

Attachments:

Chapter III
Table 44
Appendix F
Appendix G

CITY COUNCIL/REDEVELOPMENT/GVMID

ACTION MINUTES

CITY COUNCIL REGULAR MEETING

JUNE 28, 2010

BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

H.1.23.

CALL TO ORDER/FLAG SALUTE

Mayor Conway called the regular meeting to order at 6:30 p.m. and led the flag salute.

ROLL CALL

Councilmembers present:	Bologoff, Lentz, Richardson, Waldo, Mayor Conway
Councilmembers absent:	None
Staff present:	Public Works Director Breault, City Manager Holstine, Deputy Fire Chief Johnson, Police Commander Macias, Administrative Services Director Schillinger, Parks and Recreation Director Skeels, Assistant to the City Manager Smith, City Clerk Spediacci, Interim Community Development Director Swiecki, City Attorney Toppel

PROCLAMATION, RECOGNITION, & RECEPTION

A. Honoring Retiring Police Chief Tom Hitchcock for his many years of service to the Citizens and the City of Brisbane

Mayor Conway presented a Proclamation to retiring Police Chief Hitchcock. Mayor Conway and other Councilmembers each thanked him for his many fine years of service.

Presentations and recognition was also given by Hanson Lee on behalf of Senator Leland Yee Mark Hershman on behalf of Assemblyman Jerry Hill, Mark Hanlon, Captain of the San Mateo County Sherriff's Office, Bob Lotti, Chief of Police of the Colma Police Department, and incoming Police Chief Lisa Macias.

B. Comments by City Manager and City Council

City Manager Holstine thanked Tom for his many years of service and recounted how important a role he had played to him as a trusted advisor and friend over those years.

Retired Police Chief Hitchcock thanked the City Council and City Manager for their support during his career. He also thanked him family and members of the Police Department for making it all possible.

A break was taken for refreshments and the meeting reconvened at 7:40p.m.

CONSENT CALENDAR

A. Approve 2010 Star Awards Program

CM Bologff made a motion, seconded by CM Richardson, to approved the Item A on the Consent Calendar as proposed. The motion was carried by all present.

OLD BUSINESS

A. Consider Draft Housing Element and give direction to staff

Interim Community Development Director Swiecki introduced Past Community Development Director Bill Prince who gave a staff report outlining the 6 year process of updating the General Plan and how the housing element portion ties into that. He asked that Council direct staff to incorporate the City Council's determination regarding housing sites into the draft Housing Element and authorize staff to submit the draft Housing Element to HCD for review.

Michele Salmon expressed her concern with the housing numbers being forced on Brisbane by the State and asked that Brisbane started pushing back now before the RHNA process starts. She thanked Council for their hard work and dedication on this.

Jo Coffey of San Bruno Mountain Watch also thanked Council for their hard work on this.

Dana Dillworth questioned the number of housing units being forced on Brisbane by the State and how unreasonable these numbers are in comparison to other small cities. She asked Council to not accept these numbers.

John Christopher Burr also questioned why Brisbane or anyone has to go through this housing number exercise and asked that Council fight it.

Karen Cunningham referred to the Placemaking Seminar that was held and questioned the housing numbers that were mandated.

Terry O'Connell said the required housing number were too high but thanked the Council for taking the Peking and Levinson property off the table.

Ken McIntire asked that the Council push back against the State requirements and the RHNA process.

After extensive Councilmember questions and clarifications, CM Richardson made a motion, seconded by CM Waldo, to accept staff recommendation on the proposed housing numbers. The motion passed 4-1, Mayor Conway opposed.

~~ADJOURNMENT~~

The meeting was adjourned at 10:01 p.m.

ATTEST:

Sheri Marie Spediacci

Sheri Marie Spediacci
City Clerk

H.1.24

CITY COUNCIL/REDEVELOPMENT/GVMID

ACTION MINUTES

CITY COUNCIL SPECIAL MEETING

September 28, 2009

BRISBANE CITY HALL, 50 PARK PLACE, BRISBANE

CALL TO ORDER/FLAG SALUTE

Mayor Richardson called the meeting to order at 8:00 p.m. and led the flag salute.

ROLL CALL

Councilmembers present: Barnes, Bologoff, Conway, Waldo, and Mayor Richardson
Staff present: City Manager Holstine, Associate Planner Johnson, Community Development Director Prince, City Clerk Spediacci, City Attorney Toppel, Senior Planner Tune

ADOPTION OF AGENDA

CM Bologoff requested closing the meeting in memory of Long-time resident Howard L. Reents.

CM Conway made a motion, seconded by CM Waldo, to adopt the agenda as amended. The motion was carried unanimously by all present.

OLD BUSINESS

A. Update to Housing Element (Continued from July 13, 2009)

Mayor Richardson recapped the process so far in the Council's previous meeting to meet the RHNA numbers.

Eero Makela, asked if everyone in town got the flyer about this meeting.

Community Development Director Prince responded that notice was mailed to everyone within 300' of the affected districts.

Joshua Hugg of the Housing Leadership Council spoke in favor of a policy to look at the feasibility of housing in the baylands.

Marco Rodriquez, spoke in support of mixed use at the properties near the Community Park.

Rowena Margoute, spoke in support of rezoning the three properties around the Community Park.

Camille Salmon spoke against the proposed zoning changes to San Bruno Avenue.

Marc Salmon spoke against the proposed zoning changes to San Bruno Avenue.

Greg Anderson spoke against the proposed zoning changes to San Bruno Avenue.

Cliff Lentz spoke against the proposed changes to San Bruno Avenue and in favor of rezoning the three properties around the Community Park.

Linda Salmon spoke against the RHNA process and asked the Council to push against the State's requirements

Michele Salmon spoke against the RHNA process and asked the Council to push against the State's requirements.

John Christopher Burr asked general questions regarding the legal requirements of the RHNA process.

Carol Chin opposed high density re-zoning especially along Southeast Bayshore.

Juliana Johnson expressed concern of rezoning near the schools.

Jamie Dunn spoke against the RHNA process and in favor of protecting Brisbane's small town character.

Storrs Hoen spoke in favor of looking at the warehouse district as a place to shift housing needs.

Roseanna Wagner spoke in favor of rezoning the three warehouses near the Community Park.

Nancy Lacsamana spoke in favor of rezoning the three warehouses near the Community Park.

Dolores Gomez spoke against increased density in the hills of Brisbane where parking and water supply is already limited.

Paul Bouscal stated that the Industrial Park could provide the regional housing needs.

Leo, a resident on Solano Street spoke against adding to the existing parking problems.

Michele Salmon spoke against the RHNA numbers game and high end housing at the Northeast Ridge.

Greg Anderson spoke in favor of re-zoning of 125 Valley Drive.

Marc Rodriquez clarified that he was in favor of re-zoning the three parcels next to the Community Park.

Barbara Ebel stated that Brookfield Homes should be forced to provide affordable housing.

Linda Salmon spoke regarding the Northeast Ridge Project and the County's housing needs.

Jamie Dunn spoke regarding public input and asked why the same conversations keep happening.

Cliff Lentz spoke regarding the Placemaking Workshops and the need for rezoning so Brisbane can have shops and services in place when the economy rebounds.

H.1.26.

Mayor Richardson asked the City Attorney and Staff about the various questions that the public had brought up and Council then discussed some of the issues that were brought up.

After further Council discussion and clarification it was the consensus to not consider any changes to the Central Brisbane R-2 or R-3 districts and to direct staff to rework the options available to achieve the required RHNA numbers and continue this meeting to a future date.

~~ADJOURNMENT~~

The meeting was adjourned at 10:30p.m. ~~in memory of Howard L. Reents.~~

~~ATTEST:~~

Sheri Marie Spediacci

Sheri Marie Spediacci
City Clerk

A. Approve argument in favor of increasing the Transient Occupancy Tax and make any proposed changes prior to submitting to the County for publication in Voter Pamphlet for November 3, 2009 election

C. Approve Resolution No. 2009-42 related to changes in the General Employees Association Memorandum of Understanding

CM Waldo made a motion, seconded by CM Barnes to approved Items A & C as proposed. The motion was carried unanimously by all present.

B. Approve City Council Minutes of June 22, 2009

This item was continued to the next meeting pending City Attorney review of wording on the top of page 9.

OLD BUSINESS

A. Update to Housing Element (Continued from June 29, 2009)

After staff presentation and Council discussion the following speakers gave public comment:

Cliff Lentz spoke regarding concerns about the Council process in selecting the RHNA numbers and asked the Council to reconsider.

Michele Salmon spoke regarding concerns about the State RHNA process and asked the Council to push back before this process begins next time.

Terry O'Connell asked the Council to keep on the track of minimized density.

After further Council discussion and clarification, CM Conway made a motion, seconded by CM Barnes to make the following changes to the current zoning to meet the Regional Housing Number Allocation (RHNA) of 401 units as required by the State of California:

- Specify a Minimum Density of 20 units/acre in the R-2 district
- Specify a Minimum Density of 20 units/acre in the R-3 district
- Rezone half of the first block of San Bruno Avenue to R-3
- Rezone the Southern portion of Southwest Bayshore to R-3 at 20 units per acre minimum, with land dedication requirements
- Rezone to Mobile Home Uses Only the Existing Mobile Home Park at 29 units per acre minimum

H.1.27

The motion was carried by all present.

The Goals, Policies and Programs Review was continued to a Council meeting in September.

ORAL COMMUNICATIONS NO. 2

ADJOURNMENT

The meeting was adjourned at 8:45 p.m. in memory of Sam Carabino.

ATTEST:

Sheri Marie Spediacci
City Clerk

it more difficult to track issues and Council actions. She recommended finding other areas to economize.

Mayor Richardson said she and other members of the community have voiced concern about aircraft noise, and she expressed concern about the increased number of flights over Brisbane during the past five years. She invited citizens to attend Airport Roundtable meetings to register their concerns.

Mayor Richardson asked about the status of the staff's investigation of freight forwarding. City Manager Holstine replied that the staff would get the background information to CM Bologoff that he requested. Mayor Richardson expressed interest in dealing with this issue before the end of July, if possible.

Mayor Richardson noted that City Council meetings will continue to be televised. She asked the staff to clarify changes in meeting minutes. City Manager Holstine advised that City Council meetings will continue to be televised and all other meetings will be recorded on DVD's as well as be televised. CM Barnes noted that the City will begin streaming meetings online so people can watch from their computers. Mayor Richardson said concise action minutes will be prepared for all meetings, and there will be recordings available on DVD and they will also be televised.

CM Conway recalled that the City Council had extensive discussion about the benefits of full minutes, and he said this issue may have to be revisited. Mayor Richardson emphasized that the City wants to cut back in ways that will have the least impact on services for the community.

H.1.28

OLD BUSINESS

A. Update to Housing Element

Community Development Director Prince noted that state law requires each city to designate potential sites and enact zoning to accommodate a fair share of its area's housing needs. He recommended making certain changes to Brisbane's existing density standards and zoning to allow more in-fill housing and mixed-use development. He said the staff identified particular parcels on the border between central Brisbane and Crocker Park, as well as alternatives along the Northwest and Southwest Bayshore corridors, Lipman School, and elsewhere in town. Community Development Director Prince drew attention to the "Housing Alternatives Reference Chart," Attachment 1, for a description of the parcels and their potential to provide affordable housing units. He encouraged the Council to identify which alternatives or combinations of alternatives are preferred.

Community Development Director Prince reported that the City had received written and email communications from a number of citizens advocating the rezoning of Crocker Park parcels to

allow mixed-use development near central Brisbane. He said the property owners, the Courts, also wrote to express support for rezoning their parcels and the contiguous parcels.

Community Development Director Prince recommended that the Council review the goals, policies, and programs of the Housing Element, and he referred to the matrix showing the proposed revisions to that section.

Councilmembers asked questions about the housing potential of various sites identified on the chart and map prepared by the staff.

Mayor Richardson invited comments from members of the public before Council discussion.

Michele Salmon, Brisbane, reported that she investigated the requirements for marina liveaboards. She noted that the City has a strict policy against liveaboards, although a City intern found strong demand for this kind of housing and recommended that the City consider allowing some liveaboards. Ms. Salmon acknowledged that there are facility and health concerns that would need to be addressed, and she encouraged the City to revisit this issue.

Cliff Lentz, Brisbane resident, observed that many people in the community care about housing availability and affordability, and the areas where housing is placed will have a major impact on the future of the town. He recommended rezoning three Crocker Park parcels to allow mixed-use developments close to town. He pointed out that some of the green space could be used to create a charter high school.

Jo Coffey, San Bruno Mountain Watch Conservancy, read a letter urging the City to take the fragile ecology and habitat of the mountain into account when considering possible locations for housing. She objected to allowing housing on any undeveloped land, especially areas close to sensitive habitat, and she cited the Peking Handicraft property, the Levinson Marsh, sections of Joy and Thomas Avenues, and parcels in Brisbane Acres as examples. Ms. Coffey recommended applying principles of sustainability to the Housing Element by focusing housing in areas where development already exists and along transportation corridors.

Terry O'Connell, Brisbane resident, emphasized the importance of maintaining contiguous habitat in order to ensure the future survival of the plants and animals that live on San Bruno Mountain. She agreed with Ms. Coffey that housing should be placed in the lower portions of town on land that has already been disturbed.

Dana Dillworth, Brisbane, noted that isolated housing sites like those described in Alternatives E and G should be eliminated from consideration because they are inconsistent with the Open Space Plan and impact sensitive habitat. She advocated compact mixed-use and infill development. She expressed concern about allowing any residential uses, even short-term ones,

in polluted industrial areas. Ms. Dillworth suggested considering more housing at the Northeast Ridge, but only if new units are affordable.

Karen Cunningham, Brisbane, noted that in the placemaking workshops, members of the community expressed support for creating focal points and attractions to bring people downtown and help revitalize the developed area. She expressed opposition to the idea of allowing development behind Lipman School or in areas near the sensitive habitat on San Bruno Mountain. She advocated taking a minimalist approach and meeting minimum housing requirements only. Ms. Cunningham said housing should be allowed only in areas that are safe, and she objected to allowing housing or schools on any contaminated areas, including the Baylands. She recommended keeping housing in the downtown part of Brisbane close to services.

Michele Salmon talked about the importance of maintaining contiguous natural habitat in order to ensure the future viability of endangered butterflies and other wildlife.

Brian Clark, Brisbane resident, expressed support for rezoning the three Crocker Park parcels to allow mixed-use development close to downtown.

Nancy Lacsamana, Brisbane, supported the idea of rezoning 125 Valley Drive as being the best option for the future of the town and its residents.

H.1.29

CM Barnes said he did not want to develop the Levinson or Peking Handicraft parcels. He noted that combining some of the alternatives identified on the chart prepared by the staff would meet Brisbane's regional housing needs allocation target.

CM Barnes questioned whether having a mixed-use development across from Community Park would revitalize the community, noting that successful mixed-use developments must have an adequate population to support their businesses and services. He pointed out that the ground-floor retail space at One San Bruno was vacant, as were many other storefronts downtown. CM Barnes expressed his opinion that extending the Redevelopment Area into downtown Brisbane would be a more successful way to upgrade the area. He said the Redevelopment Area would also provide a funding vehicle for a new library and other improvements.

CM Barnes drew attention to the General Plan policy to establish central Brisbane as the town center. He proposed having mixed-use developments along Visitacion Avenue instead of elsewhere. He noted that retail uses in the adjacent industrial area could actually undermine downtown businesses and exacerbate current problems. He recalled that the proposal to create a new civic center in what is now the Community Park led to the Council recall in 1989. CM Barnes expressed concern about creating new conflicts between the existing industrial uses and the proposed residential uses in the Industrial Park.

CM Barnes stated that he liked the idea of a high school in Brisbane, but questioned whether the edge of Crocker Industrial Park would be a safe or secure enough place for a high school. He suggested establishing a new subcommittee to work with the proponents of a high school, per General Plan Program 103A, to identify an appropriate site, an organizational structure, and funding sources.

CM Barnes commented that the portion of the Baylands near the multi-modal transit hub would probably be the best site for housing. He said San Francisco will be building housing in that area, and it would make sense to create housing close to jobs and transit.

CM Conway agreed that a redevelopment area might be a good way of funding improvements for downtown Brisbane, but he observed that the idea of expanding the Redevelopment Area will require further study because many people area opposed to the concept because they fear eminent domain.

City Attorney Toppel explained that government agencies can use eminent domain to acquire private property for public purposes, although there are limitations.

Councilmembers reviewed the chart of potential housing sites. Mayor Richardson pointed out that combining Options 1 through 9 would produce 169 new housing units. CM Barnes said he had reservations about rezoning 49 and 55 San Francisco Avenue.

CM Conway indicated he was not yet ready to identify specific sites. He pointed out that impacts on parking, traffic, and water need to be studied in more detail before making this decision. He observed that identifying housing sites without having an adequate supply of water would be inconsistent with the General Plan. He added that he had objections to the whole regional housing needs allocation process.

Community Development Director Prince emphasized that identifying potential sites did not obligate the City to actually build any new housing units. He said decisions regarding the adequacy of water supply or other environmental issues would be made after a development application is submitted, so approving the Housing Element does not result in any inconsistency with the General Plan at this point.

City Attorney Toppel commented that state housing law only requires the City to create land uses, density, and zoning conditions conducive to affordable housing, but market forces and environmental constraints will determine what gets built.

CM Conway expressed interest in more information about the possibility of rezoning the mobilehome park to accommodate greater density. He suggested also looking at the possibility

of putting housing units at the Brisbane Elementary School site. CM Barnes indicated he was willing to consider a wide range of alternatives.

CM Bologoff stated that he lost his house on El Dorado Street to eminent domain when 27 houses were purchased by the State to expand the elementary school in anticipation of heavier enrollment in the next few years. He recalled that the state sold the land it had acquired for a possible high school site in Crocker Park because state officials determined a high school would not be viable in Brisbane.

CM Barnes suggested meeting the regional housing needs allocation target by rezoning a portion on the Lipman School property, half a block of San Bruno Avenue, and rezoning the area of Southwest Bayshore around the trailer park.

CM Conway noted the five affordable units in the Ng project should be included in the total at the bottom of the chart.

CM Barnes asked the staff to further analyze the affordable housing potential for Options 9, 15, and 17.

CM Bologoff asked if the Habitat for Humanity project on Plumas Street had been added. Community Development Director Prince replied that the Plumas Street units were included in the existing capacity of 279 units. He said changing the minimum density throughout the existing residential districts achieves 61 more units. He advised that this still falls short of the 401-unit goal, so some additional sites need to be identified.

H-1.30

CM Conway expressed interest in having data showing the number of units possible by rezoning all existing residential areas for a minimum density of 20 units per acre.

Community Development Director Prince advised that the deadline for submitting the Housing Element to the state was the end of June. He said the staff can come back in two weeks with additional information if the Council wants to postpone a decision.

After brief discussion, the Council decided to continue this matter until July 13.

CM Conway requested additional information from the Bay Conservation and Development Commission regarding requirements for liveaboard units at the marina.

Councilmembers began discussing the goals, policies, and procedures of the Housing Element of the General Plan.

CM Barnes proposed removing the word "increased" from Goal A, and other Councilmembers

agreed.

CM Barnes recommended retaining the third-from-last original goal.

CM Barnes questioned the meaning of "associated cost" in Goal G and advocated using the clearer original wording. He suggested clarifying the intent of having development cover the costs of infrastructure.

CM Barnes observed that the language in Goal H implies there are unreasonable government constraints. City Attorney Toppel proposed changing "Remove" to "Avoid," and Councilmembers expressed support for this revision.

CM Bologoff noted that Goal A refers to "all persons," and he questioned the need to specify categories of discrimination. CM Barnes noted that spelling out the protected categories serves a social purpose by making people aware of discrimination.

Mayor Richardson proposed taking comments from members of the audience.

Cliff Lentz clarified that he mentioned a high school earlier as a potential use if the land is rezoned. He said a public charter high school would have about 400 students, many of whom would come from communities outside Brisbane. He advised that a group of local parents has been working on the details, and a charter is nearly complete. He noted that issues like funding and management will come later in the planning process. Mr. Lentz observed that the issue of a high school does not have to be addressed as part of the Housing Element update.

Terry O'Connell asked for clarification as to how the minimum density standard would apply in a situation where a homeowner wanted to rebuild a house. She commented that forcing higher density would change the character of the town and pose an unreasonable government constraint. She cautioned that if the City rezones, the land will be built to accommodate the maximum density allowed.

Community Development Director Prince explained that homeowners can continue to maintain existing houses, but new developments would have to meet the minimum density standard. He acknowledged that higher density could be one of the consequences of rezoning.

Robert Howard, Brisbane resident, observed that redevelopment along Visitacion Avenue will not succeed unless the retail businesses can draw more customers. On the other hand, he said, a mixed-use development at the boundary of Crocker Park could help attract people and serve as a barrier between central Brisbane and the businesses in Crocker Park. He noted that Brisbane has a need for affordable rental units, an issue that has not yet been addressed.

Community Development Director Prince stated that affordable housing units can take the form of either owner-occupied or rental units.

Michele Salmon expressed her appreciation to the City Council for carefully considering housing options before approving the Housing Element.

Councilmembers agreed continue this matter to July 13.

~~**ORAL COMMUNICATIONS NO. 2**~~

There were no members of the public who wished to address the City Council.

ADJOURNMENT

There being no further business, CM Conway made a motion, seconded by CM Barnes, that the meeting be adjourned. The motion was carried unanimously by all present and the meeting was adjourned at 10:10 p.m. with no announcements.

ATTEST:

Sheri Marie Spediacci

Sheri Marie Spediacci
City Clerk

H.1.31

Breault acknowledged that it would be difficult to allow new development without assurances of an adequate water supply. He said there is an ongoing debate in the state about whether scarce water resources should be used for people or other competing purposes.

CM Conway observed that the documents in the meeting packet indicate that San Francisco was embarking on an extensive capital upgrade program over the next ten to fifteen years. He asked if costs would be allocated in proportion to uses. Mr. Jensen responded that the costs of the upgrades will be shared proportionally among all 27 wholesale customers; he clarified that San Francisco can still change the rates it charges its retail customers.

CM Waldo made a motion, seconded by CM Conway, to adopt Resolution No. 2009-27 as proposed. The motion was carried unanimously by all present.

CM Waldo made a motion, seconded by CM Conway, to adopt GVMID Resolution No. 2009-02 as proposed. The motion was carried unanimously by all present.

CM Waldo made a motion, seconded by CM Conway, to adopt Resolution No. 2009-28 as proposed. The motion was carried unanimously by all present.

CM Waldo made a motion, seconded by CM Conway, to adopt GVMID Resolution No. 2009-03 as proposed. The motion was carried unanimously by all present.

H.1.32

CM Waldo made a motion, seconded by CM Conway, to adopt Resolution No. 2009-29 as proposed. The motion was carried unanimously by all present.

CM Waldo made a motion, seconded by CM Conway, to adopt GVMID Resolution No. 2009-04 as proposed. The motion was carried unanimously by all present.

Mayor Richardson thanked City Engineer/Public Works Director Breault and Mr. Jensen for their report.

OLD BUSINESS

A. Update to Housing Element

Community Development Director Prince said Brisbane's Housing Element emphasizes empathy, community, and diversity. He commented that although studies show affordable housing does not negatively affect housing values, it still conjures up images of density and ill-kept dwellings. He stated that demand has been growing for multi-family units on small lots close to central services. He encouraged the City to continue to work to provide affordable housing, in spite of the economic downturn.

Community Development Director Prince advised that state law requires all cities to identify sites for affordable housing to help meet regional housing demands and to provide zoning regulations that accommodate affordable housing developments. He said Brisbane's regional housing needs allocation is 401 units, and the Housing Element needs to demonstrate the capacity to meet this target. He clarified that 401 units do not actually have to be built. Community Development Director Prince noted that there have been concerns about placing affordable housing developments close to downtown, but the effects of density residential areas can be mitigated in part by creating public open space and other amenities.

Community Development Director Prince said Brisbane held a number of public space planning workshops and meetings, and he displayed a diagram showing how housing units and public space could be accommodated close to downtown Brisbane. He showed slides of potential infill sites within existing residential districts that could accommodate greater density, including 200 Mariposa Street, 99 San Bruno Avenue, and 23 San Bruno. Community Development Director Prince indicated that another way of meeting the regional housing needs allocation would be rezoning certain parcels to allow residential development, and he identified several parcels in Crocker Park that might be candidates for mixed-use development.

Community Development Director Prince recommended that the City Council consider blending new units with existing density, rezoning commercial parcels, or some combination of these alternatives. He said the Planning Commission and staff identified proposed revisions to the goals, policies, and programs in the Housing Element that would help Brisbane meet its share of the region's affordable housing needs.

CM Conway asked for a breakdown of the number of units Brisbane needs to provide for very-low-, low-, and moderate-income households. Community Development Director Prince drew attention to Table H in Attachment 5 to the previous staff report for those figures. He added that affordability is defined by law as a percentage of the median income in a particular area.

CM Conway observed that the income guidelines imply that affordable units would be purchased rather than rented. Community Development Director Prince clarified that the requirement can be met by either purchased or rented units, as long as they are defined as affordable. He noted that multi-family units could be sold as condominiums. He said Brisbane could also meet some of its capacity by allowing secondary dwelling units on single-family lots. He stated that the number of units actually built in a given cycle depends on economic conditions.

CM Conway recommended meeting the 401-unit target, but not exceeding that amount. Community Development Director Prince commented that excess capacity would give the City greater flexibility. For example, he said, if a housing project with an affordable component is denied, the City would need to show adequate capacity in its remaining inventory of sites. He

noted that obtaining state approval of the Housing Element would be easier if Brisbane demonstrates sufficient capacity.

CM Barnes suggested zoning for a greater number of affordable units than required, and allowing the remaining capacity to be met with market-rate units. He said this approach would provide flexibility and meet the statutory requirements.

CM Conway remarked that Attachment D shows the Lipman School site zoned as R-1. He asked if providing affordable housing for teachers on that site would help meet the City's target. Community Development Director Prince said offering affordable homes for teachers could work if the teachers met the income requirements and otherwise qualified to live in the units. CM Conway noted that retaining good teachers is a problem in Brisbane because of the high housing costs, and he expressed support for the idea of partnering with the school district or a nonprofit organization like Habitat for Humanity to construct affordable units. Community Development Director Prince recommended exploring these possibilities. He commented that the City might need to change the zoning to allow higher density on certain parcels. He added that it would be better to target low- or moderate-income professional groups like police, firefighters, and teachers rather than singling out one occupation.

City Attorney Toppel said the City could explore affordable rental units or condominiums. He observed that other communities have constructed housing developments for faculty members, and he suggested working with the school district to utilize space on the Lipman School site. He noted it would be necessary to rezone some of the land to accommodate higher density.

H-1-33

Mayor Richardson said she liked the idea. CM Barnes advocated exploring the possibility. He pointed out that the land above the school is flatter and might be better suited for development than the school site itself.

CM Barnes noted that July 1 is the deadline for submitting the Housing Element to the state for approval. CM Conway suggested determining the number of units the Lipman site could accommodate now, and then studying the concept further.

City Manager Holstine recommended that staff investigate the capacity of the site and come back with a recommendation. He proposed that the Council meet again on June 29 to make a final decision on the Housing Element. Councilmembers expressed support for this approach.

CM Conway suggested looking at the Brisbane Elementary School site as well. He asked the staff to have a preliminary conversation with school district representatives to let them know what the City was considering.

CM Bologoff asked how many housing units were included in the mobilehome park. CM Barnes

estimated there were about 70 units on that site.

CM Barnes commented that there are subdivided lots within the lagoon, but dwellings will never be built there. He suggested rezoning them to 20 units per acre. City Manager Holstine said the sites identified in the Housing Element must be capable of actually being developed.

Community Development Director Prince noted that in addition to having appropriate zoning for housing sites, the City would have to demonstrate that the existing uses are not an impediment to development.

CM Conway indicated he had a few more ideas. He observed that the Levinson estate was currently zoned for live-work housing, and he asked if this area could be used to meet the regional housing needs allocation. Community Development Director Prince noted that when the Council discussed various sites in February, the majority expressed a preference for not having housing at the Levinson or Peking Handicraft sites, so the staff based the three alternatives on the feedback provided by the City Council.

Mayor Richardson, CM Bologoff, and CM Conway expressed interest in considering the Levinson site.

Community Development Director Prince drew attention to Table H in the first attachment to the June 1 staff report, showing all of the available sites for housing. He said the chart indicates that using half of both the Levinson and Peking Handicraft parcels for clustered development could accommodate 311 units. He added that the Council can reconsider that area at the next meeting.

CM Bologoff asked about the possibility of developing vacant parcels along Annis, Harold, and Gladys and other private roads. Senior Planner Tune said the staff focused only on areas that could feasibly be developed within the next cycle of the Housing Element. He indicated that there were numerous constraints and issues entailed in developing the upper portions of Brisbane that would impede their development in the near term.
Community Development Director Prince added that the state would probably question the feasibility of development, given the fact that those areas were not identified in the previous Housing Element.

CM Conway asked what Councilmembers thought about rezoning 125 Valley, 43 Park Place, and 25 Park Place for housing. CM Waldo and Mayor Richardson expressed support for this idea.

CM Barnes said he did not like the idea of rezoning parcels in Crocker Park because of potential conflicts between commercial and residential uses. He noted there had been complaints about Crocker Park light and noise from Northeast Ridge residents, and placing more residential uses in close proximity to businesses would probably exacerbate these problems. He pointed out that

commercial uses provide more revenues to the City than residential uses, and these revenues are essential to pay for the services and programs the City provides.

CM Waldo asked what alternative CM Barnes would prefer. CM Barnes recommended considering housing at the Baylands in the area between the two active rail commuter lines. He noted this site would be close to transportation and services. He advocated keeping downtown Brisbane the way it is and concentrating stores and new development elsewhere.

CM Bologoff said he would prefer not to rezone Crocker Park parcels for residential use. He expressed his opinion that this area was too close to traffic and noise to be comfortable for residents. He recommended maintaining the basketball court and skate park where are they are now.

CM Conway acknowledged that mixed-use development near Crocker Park could pose problems. He expressed concern about liquefaction hazards as well. He proposed further study before making a decision on this issue.

Community Development Director Prince clarified that any site used for housing would have to be made safe. He noted that the staff was proposing keeping 25 percent of the area as public space to benefit the community.

H.1.34

CM Conway said he was inclined to leave rezoning the Crocker Park parcels in the report for the Council's consideration.

Community Development Director Prince said the staff will look at the potential capacity of the Levinson parcel, the Lipman School site, and 125 Valley Drive before the next meeting.

CM Waldo recommended studying the post office site as well.

Community Development Director Prince recommended taking public comments before proceeding to review the Housing Element goals, policies, and procedures.

Mayor Richardson welcomed comments from audience members.

Michele Salmon, Brisbane resident, emphasized the importance of taking stock and finding a new environmental ethic. She said she asked in February about the possibility of recalculating Brisbane's regional housing needs allocation to give credit for providing open space and habitat areas that are shared by the entire region. She expressed her appreciation to Councilmembers for thinking innovatively about potential housing sites. She recommended revisiting the idea of allowing live-aboards at the Marina. Ms. Salmon urged the Council not to over-plan and use up more habitat land than necessary. She pointed out the Peking Handicraft site, the Levinson

property, and the upper reaches of town should be preserved rather than developed.

Terry O'Connell, Brisbane, noted that Hillsborough is able to meet its regional housing needs allocation by allowing secondary units, and she recommended that Brisbane also take this approach. She estimated that there might be as many as 400 housing units that could be created in this manner. She proposed working with property owners to legalize and upgrade existing substandard units. She advocated both allowing live-aboards at the Marina and considering floating housing on the lagoon. Ms. O'Connell questioned how the City would enforce affordability restrictions on apartment units and other affordable units. She urged the City to actively seek out not-for-profit builders and to only approve new developments that have a substantial affordable component.

Ms. O'Connell urged the Council to preserve sensitive habitat areas in the upper reaches of town. She expressed her opinion that the Baylands and private roads in Brisbane Acres should not be included in the Housing Element because their development would not be feasible within the next housing cycle. She recommended keeping development in the lower portions of town in order to protect sensitive habitat.

Cliff Lentz, Brisbane resident, said he was surprised that the Council was considering the outcome of rezoning the parcels that border the City Park before public input. He thanked Associate Planner Johnson for providing the diagram showing how such a proposed mixed-use development with public space would look. He suggested considering options like a charter high school and adjacent library on that site. Mr. Lentz noted that the people of Brisbane and their values are what create its small-town character. The Northeast Ridge development provided public amenities such as the public pool, City Park, city hall, and did not have negative impacts on the small town character of Brisbane. However, the public amenities were not worth destroying parts of San Bruno Mountain, and recommended not going in that direction again because it would divide the community. Mr. Lentz expressed his opinion that the Council should focus on the elements that make downtown Brisbane attractive and thriving, such as small businesses, restaurants, and services for the community.

Brian Clark, a new resident of Brisbane, said he grew up in San Anselmo and was drawn to Brisbane because of its similar small-town character and proximity to San Francisco, where he works. He commented that the downtown area seems depressed, and he expressed support for rezoning the parcels on the border of Crocker Park for mixed-use development as a way of improving central Brisbane.

Marco Rodriguez, four-year resident of Brisbane, agreed with Mr. Clark's assessment of the downtown area and supported the concept of rezoning the Crocker Park parcels.

Therese Stuckey, Brisbane, stated that she spent the first 16 years of her life in a small town in

problems.

CM Barnes asked about the City's capability of providing secondary dwelling units. Community Development Director Prince said the chart in the June 1 meeting packet identifies the potential of up to 28 additional secondary dwelling units in the R-1 zone. He noted that the County's survey indicated that up to 50 percent of existing secondary units are not currently rented to tenants. He added that the City has an ordinance allowing secondary dwelling units if they meet certain requirements, and more would be possible if certain zoning restrictions were relaxed.

CM Conway commented that he was not interested in rezoning the portion of the Southwest Bayshore Subarea across from VWR as R-3. CM Waldo agreed. CM Conway asked the staff to revise the map to differentiate clearly which portions of that subarea were already zoned for residential use and which could be rezoned. Community Development Director Prince indicated that the areas shown in blue on the map could be rezoned from commercial to residential use to help meet the City's regional housing needs allocation for affordable units.

City Attorney Toppel observed that, theoretically, the mobilehome park could be redeveloped to accommodate more housing units if the current residents were relocated. CM Conway recommended not considering the mobilehome park at this time, and other Councilmembers concurred.

H-1-35

After some discussion, Councilmembers agreed to consider the portion of the Southwest Bayshore Subarea north of the Ng project for potential housing sites. CM Barnes cautioned that the San Francisco water pipeline improvements might interfere with development plans in that area.

CM Conway recommended not considering housing at the Baylands, and CM Waldo agreed. Mayor Richardson said she did not mind looking at the possibility, noting the voters will ultimately decide any changes in the General Plan.

Councilmembers indicated a willingness to consider infill possibilities in the central part of Brisbane. Community Development Director Prince drew attention to Attachment C, describing changes in the existing residential district zoning to accommodate greater density, as reflected in Alternative A. He suggested establishing a permit process to allow exceptions in lot dimensions for lot split applications, modifying parking requirements, and increasing density to 20 units per acre.

CM Conway expressed concern that denser housing would exacerbate existing parking problems. He suggested focusing on rezoning the Crocker Park parcels as a better option, as well as the new sites mentioned by Councilmembers earlier in the meeting. Other Councilmembers supported

this approach.

STAFF REPORTS

A. City Manager's Report on upcoming activities

City Manager Holstine said he had nothing to report.

MAYOR/COUNCIL MATTERS

A. Subcommittee Reports

There were no subcommittee reports.

B. Northeast Ridge – Background Documents for HCP Compliance Hearing

City Attorney Toppel informed the Council that the draft HCP amendment had been released, and the staff was working to compile and provide background documents in advance of the compliance hearing. He said the materials will be available at City Hall and the library and on the City's Website. He noted the County needs to approve the HCP amendment before the City proceeds. He advised that the staff will be ready to bring the matter to the Council in July or September, depending on when the Council takes action.

C. Review proposed City Council meeting schedule through July

Councilmembers reviewed the schedule of upcoming meetings and indicated the proposed meeting dates were acceptable.

CM Waldo stated that he would not be able to attend the June 29 or July 6 meetings. City Manager Holstine noted the Housing Element will come back to the Council on June 29.

ORAL COMMUNICATIONS

There were no members of the public who wished to address the City Council.

ADJOURNMENT

There being no further business, CM Waldo made a motion, seconded by CM Conway, that the meeting be adjourned. The motion was carried unanimously by all present and the meeting was adjourned at 10:23 p.m. with no announcements.

Ray Miller, Brisbane, recommended that the City Council try to negotiate a better arrangement for disposal of electronic waste. He said the current options are inconvenient and expensive. He noted there will be many old television sets soon when broadcast companies switch to digital, and they should be properly recycled rather than dumped.

CM Barnes said he thought there was a local computer recycling business that offers free drop-offs from time to time. Assistant to the City Manager Smith confirmed that there are also occasional free e-waste disposal events sponsored by private organizations.

Mr. Formosa encouraged people to take advantage of free drop-off events. He stated that South San Francisco Scavenger can pick up e-waste at people's houses for an extra charge, and he recommended calling the office for further information.

Mr. Busse said his favorite television set stopped working a couple weeks ago, and he took it to a new business at the corner of Spruce and Canal and was paid for the old set.

Mayor Richardson asked Mr. Busse to contact staff with the name of the business so it can be publicized.

Tom Heinz noted that the garbage in people's cans does not always make it into the trucks and ends up on the street.

H-1-36

CM Barnes made a motion, seconded by CM Bologoff, to approve the rate increase as proposed. The motion was carried unanimously by all present.

CM Conway asked if South San Francisco Scavenger ever follows trucks to see how efficient they are. Mr. Formosa said drivers are supposed to clean up whatever is spilled, and route supervisors check up on drivers and sweep when there are problems. He noted that people can call the company if they notice problems.

B. Update to the Housing Element of the General Plan

1. Receive information from Community Development Director on recent greenhouse gas emissions and climate change studies

Community Development Director Prince gave a presentation summarizing recent studies on greenhouse gas emissions and climate change. He said he compiled this information to assist the City Council in considering the goals, policies, and programs in the Housing Element and the updated General Plan.

Community Development Director Prince emphasized the necessity of climate stabilization to prevent catastrophic sea level rises and coastal flooding that will affect Brisbane and every other community on the globe. He showed a map depicting areas likely to be flooded if the sea rises 1.4 meters by the end of the century as predicted by experts unless drastic changes are made. He discussed the importance of controlling greenhouse gas emissions. He explained that increased levels of carbon dioxide will increase global temperatures, which will result in more severe weather and cause extinction of many plant and animal species. He observed that unless actions are taken to reverse this trend now, the situation could reach a tipping point by 2035, and then it will be impossible to mitigate the impacts of global warming.

Community Development Director Prince stated that geologists have identified five historical points of mass extinctions due to meteor impacts and rapid climate changes. He noted that high carbon dioxide levels appear to be the primary trigger of rapid climate change. He said a disturbing new theory suggests that melting glaciers cause a loss of oxygen that interferes with temperature and chemical balances in oceans, resulting in mass destruction of plant and animal life.

Community Development Director Prince indicated that scientists believe the earth's temperature will increase 4 degrees by 2100 if global warming continues unchecked. He said there are things that can be done to increase fuel economy, limit vehicle miles traveled, and make land use patterns more efficient. He encouraged the Council to make sure the updated General Plan is sustainable by recognizing impacts of energy usage and transportation on the environment and encouraging development that minimizes greenhouse gas emissions.

Community Development Director Prince reviewed federal and state government responses and discussed recent regulations limiting carbon emissions. He said the U.S. Environmental Protection Agency first acknowledged global warming in 2002, and California adopted the Global Warming Solutions Act, AB 33, in 2006. Since then, he noted, there have been other milestones and indications of progress in the fight against global warming. He discussed AB 32, which sets strict carbon emission targets, and SB 375, limiting diesel emissions and promoting better land use, transportation, and planning.

CM Barnes asked Community Development Director Prince for an estimate of when his presentation would be finished so members of the public could have an idea of when they could give comments. Community Development Director Prince indicated he was almost finished with the first part of his presentation. He suggested taking questions and comments on the first part before proceeding to the Housing Element.

Community Development Director Prince said the recent federal and state legislation on greenhouse gas emissions relates to the Housing Element and what Brisbane can do to reduce vehicle miles traveled by changing the pattern and mix of land uses. He noted that SB 375 promotes sustainable communities, which should be reflected in Brisbane's General Plan. He emphasized the importance of coordinating transportation planning, housing, and land uses in order to meet the targets set by state law.

Community Development Director Prince stated that Brisbane has responded to global warming by adopting a green building ordinance, conditioning new development to include renewable energy production, and requiring the Baylands development to be energy-neutral. He recommended encouraging compact, dense, mixed-use, smart development in the General Plan to reduce vehicle miles traveled.

CM Conway thanked Community Development Director Prince for the informative presentation.

Mayor Richardson expressed her appreciation to the staff. She welcomed comments from members of the public.

H.1.37

Ray Miller thanked Community Development Director Prince for bringing these important issues to the attention of the City Council and the community. He distributed a pie chart graph from the California Air Resources Board showing what sectors contribute most to greenhouse gas emissions. He pointed out that transportation accounts for only one third of the problem, while buildings contribute 48 to 50 percent. He observed that Brisbane has more control over the construction and operation of buildings than over transportation, and he urged the City to adopt policies that focus on making buildings more efficient in terms of materials and energy usage.

Clara Johnson, Brisbane, commended the staff and the Council for addressing the issue of global warming. She expressed support for smart growth and better urban design, especially in outlying communities, but said Brisbane should not give up its character to achieve its goals. She agreed with Mr. Miller that Brisbane should focus on more efficient buildings. She encouraged individuals to do whatever they can to reduce greenhouse gases, and she cited purchasing hybrid vehicles as an example.

Ms. Johnson advocated establishing standards for housing that promote a sense of community and provide opportunities for children to play. She said that if the City converts the edges of Crocker Park to dense housing, effects on the surrounding residential and commercial districts need to be considered. She cautioned against creating unanticipated problems by not thinking carefully about the implications of new policies.

Dana Dillworth, Brisbane, said she attended an environmental law seminar the previous weekend that identified a number of global warming initiatives with questionable benefits. She noted that cap-and-trade legislation still allows production of toxic materials and should not be supported. She expressed concern about putting people in former industrial areas where toxins and heavy traffic are still present. She recommended focusing on diesel trucks rather than targeting passenger vehicles. Ms. Dillworth suggested looking into cleaner and more efficient ways to move goods, and noted that Brisbane already has a rail system that should be utilized. She warned against carelessly using up land that will eventually be needed to produce food and sustenance.

At 9:15 p.m., the Council took a brief recess. Mayor Richardson reconvened the meeting at 9:20 p.m.

2. Review the background materials, discuss the options to satisfy state housing law, including the Regional Housing Needs Allocation (RHNA) and provide direction to staff for the update to the Housing Element; and review the matrix chart of the goals, policies and programs and provide direction to staff on any changes the Council would like to make

Community Development Director Prince noted that Brisbane's Housing Element was last updated in 2002, and the current revised version will be in effect until 2014. He recommended completing a draft of the new element by July 1. He said Brisbane is expected to demonstrate a capacity to accommodate 401 new housing units, a figure assigned according to the Regional Housing Needs Allocation (RHNA) formula calculated by the Association of Bay Area Governments.

Community Development Director Prince reviewed and discussed the contents of the six chapters in the Housing Element. He encouraged the City Council to discuss possible sites for new housing units and adopt policies and programs to implement the housing goals in the General Plan.

Community Development Director Prince advised that the staff identified vacant sites in Brisbane that could accommodate new housing developments. He said suggested that the City Council consider changing minimum and rezoning particular parcels to allow compact, smart growth close to transportation and services to reduce sprawl and vehicle miles traveled.

Community Development Director Prince observed that Brisbane has a long history of being an affordable community compared to other Bay Area cities. He reviewed recent state laws

pertaining to affordable housing. He noted that Brisbane must provide zoning to accommodate emergency shelters and transitional housing.

Community Development Director Prince advised that the staff determined that Brisbane's present zoning would allow construction of 359 new housing units, short of the RHNA target of 401 units. In order to comply with the RHNA target, the staff identified three alternatives that involve increasing density in central Brisbane, rezoning Crocker Park parcels to allow mixed-use development, or some combination of these. He said that when considering the Land Use Element of the General Plan, the City Council expressed a preference for rezoning particular Crocker Park parcels to allow mixed-use development rather than rezoning Sierra Point or the Baylands to allow residential development. Community Development Director Prince clarified that Brisbane is only required to demonstrate capacity to meet the 401-unit RHNA target, but the 401 units do not actually have to be constructed.

CM Conway thanked Community Development Director Prince for his presentation. He noted that the three alternatives were interesting, but said he was reluctant to pursue them without much more public input and study. He recommended demonstrating only the capacity for 401 units rather than exceeding that target. He observed that Brisbane's target allocation also seemed extremely high compared to some of its more affluent neighbors.

H.1.38.

Community Development Director Prince stated that the staff reviewed the Housing Element for three other jurisdictions, including Hillsborough. He said Hillsborough is relying on secondary dwelling units to meet its target allocation. He advised that although this option is available to Brisbane, higher density would affect the small-town character of the community.

CM Conway asked about the possibility of extending the deadline for updating the Housing Element to allow more time to study the implications of the alternatives. City Attorney Baird advised that he researched this issue and determined that it would not be possible to extend the deadline beyond July 1. CM Waldo asked if there was a penalty for being late. City Attorney Baird said being late could expose the City to legal challenges based on having an outdated or inconsistent Housing Element.

Community Development Director Prince reminded the City Council that meeting the RHNA target was merely a theoretical exercise because there is no obligation to actually construct the number of units assigned. He said the economy dictates the number of units actually built, and the targets are recalculated from zero at the start of each cycle. He recommended delivering a draft Housing Element to the state by July 1. He noted the City will have an opportunity to consider the alternatives in more detail between the time the draft is approved by the state and adopted by the City.

Mayor Richardson said Brisbane's highest priority should be to maintain its small-town character. She stated that she had no problem considering alternatives and recommended proceeding to submit the draft Housing Element to the state by July 1.

CM Conway suggested taking public input and postponing a decision until the next meeting.

Mayor Richardson invited comments from members of the public.

Clara Johnson said she shared the City Council's concern about preserving the character of Brisbane. She noted that Pedro Gonzales, a member of the South San Francisco City Council, spoke at a Planning Commission meeting about the HOPE organization, and she urged the Council to consider adopting some of that organization's goals with respect to housing for homeless people.

Ms. Johnson expressed her opinion that housing was not a safe or appropriate use for the Baylands because of the unknown long-term effects of exposure to toxins and the predicted rise in sea levels because of global warming. She noted that all housing in Brisbane should be made as safe as possible in earthquakes and other major disasters. She emphasized the need to attach older homes to their foundations, and she suggested that the City initiate educational programs to inform the public and encourage retrofits. Ms. Johnson recommended using low- and moderate-income housing funds for loans to assist homeowners in protecting their houses.

Ms. Johnson drew attention to the letter, model resolution, and standard plan set distributed by the Association of Bay Area Governments on May 19 and offered to provide copies to the City Council.

Dana Dillworth stressed the need to be careful when mixing residential and commercial uses in Crocker Park. She said the City needs to look at a range of environmental concerns, including leaking underground tanks, truck traffic, liquefaction potential, and leaks from the tank farm. She observed that the commercial buildings in Crocker Park were not designed to accommodate residential uses. Ms. Dillworth suggested working with Brookfield Homes to build its remaining units closer to town and away from sensitive natural areas. She said there are available infill sites that should be used, and she questioned the need to change the boundaries of zoning districts or put people in jeopardy to create new residential areas. She commended the City for the first-time buyer program and other incentives to encourage low-income housing. Ms. Dillworth observed that considering housing at the Baylands would be contrary to Brisbane's General Plan.

Terry O'Connell said San Bruno Mountain Watch recommends that the City limit density in sensitive habitat areas and work to meet the RHNA target without impacting the environment. She noted that with commercial development producing jobs at Sierra Point and Baylands, Brisbane's RHNA allocation is likely to increase. She recommended looking at more efficient transportation systems. She said providing low-income housing for seniors would be an ideal way to meet the RHNA target and minimize the need for transportation.

Tom Heinz questioned the relevance of the RHNA allocation target given the current downturn in the economy and the prevalence of foreclosures in local communities.

Cliff Lentz, Brisbane, recognized the need to balance preservation of Brisbane's character and providing adequate housing for the community. He said that in updating the Housing Element, the Planning Commission was very mindful of the need to provide both livable and sustainable solutions to housing demand. He remarked that he came to Brisbane originally because of its affordable housing. He noted that the City needs to look for opportunities to continue providing affordable housing in order to avoid squeezing out long-term residents. Mr. Lentz added that the inclusionary housing ordinance is meaningless unless the City provides sites for new units.

Mr. Lentz expressed support for considering a mixed-use development with a 25 percent public space component close to the center of town. He said he looked forward to the Council's discussion of this possibility at the next meeting.

H-1.39

Councilmembers decided to continue this matter to June 15.

STAFF REPORTS

A. City Manager's Report on upcoming activities

City Manager Holstine said he had nothing to report.

MAYOR/COUNCIL MATTERS

A. Subcommittee Reports

Mayor Richardson reported that she was re-elected to the ABAG board for another three-year term.

ORAL COMMUNICATIONS

There were no members of the public who wished to address the City Council.

ADJOURNMENT

There being no further business, CM Waldo made a motion, seconded by CM Conway, that the meeting be adjourned. The motion was carried unanimously by all present and the meeting was adjourned at 10:24 p.m. with no announcements.

ATTEST:

Sheri Marie Spediacci

Sheri Marie Spediacci
City Clerk

excerpt
BRISBANE PLANNING COMMISSION
Minutes of May 14, 2009
Regular Meeting

CALL TO ORDER

Chairperson Maturo called the meeting to order at 7:30 p.m.

ROLL CALL

Present: Commissioners Hunter, Parker, and Chairperson Maturo
Arrived Late: Commissioner Lentz (arrived at 7:40 p.m.)
Absent: Commissioner Munir
Staff Present: Community Development Director Prince, Senior Planner Tune, Associate Planner Johnson

STUDY SESSION

1. **Housing Element Update** -- Potential Zoning Alternatives in Response to the Regional Housing Needs Allocation and Changes in State Law

Community Development Director Prince noted that at the April 30 meeting, staff provided an overview of global warming issues, an update on State laws pertaining to the Housing Element, and an analysis of available housing sites in Brisbane. He said State law requires the City to conduct a land use inventory to verify that there is adequate capacity to meet the assigned Regional Housing Needs Allocation, and as part of that process, staff determined that certain zoning changes would be needed to achieve the target of 401 units. Director Prince advised that State law also requires affordable housing sites need to be zoned for a minimum density of 20 units per acre.

Director Prince clarified that the 401 housing units need not actually be constructed during the term of the Housing Element, but the capacity to accommodate that number of units must be shown. He drew attention to the charts in the staff report for a list of potential housing sites, the number of units each site can accommodate under existing land use regulations, and a description of the density changes and zoning alternatives the City can consider to meet the 401-unit target. He said Table D identifies and describes parcels that could be rezoned to accommodate housing.

Senior Planner Tune discussed three possible alternatives for meeting the Regional Housing Needs Allocation. He said Alternative A focuses on in-fill development and calls for intensifying density in existing residential districts; Alternative B focuses on rezoning a few parcels on the edges of Crocker Park to allow multi-family housing, along with intensifying density in the existing R-3 District; and Alternative C is a combination of these options. He referred to the matrix listing applicable policies and programs in the

H.1.40.

General Plan Housing Element.

Community Development Director Prince said that in order to rezone commercial parcels for residential uses, the City would need to demonstrate that existing uses do not pose an impediment to the development of the site for housing. He pointed out that each of the three alternatives would provide capacity for more than 401 units.

Commissioner Parker asked about the status of the Post Office in Alternatives B & C. Associate Planner Johnson said the Post Office building is not owned by the U.S. Postal Service and would remain as an existing nonconforming use.

Chairperson Maturo asked if the City's allocation would be increased later if a surplus capacity is provided now. Community Development Director Prince responded that the allocations are recalculated anew for each cycle, and each participating city is assigned a target representing its share of the regional housing need at that time. He said that in the future, the Housing Element will need to be updated every eight years, while the General Plan is intended to cover a ten- to twenty-year horizon. He expressed his opinion that it would be best to demonstrate a capability for more than 401 units in case the State rejects the option of rezoning any particular parcel.

Commissioner Hunter commented that rezoning for extra capacity could lead to ideas for further community improvements. For example, he noted, if parcels near the Community Park are rezoned for housing, there might be opportunities to consider changes in other nearby sites. He also pointed out that intensifying residential density just in Central Brisbane could impact the small-town character of the town.

Senior Planner Tune said the owner of the Hilltop Market, who had been present at the meeting but left early, has had trouble finding commercial tenants and would like the City to consider rezoning the NCRO-2 District to allow residential uses without a storefront component.

Commissioner Lentz drew attention to the small parcel to the north of 125 Valley Drive and asked why that site was not proposed for rezoning. Community Development Director Prince replied that the sewer lift station is located there, so it would not be suitable for housing.

Commissioner Lentz observed that allowing residential uses around or in the Brisbane Shopping Village could help revitalize the businesses in that location, and he suggested exploring this option. He remarked that the vacant portion of the Bank of America property might then be better utilized.

Commissioner Hunter said he had reservations about more development right at the gateway to town. He expressed his opinion that other locations close to the town center would be better. Commissioner Lentz clarified that he was thinking about a small-scale,

mixed-use development that blended into the shopping center and still retained a feeling of openness. Commissioner Hunter recommended focusing on other parcels before changing the shopping center.

Commissioner Lentz talked about the new Sonoma Mountain development in Rohnert Park that reuses existing buildings, upgrades them with green technology, and changes some of their uses. He noted that Crocker Park has a number of older buildings that would benefit from upgrades, and people in the community might rather have housing there than freight forwarding or other uses. He suggested revisiting the uses in Crocker Park and thinking about ways to make better connections with the rest of Brisbane, create jobs, reopen creeks and add green space.

Director Prince noted the City Council has a subcommittee looking at the future of Crocker Park as a whole. He said that when updating the Land Use Element of the General Plan, the Council indicated a willingness to consider rezoning a few parcels in Crocker Park to allow housing. He welcomed feedback from the Commission regarding the alternatives presented in the staff report.

H.1.41

Commissioner Parker commented that she would rather see development in Central Brisbane than changing the contours of the mountain to accommodate more housing. She expressed support for Alternative B, which calls for rezoning the Crocker Park parcels for mixed-use development.

Commissioner Hunter observed that the TC-1 District probably has the highest potential for a profitable development because the land is flat and infrastructure is already present.

Commissioner Lentz asked about the 99 North Hill Drive site. Senior Planner Tune noted that the site could be converted from warehousing to residential use.

Commissioner Lentz said he understood the City Council had rejected the idea of residential uses for the Northwest Bayshore subarea. Director Prince confirmed that understanding. Commissioner Lentz commented that the industrial area on other side of Bayshore Boulevard would be a better site for a mixed-use development. He remarked that he would rather see Northwest Bayshore preserved as open space.

Director Prince advised that the General Plan still prohibits residential uses in the Baylands subarea, and a slim majority of the Council supported the concept of a hotel/condo development at Sierra Point. He noted that for this reason, staff did not consider the Baylands or Sierra Point as potential sites in its analysis, and there are enough sites elsewhere in Brisbane to meet the Regional Housing Needs Allocation target.

Commissioner Hunter said he would like the Housing Element to focus on sites that would make the community more cohesive and sustainable. He acknowledged that the

Baylands might be a possible residential site in the future, but recommended confining the discussion at this time to the central part of Brisbane.

Commissioner Hunter noted that the staff report talks about changing the definition of housing to include transitional housing, supportive housing, manufactured housing, and mobile homes, and he asked how prefabricated housing would fit in. Senior Planner Tune said State law treats prefabricated housing the same as other types of dwellings.

Commissioner Hunter asked if houseboats on the Lagoon could be considered manufactured housing. Senior Planner Tune responded that the General Plan prohibits housing on the Lagoon, and the Bay Conservation and Development Commission has discouraged that type of residential use. Director Prince added that the Brisbane Marina does not allow liveaboards.

Commissioner Hunter observed that the City might need to allow houseboats if sea levels rise.

Commissioner Hunter said he liked ideas to allow housing in areas that would make Brisbane more connected and cohesive rather than in outlying and separated areas.

Chairperson Maturo expressed discomfort with expanding residential uses in areas with private roads. She said she favored cleaning up inconsistencies in zoning boundaries and rezoning portions of Crocker Park. She noted that Alternative B seems to create a more vibrant central area at the gateway to town, and she indicated she preferred that option.

Other Commissioners agreed that Alternative B, rezoning certain parcels in the TC-1 District, would be the best option for meeting the allocation target.

Director Prince talked about the history of redevelopment in California and how it can be used to remove blight and revitalize older communities.

Commissioner Hunter noted that there has been controversy about the use of eminent domain to seize residential property and convert it to commercial use, and he observed that Brisbane is proposing the opposite by taking commercial properties and allowing residential uses.

Commissioner Lentz noted that the mixed-use zone in the alternatives would include a provision that 25 percent of the parcels be open space. Director Prince explained that Alternatives B & C assumed that 75 percent of each of these parcels would be developed and 25 percent would be left as open area.

Director Prince encouraged the Planning Commission to recommend adoption of a minimum density standard of 20 units per acre, approve the other actions described on Pages H1.6 and H1.7 of the staff report, and decide which particular Crocker Park parcels

should be rezoned for mixed-use development.

The Commission took a brief recess, and Chairperson Maturo reconvened the meeting and drew attention to the programs described on Pages H1.6 and H1.7.

Senior Planner Tune explained that State law requires identification of suitable sites for emergency housing, supportive housing, and convalescent hospitals. He said Programs 27, 28, 29, 30, 52, and 53 address these State requirements and would designate the Southwest Bayshore subarea for these uses.

Commissioner Lentz observed that the rezoned portion of the TC-1 District might be better for these uses because of its proximity to police services. Senior Planner Tune advised that proximity to social services and transportation are considered more important, and Brisbane already has a group home in the Southwest Bayshore subarea.

Commissioners expressed support for adopting Programs 27, 28, 29, 30, 52, and 53 for the SCRO-1 district.

Senior Planner Tune reviewed the proposed programs on Page H1.7 pertaining to substandard lots, lot dimensions, residential parking standards, and dwelling groups. He observed that the purpose of these programs is to clean up inconsistencies and conform to State law. He added that these programs would apply to all districts in Brisbane. Commissioners agreed to recommend adoption of these items.

4.1.42

Commissioners recommended implementing Alternative B and rezoning the designated parcels in Crocker Park to mixed use. Director Prince clarified that 91 to 105 Park Lane would also be rezoned but to a residential district, and Commissioners confirmed that intent. He noted that this would result in a total potential capacity of 577 units, with 235 units available for low- and very-low income levels. He said this would satisfy Brisbane's Regional Housing Needs Allocation.

Community Development Director Prince proposed reviewing and discussing the matrix of Housing Element goals, policies, and programs. He said staff added new goals to reflect changes since the last Housing Element was adopted; he drew attention to Goal D, regarding mixed-use development, and Goal E, regarding energy conservation.

Commissioner Hunter pointed out that a comma should be inserted in Goal A after the word "income."

Commissioner Parker asked if Goal H referred only to Brisbane governmental constraints. Director Prince replied that Goal H refers to any federal, state, or local provisions that constitute an impediment to developing housing. He said examples would be rezoning or streamlining the permit process, or even lobbying the State to change unreasonable laws. He added that Goal H is a restatement of a previous goal and is

intended to provide direction and guidance. Commissioners expressed support for Goal H as proposed.

Commissioner Lentz proposed adding "improve efficiency" to Goal E. Commissioner Hunter recommended inserting "improve efficiency" after "conserve energy." Other Commissioners agreed.

Turning to the Housing Element policies, Director Prince noted that changes were shown in red next to the previous wording, deletions were shown with strike-outs, and additions were shown in green.

At 10:30 p.m., Commissioners agreed to extend the meeting to complete review of the matrix.

Director Prince reviewed the policies page by page and pointed out revisions.

Commissioner Parker recommended adding language to Program H8a about minimizing hilltop construction and maintaining the contours of the land. Director Prince suggested that the Land Use Element would be a more appropriate place to address this issue. Associate Planner Johnson noted that Councilmember Barnes had proposed a new policy regarding respecting the topography of the mountain in the Land Use Element. Director Prince said staff will make sure this issue is addressed.

Commissioner Hunter asked about the original intent of the language in the program. Senior Planner Tune said the City wanted to try to reduce grading through the Housing Element. Commissioner Hunter observed that the language seems contradictory to that intent. After some discussion, the Commission decided to keep the language as written.

Referring to Page 12, Commissioner Hunter noted that "improve efficiency" should be inserted in the program under Goal E to mirror the language added earlier.

Commissioner Parker questioned the development potential of Brisbane Acres, noting that based on previous discussion, the Commission did not seem to favor that intensifying it. Director Prince said Program H18b on Page 14 reflects the existing development potential of that area and fine-tunes the density transfer program.

Commissioner Hunter recommended adding the word "size" after "mixed type" in Policy H4 on Page 15.

The Commission completed its review of the draft Housing Element, and Director Prince indicated that staff would incorporate the changes and forward the revised version to the City Council. He said that once the City Council conceptually approves the Housing Element, staff will compile the revisions into a single document for the Council's review.

BRISBANE PLANNING COMMISSION
Minutes of April 30, 2009
Special Meeting

CALL TO ORDER

Chairperson Maturo called the meeting to order at 7:40 p.m.

ROLL CALL

Present: Commissioners Hunter, Lentz, Munir, Parker, and Chairperson Maturo
Staff Present: Community Development Director Prince, Senior Planner Tune, Associate Planner Johnson

ADOPTION OF AGENDA

Commissioner Hunter moved to adopt the agenda as proposed. The motion was seconded by Commissioner Munir and unanimously approved.

CONSENT CALENDAR

1. Approval of Draft Minutes of April 9, 2009 Regular Meeting

Commissioner Hunter drew attention to the first line on Page 6 and recommended deleting the word "out."

Commissioner Munir moved to approve the April 9 minutes as amended. The motion was seconded by Commissioner Hunter and unanimously approved.

H.1.43.

ORAL COMMUNICATIONS

There were no members of the public who wished to address the Planning Commission.

WRITTEN COMMUNICATIONS

Chairperson Maturo acknowledged receipt of emails from D. J. Canepa and Michele Salmon.

STUDY SESSION

1. **Housing Element Update** -- Potential Zoning Alternatives in response to the Regional Housing Needs Allocation and changes in state law

Community Development Director Prince noted that in addition to updating the General Plan, which was on a ten year cycle, the City needs to update the Housing Element every five years to reflect population growth and accommodate new housing units. He said that

staff developed a flyer and notified various agencies and housing groups about this meeting.

Director Prince gave a PowerPoint presentation about ways of addressing global warming in the City's General Plan. He discussed the problem of climate stabilization, governmental response to global warming, the concept of sustainability in the General Plan, and how these topics relate to the update of the Housing Element.

Director Prince described the community's vision in terms of maintaining Brisbane's small-town character, preserving open space, and ensuring sustainable development. He said issues like globalization and emerging technologies will affect Brisbane's future, as will scientific developments in fields like geology and climate change. He advised that because of global warming, sea levels in California are projected to increase significantly over the next century unless steps are taken to reduce carbon dioxide emissions. Director Prince added that unchecked global warming will cause more severe weather conditions, ocean toxicity, and the extinction of many kinds of plants and animals.

Director Prince reviewed Brisbane's progress in updating the General Plan and the environmental review of the proposed Baylands development. He advised that it typically takes a community five years and $1 million to update its general plan, and Brisbane's General Plan is longer and more detailed than the average.

Director Prince noted that in response to scientific projections about global warming, the federal and state governments have adopted more stringent standards to reduce carbon dioxide levels in the atmosphere. He pointed out that the number vehicle miles traveled is growing 2 times faster as the nation's population increases and urban areas continue to sprawl, so reducing global warming is a difficult challenge. He talked about changing land use and transportation patterns as a way of reducing vehicle miles traveled and achieving long-term sustainability. Director Prince observed that if local governments are unable to meet regional targets for housing, more State intervention is inevitable. He identified characteristics of smart growth and sustainability, and noted that the City provided a series of guest speakers and panel discussions to educate the community on these topics.

Director Prince emphasized the need for Brisbane to recognize these issues in the Housing Element. He explained how Brisbane's housing needs allocation is determined relative to projected population growth in the Bay Area. He said the purpose of this study session was to ensure that Brisbane's zoning allows opportunities for enough affordable housing units to meet its share of the projected demand. He reviewed the contents of each chapter in the Housing Element.

Director Prince recommended that Brisbane consider higher density housing in order to help abate global warming. He noted that Brisbane has a tradition of affordable housing, and he displayed slides showing some examples. He acknowledged that many

Americans are predisposed against density, but he advised that impacts of density can be mitigated by careful design and placement.

Director Prince reviewed recent state laws pertaining to affordable housing. He stated that Brisbane's regional housing needs allocation, approved by the City Council in 2008, is 401 units. He said that staff had determined that existing sites zoned for housing would accommodate a total of 359 units during the 2006-2014 Housing Element planning period. In order to provide sites for the required target of 401 affordable units, the City would need to rezone certain areas to accommodate higher density. Director Prince drew attention to the chart in the staff report showing the housing potential for each zoning district and the changes that would be needed.

Director Prince identified three alternatives to provide the required number of housing units in Brisbane. First, he said, the City could mix additional units into existing residential zones by changing the permitted density and lot dimensions; the second option would be to rezone three specific parcels in Crocker Industrial Park to allow residential and/or mixed-use development; and third, a combination approach, would entail rezoning just one parcel in Crocker Park and mixing additional units into existing neighborhoods by changing some of the current density and lot size restrictions. He discussed each alternative in more detail. Director Prince added that the City could also consider a fourth alternative, making the zoning changes in the residential district plus rezoning the three Crocker Park parcels identified, an approach that would maximize housing capacity.

A.1.44.

Director Prince clarified that in order to meet its regional housing needs allocation target, the City must provide zoning to accommodate 401 housing units, but the 401 units do not actually have to be constructed. He observed that failure to demonstrate the RHNA capacity could impair the City's ability to obtain certain grants from the state, and providing excess capacity encourages housing and gives developers a choice of possible sites. He pointed out that because housing is not a permitted use in the Baylands, the City should explore sites elsewhere in Brisbane that could provide the necessary capacity.

Commissioner Parker asked about creating incentives to provide more senior housing. Senior Planner Tune said the Housing Element will analyze all of the community's housing needs, including senior housing. He said there are policies and programs in the Housing Element to provide density bonuses and reduced parking requirements to encourage senior housing. He noted that the City itself had been involved in the construction of senior housing. Senior Planner Tune explained that the focus of the regional housing needs allocation is affordability. He commented that at some point, the City can identify particular areas that would be suitable for future senior housing projects.

Commissioner Munir asked about the meanings of the "A," "B," "C," and "D" columns in the chart. Director Prince explained that the letters correspond to the number of units that could be provided under each category discussed previously. Commissioner Munir

recommended adding a footnote to clarify the chart.

Commissioner Munir noted that reducing greenhouse gases should be the City's ultimate goal, and facilities like the multi-modal transportation hub will help achieve that. He commented that the needs allocation formula should take these kinds of improvements into account as well as number of units. Director Prince said the environmental impact report for the Baylands will analyze cumulative impacts and eventual build-out potential, and this information will be incorporated in the General Plan. He added that more sophisticated software is being developed to evaluate different types of land uses based on factors like vehicle miles traveled, emission impacts, and job locations, so analytical capabilities will improve.

Commissioner Munir asked if the City had definitively decided that residential uses will not be permitted at the Baylands. Director Prince responded that one of the potential alternatives has residential uses in the northwest corner of the site, reflecting the desire of some members of the public not to rule out housing. He said it will be up to the City Council eventually to select the features that should be included in the community's preferred alternative.

Commissioner Hunter observed that convenient access to transportation and the chance to reduce vehicle trips might create more support for residential uses in the future.

Commissioners thanked staff for the background presentation.

The Commission took brief recess. Chairperson Maturo reconvened the meeting and invited comments from the public and the Commission.

Terry O'Connell commented that density is not necessarily undesirable if a project is well designed. She noted that building on hillsides increases costs and vehicle trips, and she recommended keeping large projects in the lower parts of Brisbane for this reason. She expressed her opinion that the area around Crocker Park would be close to transit and appropriate for mixed-use housing. Ms. O'Connell recommended partnering with a not-for-profit builder as a way of obtaining more affordable units.

Ms. O'Connell urged the Commission not to over-anticipate the number of units needed, because Brisbane's future regional housing needs allocation will be set higher. For now, she suggested working to provide the target of 401 units. She suggested including wording in the Housing Element encouraging more senior housing units.

Ms. O'Connell pointed out that having extensive open space helps offset greenhouse gas emissions. She expressed her hope that Brisbane will continue to be a livable, sustainable, and affordable community.

Director Prince suggested that Commissioners take time to review the information in the

staff report and consider the alternatives. He noted that the text of the Housing Element and a comparison matrix were provided in the meeting packet to facilitate review of the Housing Element's policies and programs. He proposed that Commissioners ask preliminary questions at this meeting and continue their deliberations to the next meeting.

Commissioner Hunter commented that he liked the idea of rezoning certain Crocker Park parcels to allow mixed-use housing.

Commissioner Lentz noted that the Housing Element can be viewed as a platform to make Brisbane a better community in the future. Director Prince agreed, and emphasized the importance of planning ahead to ensure sustainable and affordable housing in the future. He said concern about global warming is causing a re-examination of transportation patterns, urban sprawl, and the jobs-housing mix. He talked about the principles of new urbanism and smart growth, and recommended reflecting these concepts in the General Plan.

Commissioner Lentz observed that the staff report mentions changing parking regulations for secondary units as a way of facilitating more efficient and compact development, and he expressed support for this proposal. He questioned the need for a minimum density standard, noting that such a standard could mean that single-family homes on large lots would have to be replaced with duplexes. He said that staff seems to have identified enough sites for housing already.

H.1.45.

Senior Planner Tune clarified that a minimum density standard is required by state law to categorize units as affordable to very low and low-income households. He advised that the City could allow exceptions in certain circumstances. Director Prince pointed out that having a minimum density standard helps the City meet its affordability target because it increases the potential number of units on available sites.

Commissioner Lentz commented that it might be better to identify and rezone certain parcels that can accommodate higher density, or to apply minimum density only to new developments. He asked staff to provide the Commission with further information and options with respect to minimum density.

Commissioners asked if the City's next regional housing needs allocation target would include a credit if Brisbane actually provided more than the required 401 units. Director Prince responded that the allocations are recalculated each time based on the needs at that time, so the City would not receive credit for providing excess RHNA capacity. He added that Brisbane's allocation went down compared to the last time.

Commissioner Hunter expressed concern that there may come a time when a city is completely built out and then lacks capacity to provide any more units. Director Prince acknowledged this possibility. He said state law or the method of calculating the allocation could change in response to changing conditions.

Commissioner Parker noted that Central Brisbane is characterized by its small-town atmosphere and diversity of housing types. She remarked that any future housing developments should maintain that character and diversity.

Commissioner Hunter pointed out that Brisbane already has high-density housing, and he cited the Northeast Ridge as an example. Commissioner Parker commented that people who live in town walk around downtown Brisbane, while Northeast Ridge residents tend to stay inside and drive to other places. Commissioner Hunter observed that housing in Crocker Park might be a better alternative than freight forwarding.

Commissioner Lentz said he liked the idea of smaller, detached dwelling units rather than large multi-family buildings. He recommended encouraging these kinds of dwelling groups in the future.

Senior Planner Tune noted that stepping buildings back from the street helps minimize visual impacts and create more of a single-family look. He mentioned a few specific projects that incorporated atriums and other attractive architectural features.

At 10:30 p.m., Commissioner Parker moved, seconded by Commissioner Hunter, to continue the meeting until 11:00 p.m. The motion was unanimously approved.

Commissioner Lentz asked if the Redevelopment Agency had completed its purchase of the parcels in the lower part of Brisbane Acres between Gladys and San Bruno Avenue described in the staff report. Senior Planner Tune stated that the Redevelopment Agency was purchasing the property with the intent of developing affordable units.

Commissioner Lentz asked if the Eagles property had been included in the staff's analysis of housing potential. Senior Planner Tune responded that the Eagles parcel was not included because redevelopment does not appear likely within the next several years.

Commissioner Lentz drew attention to Page G.1.39, regarding emergency shelters and group homes. He said he was pleased that these should be considered as part of the community. He suggested that the portion of the TC-1 District considered for rezoning might be the best place for these facilities because they are close to public safety services.

Senior Planner Tune advised that Brisbane already has one group home on San Bruno Avenue at Bayshore Boulevard. He commented that the Southwest Bayshore subarea has transit access to social services which makes the SCRO-1 District more appropriate for emergency shelters.

Commissioner Hunter commented that Mr. Canepa's email addresses this issue.

Commissioner Lentz indicated that he missed the presentation about the HOPE

organization at the last meeting, and he requested a copy of those materials.

Commissioner Lentz observed that Page G.1.42 identifies a couple issues regarding Bayshore Boulevard that the Commission should consider as part of its deliberations.

Commissioner Lentz noted that Page G.1.44 discusses housing in the Northwest Bayshore subarea, and he recalled that the City Council had voted not to allow housing in that area. He expressed his preference to develop the other side of Bayshore Boulevard, and recommended considering Industrial Way as a potential site for a mixed-use development. He said he supported rezoning certain parcels in the TC-1 District for residential uses.

Commissioner Lentz questioned the recommendation on Page G.1.45 to require limited design review for the rezoned parcels. Senior Planner Tune explained that state law requires that design review for affordable housing projects be based only on objective criteria. He added that state law is unclear as to how much flexibility the Planning Commission would have to impose additional restrictions.

H.1.A.6

Commissioner Lentz said he understood that some of the landowners at Sierra Point wanted to rezone their property for residential use, and Universal Paragon Corporation had applied for to add condominiums to its planned hotel project. Director Prince said UPC withdrew its application to build an 800-unit hotel/condominium project because the issue was clouding the City's consideration of the Sierra Point design guidelines.

Commissioner Lentz recommended that the Commission discuss the issue of allowing housing as an option in uncontaminated portions of the Baylands. He said these might be suitable for artists' housing, senior housing and mixed-use development.

Commissioner Parker noted that members of the public raised concerns at City Council meetings about creating a residential community separated from the main part of Brisbane.

Commissioner Lentz expressed his opinion that housing should at least be considered as an alternative.

Chairperson Maturo agreed with Commissioner Hunter that selective rezoning might provide an opportunity to clean up certain areas of town and accommodate higher density in existing neighborhoods.

Commissioners decided to continue this study session to the May 14 meeting.

~~ITEMS INITIATED BY STAFF~~

There were no items initiated by the staff.

~~ITEMS INITIATED BY THE COMMISSION~~

Commissioner Lentz suggested that Commissioners forward questions and comments regarding the Housing Element to the staff in advance of the May 14 meeting.

ADJOURNMENT

There being no further business, Commissioner Hunter made a motion, seconded by Commissioner Munir, to adjourn to the Regular Meeting of May 14, 2009. The motion was unanimously approved and the meeting was adjourned at 11:08 p.m.

William Prince, Director
Community Development Department

Theresa Maturo, Chairperson
Planning Commission

GOVERNMENT CODE
SECTION 65580-65589.8

65580. The Legislature finds and declares as follows:
(a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.
(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

H-1-47

65581. It is the intent of the Legislature in enacting this article:
(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.
(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.
(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.
(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

65582. As used in this article:
(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.
(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.
(c) "Department" means the Department of Housing and Community Development.
(d) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:
(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.
(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.
(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).
(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.
(7) An analysis of opportunities for energy conservation with respect to residential development.
(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify

for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to

accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1,

H.1.48

1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

H-1.49

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount

of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located in a multifamily rental housing complex of four or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made

affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to and reserved for occupancy by persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is multifamily rental housing that receives governmental assistance under any of the following state and federal programs: Section 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 17151(d)(3) and (5)); Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1); Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q); for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s); under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485); and any new construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f); any state and local multifamily revenue bond programs; local redevelopment programs; the federal Community Development Block Grant Program; and other local housing assistance programs or units that were used to qualify for a density bonus pursuant to Section 65916.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any such housing unit that a building permit has been issued and all

H.1.49

development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the first two years of the housing element planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) On July 1 of the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development"

includes all of the following:
(1) Vacant sites zoned for residential use.
(2) Vacant sites zoned for nonresidential use that allows residential development.
(3) Residentially zoned sites that are capable of being developed at a higher density.
(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.
(b) The inventory of land shall include all of the following:
(1) A listing of properties by parcel number or other unique reference.
(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.
(3) For nonvacant sites, a description of the existing use of each property.
(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.
(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.
(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.
(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.
(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:
(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.
(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.
(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:
(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.
(B) The following densities shall be deemed appropriate to

accommodate housing for lower income households:
(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.
(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.
(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.
(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.
(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.
(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.
(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.
(g) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.
(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.
(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a

conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

H.1.S1.

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in

H-1.52.

filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low- or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low- or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588 and that is in substantial compliance with this article, and the development project is not needed for the jurisdiction to meet its share of the regional housing need for very low, low-, or moderate-income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a housing element in substantial compliance with this article. This subdivision cannot be utilized to disapprove a housing development project defined in subdivision (a) if the development project is proposed on a site that is identified for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the

jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this 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.

(4) "Area median income" means 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 very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "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.

(6) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

H.152

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that 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, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or 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) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, 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, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(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.

(k) If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are

fulfilled.

(l) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure, all or part of the record may be filed (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

65589.6. In any action taken to challenge the validity of a decision by a city, county, or city and county to disapprove a project or approve a project upon the condition that it be developed at a lower density pursuant to Section 65589.5, the city, county, or city and county shall bear the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5.

65589.7. (a) The housing element adopted by the legislative body and any amendments made to that element shall be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body. When allocating or making plans for the allocation of available and future resources or services designated for residential use, each public agency or private entity providing water services at retail or sewer services, shall grant a priority for the provision of these available and future resources or services to proposed housing developments which help meet the city's, county's, or city and county's share of the regional housing need for lower income households as identified in the housing element adopted by the legislative body and any amendments made to that element.

(b) This section is intended to neither enlarge nor diminish the existing authority of a city, county or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a public agency or private entity providing water services at retail or sewer services shall not invalidate any action or approval of a development project. The special districts which provide water services at retail or sewer services related to development, as defined in subdivision (e) of Section 56426, are included within this section.

(c) As used in this section, "water services at retail" means supplying water directly to the end user or consumer of that water, and does not include sale by a water supplier to another water supplier for resale.

65589.8. A local government which adopts a requirement in its housing element that a housing development contain a fixed percentage of affordable housing units, shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

Nothing in this section shall be construed to expand or contract the authority of a local government to adopt an ordinance, charter amendment, or policy requiring that any housing development contain a fixed percentage of affordable housing units.

A.1.53.