

DEPARTMENT: Planning, Human Services

BY: Kris Schenk and James Rydingsword
PHONE: 742-1216 and 966-2000

RECOMMENDED ACTION AND JUSTIFICATION:

This is an advertised public hearing to accept public testimony and to consider adoption of the 2009 - 2014 Housing Element Update of the General Plan. State law requires that Mariposa County submit an update to its Housing Element for certification by the State Department of Housing and Community Development (HCD).

Mariposa County's need to complete the adoption of the 5-year Housing Element Update and certification by HCD remains paramount. The existing Housing Element, adopted in 2003, expired on August 31, 2009. The County is operating on an interim extension basis until certification of the updated Housing Element, expected within the 90-day period following action by the Board of Supervisors.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Planning and Human Services housing staffs have been working with J.B Andersen Land Use Planning, on the compilation and certification of the draft Housing Element Update. The Board approved a contract for services in April, 2009 to undertake the revision of the Housing Element. On August 21, 2009 the Planning Commission conducted a public hearing and recommend approval of a Negative Declaration and the Draft Housing Element Update.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

A failure to diligently pursue and complete the adoption and HCD certification of the Housing Element Update could result in the suspension of certain State housing programs and funding, such as community development block grants

Financial Impact? () Yes (X) No	Current FY Cost:	Annual Recurring Cost: \$
Budgeted In Current FY? (X) Yes () No () Partially Funded		
Amount in Budget: _____		List Attachments, number pages consecutively
Additional Funding Needed: _____		1. Staff Report
Source:		2. Comments Received from 11/3/09 to 11/23/09
Internal Transfer _____	4/5's vote	3. Response to Comments on the Draft Housing Element
Unanticipated Revenue _____	4/5's vote	4. Response to comments on the Negative Declaration/Initial Study
Transfer Between Funds _____	4/5's vote	5. Initial Study
Contingency _____	4/5's vote	6. Draft Board of Supervisors Resolution
() General () Other _____		7. Planning Commission Resolution 2009-016
		8. Revised Draft Housing Element Update (provided Under separate cover on November 3, 2009)

CLERK'S USE ONLY:

Res. No.: 09-595 Ord. No. _____
Vote - Ayes: 4 Noes: _____
Absent: Boorn
() Approved
() Minute Order Attached () No Action Necessary

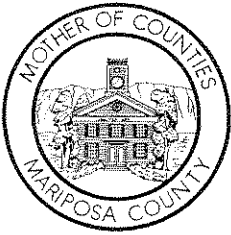
COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
Comments:

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

CAO: *[Signature]*



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BRAD ABORN, CHAIR
JANET BIBBY, VICE CHAIR
LYLE TURPIN
KEVIN CANN
JIM ALLEN

DISTRICT I
DISTRICT III
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: Kris Schenk, Planning Director and Jim Rydingsword, Human Services Director;
PUBLIC HEARING to Consider General Plan Amendment No. 2009-055, an Update to the Housing Element of the Mariposa County General Plan, Covering the Five-Year Period from 2009-2014. Recommended Action Includes a Resolution Adopting a Negative Declaration and Adopting the 2009-2014 Housing Element Update of the Mariposa County General Plan, with Findings

RESOLUTION 09-595

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 8, 2009

ACTION AND VOTE:

10:00 a.m. Kris Schenk, Planning Director and Jim Rydingsword, Human Services Director;
PUBLIC HEARING to Consider General Plan Amendment No. 2009-055, an Update to the Housing Element of the Mariposa County General Plan, Covering the Five-Year Period from 2009-2014. Recommended Action Includes a Resolution Adopting a Negative Declaration and Adopting the 2009-2014 Housing Element Update of the Mariposa County General Plan, with Findings

BOARD ACTION: Kris Schenk advised that the Housing Element is an element of the General Plan, but it is different than the other elements because it has its own schedule and requirements including certification by State Department of Housing and Community Development (HCD); and he noted that this is not a land use or development element. He reviewed the process for updating the Housing Element. He advised that following the Board's action, the document will be submitted to HCD and that triggers a ninety-day process for their review and possible changes. Any changes and questions that come up would be reviewed by the Planning Commission and then the Board; and then it would be certified. Mark Niskanen, J. B. Anderson Land Use Planning, reviewed the following: Housing Element standards – what the Housing Element is comprised of; legal requirements – must be updated every five years, be consistent with the other elements of the General Plan and be certified by HCD; Regional Housing Needs Allocation (RHNA) – reviewed allocation of the 1,084 units over the next seven years; public participation and agency comments, including a public workshop, housing questionnaire, review period, and Planning Commission hearing; summary of key factors – review of the areas that were updated; Planning Commission's recommendation; and the next step in the process.

The public portion of the hearing was opened and input was provided by the following:

Don Starchman, Starchman & Bryant Attorneys at Law, advised that they are not asking for zoning; however, the responses that they have been getting to their questions are that zoning and Catheys Valley are not being discussed. He feels the issues they have addressed could be dealt with in the goals,

policies and program section. He expressed concern with not having a specific inventory of property in Appendix "D" and with the constraints of the individual parcels not being addressed. He referred to the need for affordable housing and being able to meet the need. He referred to the Mariposa Specific Plan and the requirements for steep parcels and he stated he feels that the road standards are not reasonable, environmentally or economically, for the steep parcels. He advised that the parcels on the map that are north of the Hospital are not in the MPUD (Mariposa Public Utility District) service area and that the "field of dreams" and church properties are shown as residential. He does not feel that their written or oral testimony has been addressed. He feels that the Catheys Valley town planning area need to be addressed; and he feels that the State needs to be aware of down zoning of property. He questioned whether this addresses public programs for job creation/generation. He reviewed the headings in his December 4th letter that was submitted to the Board; and he asked where the parcels are going to come from to meet the housing needs as zoning is not enough. He advised that the studies on the Fortner project in Catheys Valley are current. He stated he would like to see clustering considered to be able to meet the economics and road standards for a project. He stated he feels that citizen participation has been lacking. He feels that the document does not address economic diversification as referred to in Program 7.1 and hillside development standard restrictions. He stated the timeframes stated in the Element for obtaining a building permit or a tentative map do not reflect the actual timeframes. He referred to Policy 3.3 relative to the County assisting special districts to expand; and he noted that the draft Catheys Valley Plan calls for no special districts, so he feels that is a conflict. He feels there is an exclusionary philosophy for the western/Catheys Valley area of the County.

Mike McCreary referred to his history of working with local government, and he thanked the Board members for their dedication to public service. He referred to the staff report and noted that it contains a great deal of effort and public expense. He does not feel that this is a job program or an effort to re-write the General Plan. He referred to the complexity of the issues and the fact that this is an unfunded mandate. He asked what the impact will be to the grant funding and the implications if the Board decides to not move forward with the staff recommendation. He referred to the length of this process and the opportunity to provide input. He stated he does not feel that we can let the "perfect be the enemy of the good" and he does not feel that we have the dollars to analyze every sentence. He feels it is important to move forward with this to receive funding. He commented on the importance of tourism to the County, and he thanked the Board for working to do its best for the overall community. He feels the Board should act on the staff and consultant's recommendation and move forward.

Vice-Chair Bibby advised that a recess would be taken and cautioned the Board members that it is still in the public hearing process and they cannot discuss this matter during the recess.

10:54 a.m. Recess

11:05 a.m. Beth Tomsick, representing Habitat for Humanity, stated she agrees with Attorney Starchman relative to representing the entire County in the Housing Element; and she agrees with having the proper density and low income housing. She advised that they were given a five-acre lot with water and septic, but it only allows for one family. They would like to see parcels available in the town areas for the low income because that is where the services are. She asked if they are one of the public agencies mentioned in the Element. She advised that they appreciate the help they have received.

Rita Kidd, on behalf of MERG (Mariposans for the Environment and Responsible Government), read their letter into the record which focused on the following four points: the issue of the Catheys Valley Community Plan has not been noticed for discussion at this meeting, the Housing Element is not a document that takes precedence over policies in other elements of the General Plan, the Housing Element must contain certain analytical details, and there are specified procedures in Government Code that define how policy changes are made to the County's General Plan. She advised that speaking on a personal level and with the utmost respect and like for Starchman & Bryant Law firm, she feels that some of their presentation today is 180-degrees from the General Plan hearing. She noted that it has been three years since the General Plan was adopted and she commented on the status of implementation. She referred to the water study and report for the Fortner project and noted that the State's data shows a decrease in water. She referred to the zoning issue and the number of five-acre parcels in the western portion of the County and noted that it was the Board's order that no zoning be changed. She commented on the current General Plan's allowance of two and one-half acres with

clustering and noted that Catheys Valley does not have the water and septic capacity for this in most cases. She referred to the issue relative to the timeframes for processing applications and noted that most of the time, the applicants are not fully prepared when they submit their application and it takes them time to complete the data. She referred to the issue of meeting the housing demands for staff of UC Merced and noted that Merced has available housing; and she noted that a new UC Merced city is being proposed. She advised that the professors that chose to live in Mariposa are returning to Merced, and there are properties for sale in Catheys Valley. She referred to a case study cited by Habitat for Humanity relative to affordable housing in rural areas – it is not reasonable because of the expense and distance. She noted that demand drives building and profit drives subdivision. She feels that self-subdivision without any intent to build out the housing takes away from the grazing and creates fire hazards. She noted that time is money and potentially a penalty if the Housing Element isn't adopted timely.

The public portion of the hearing was closed and the Board commenced with deliberations. Kris Schenk, Larry Enrico/Senior Planner, and Mark Niskanen responded to questions from the Board as to whether there is a proposal for a longer life for the Housing Element; relative to being able to amend the document before the five year period is up; relative to the testimony and priority to implement the policies of the General Plan; relative to the State's review of the Element for compliance and whether the State sees all of the comments that were received; clarification that hillside standards are not a component of the Housing Element; relative to inclusion of the "field of dreams" in the map; whether the parcels by the Hospital could be annexed to MPUD; whether the goal for the number of housing units in the last Housing Element was reached; clarification that Habitat for Humanity is one of the public agencies that was included; clarification that the Housing Element covers the entire County; clarification that agencies have been provided an opportunity to submit comments and that the hearing was duly noticed; and relative to what happens if the goal of the Element has not been met. Steve Dahlem, County Counsel, advised that he is unable to render an opinion in regard to the legal issues submitted last week and this week; and he advised of options for the Board. Staff responded to questions relative to clarification of the time period for this Element; and relative to review of the additional comments that were submitted on Monday and during this hearing and being able to further respond during the review process. Rick Benson, County Administrative Officer, responded to questions from the Board relative the Community Block Grant funding being tied to having a current Housing Element and the impact on programs.

(M)Cann, (S)Allen, Res. 09-595 was adopted adopting a Negative Declaration and approving the Housing Element update based upon the recommended findings. Further discussion was held relative to approving the Element. The motion was amended, agreeable with the maker and second, to include direction for staff to make technical corrections/Ayes: Turpin, Bibby, Cann, Allen; Excused: Aborn. The hearing was closed.

Cc: Jim Rydingsword, Human Services Director
File

MARIPOSA COUNTY RESOLUTION NUMBER 09-595

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIPOSA ADOPTING A NEGATIVE DECLARATION AND ADOPTING THE 2009–2014 HOUSING ELEMENT UPDATE OF THE MARIPOSA COUNTY GENERAL PLAN WITH FINDINGS

WHEREAS, State law requires cities and counties to prepare and adopt a General Plan to guide the future development of a city or county; and

WHEREAS, a General Plan must contain certain elements, including a Housing Element which sets forth goals, policies and programs to encourage the development of housing for all income groups and persons with special needs; and

WHEREAS, State law requires that cities and counties comprehensively update their General Plan Housing Element every five years to ensure their plans can accommodate future demand for housing; and

WHEREAS, County staff circulated the Draft Housing Element of the General Plan for public and agency review consistent with Government Code Section 65352 and the Housing Element Guidelines; and

WHEREAS, the County conducted an initial environmental analysis on the proposed Housing Element update per the requirements of the California Environmental Quality Act. The analysis concluded that the proposal would have no significant environmental effects on the environment, A Notice of Completion and Initial Study, pursuant to the California Environmental Quality Act (CEQA), was distributed to the State Clearinghouse and appropriate agencies for the purpose of obtaining written comments from these agencies on the adoption of a Negative Declaration for the Housing Element Update; and

WHEREAS, a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS, the Planning Commission found that adoption of the 2009-2014 Housing Element Update is consistent with the adopted Mariposa County General Plan; and

WHEREAS, the Mariposa County Planning Commission, on August 21, 2009, conducted a duly noticed and properly advertised public hearing to take public testimony and to consider additional revisions to the draft of the 2009 – 2014 Housing Element Update of the General Plan. The Planning Commission approved Resolution Number 2009-016 recommending that the Board of Supervisors adopt a Negative Declaration and adopt the 2009 – 2014 Housing Element Update of the General Plan; and

WHEREAS, the Board of Supervisors held a duly noticed and properly advertised public hearing on December 8, 2009 to solicit and evaluate public testimony and to consider adoption of a Negative Declaration and adoption of the 2009 – 2014 Housing Element Update of the General Plan.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors hereby adopts a Negative Declaration for the 2009 –2014 Housing Element Update of the Mariposa County General Plan; and

THEREFORE BE IT FURTHER RESOLVED that the Board of Supervisors hereby adopts the 2009 –2014 Housing Element Update of the Mariposa County General Plan based upon the findings set forth in Exhibit 1; and

THEREFORE BE IT FURTHER RESOLVED that the Board of Supervisors designates the Mariposa Planning Department, 5100 Bullion Street, Mariposa, California, as the location and custodian of the documents and materials pertaining to the 2009 – 2014 Housing Element Update, constituting the record of proceedings upon which this decision and Resolution are based; and

THEREFORE BE IT FINALLY RESOLVED that the Board of Supervisors authorizes County staff to prepare and file with the appropriate State and County offices a Notice of Determination within five working days following the date of adoption of this Resolution; and

THEREFORE BE IT FINALLY RESOLVED the recommendations for project approval are based upon the findings set forth in Exhibit 1.

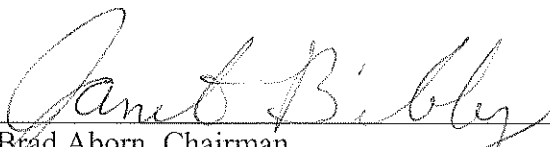
ON MOTION BY Supervisor Cann, seconded by Supervisor Allen, this resolution is duly passed and adopted this 8th day of December, 2009 by the following vote:

AYES: TURPIN, BIBBY, CANN, ALLEN

NOES: NONE

ABSENT: ABORN

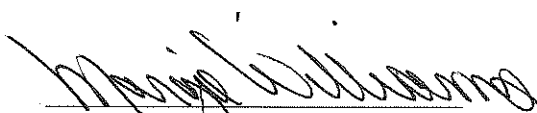
ABSTAIN: NONE



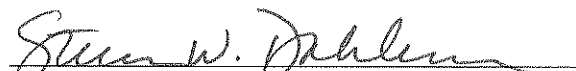
Brad Aborn, Chairman
Mariposa County Board of Supervisors
By Janet Bibby, Vice-Chair

ATTEST:

APPROVED AS TO FORM:



Margie Williams
Clerk of the Board of Supervisors



Steven W. Dahlem
County Counsel

EXHIBIT 1 - FINDINGS OF APPROVAL

1. *The amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.*

The Housing Element Update has been prepared to meet the legislative intent of providing for the availability of housing, expand housing opportunities, and to accommodate the housing needs of all economic segments in the County. The Housing Element is intended to identify the County's responsibilities in attaining the state housing goals, while recognizing that Mariposa County is best capable of determining what efforts are required by it for the attainment of the state housing goal and regional housing needs.

In requiring the periodic update to the Housing Element of the General Plan, the legislative intent is clearly stated in Section 65581 of the Government Code regarding the County's responsibilities in preparing this update. The Legislature determined that updates to housing elements are necessary and in the public interest to provide for housing opportunities for all economic segments in the County. Therefore, this Housing Element Update is in the public interest and will not have a significant adverse affect on the general public health, safety, peace and welfare.

2. *The amendment is desirable for the purpose of improving the Mariposa County general plan with respect to providing a long-term guide for county development and a short- term basis for day-to-day decision- making.*

The Housing Element Update provides for a five-year planning period, and legislation requires that the Element be updated periodically. This five year planning horizon, coupled with the periodic updates, provides guidelines for meeting housing needs in the immediate future, and also insures that there will be long-term guidelines as the General Plan is implemented over the next decade and beyond. The Housing Element is internally consistent with the overall General Plan policies and Elements.

3. *The processing of this application conforms to the requirements of state law and county policy.*

The processing of this project application has been in accordance with all requirements pursuant to state law, County ordinance, and County policy. A 60-day public review period has been established in accordance with State law, and the County will make final consideration on approving the Housing Element Update after the 60 day public review period has ended. Native American tribes were provided an opportunity for consultation, in accordance with the Tribal Consultation Guidelines of the General Plan Guidelines. The consultation period has ended, and no tribes requested consultation.

4. ***The amendment is consistent with the goals, policies, and implementation measures of the Mariposa County General Plan as follows:***

This project is consistent with Goal 5-2, “Create land use density and development patterns to manage growth in patterns avoiding sprawl”. The project is in turn consistent with Policy 5-2a, which states, “Ensure that development shall occur first where services are located.”

Implementation Measure 5-2a(1) states, “Development shall grow outward from Planning Areas and Residential Areas with available services.”

The Housing Element Update does not propose or involve the actual development of housing units. The Update identifies the statutory requirements, opportunities and constraints on housing, and those properties throughout the County that are available for residential use. This includes data on town planning areas where many services, such as sewer and/or water, are currently located, and the rural areas of the County. The Housing Element Update includes data that the County can utilize when evaluating projects for consistency with this Implementation Measure.

Implementation Measure 5-2a(1) states, “No urban expansion shall occur within the Mariposa Town Planning Study Area unless water and sewage disposal are available from a centrally coordinated and managed system.”

Data based upon the planned land uses of the Mariposa Town Planning Area is included in the Housing Element Update. Development of these properties as a residential use would be permitted with the Town Plan, subject to the availability of water and sewage disposal from the Mariposa Public Utility District. Any future residential development is also subject to appropriate subdivision, environmental, zoning and building code requirements. The information in the Housing Element Update represents residential land use potential, but makes no determination on when or if property will be developed for housing. The Housing Element Update includes data that the County can utilize when evaluating projects for consistency with this Implementation Measure.

5. ***The development will not result in the premature urbanization of the Planning Study Areas.***

Implementation Measure 5-2a(1) states, “The County shall make findings that the development will not result in the premature urbanization of the Planning Study Areas.”

The Housing Element Update does not propose or involve the actual development of housing units in any Planning Study Area. The Housing Element Update identifies where land is available for residential purposes countywide. This includes Planning Study Areas, some of which have adopted community, specific

or town plans. The data presented on land uses and vacant properties in the planning study areas (with adopted Plans) provides information on how those areas are planned to grow. It further identifies development, should it occur, that would be consistent with the adopted Plan. The Housing Element Update data for Planning Study Areas (without adopted plans) was developed based upon the residential densities permitted by the existing zoning. The Housing Element Update data can be utilized when evaluating projects for consistency with the Implementation Measure.

6. *The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.*

This required finding is not applicable to the Housing Element Update as no specific parcel of property is involved, no changes are being made to land use designations, and no specific land use development is involved in the project.