

## **PLANNING COMMISSION STAFF REPORT**

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| <b>PLANNING APPLICATION NO.:</b> | 19-12   |
| <b>PROJECT NAME:</b>             | Housing Element Update (2009-2014)  |
| <b>ASSESSOR'S PARCEL NO.:</b>    | City-wide   |
| <b>STREET ADDRESS:</b>           | City-wide   |
| <b>APPLICANT:</b>                | City of Cotati  |
| <b>OWNER:</b>                    | N/A   |
| <b>GENERAL PLAN DESIGNATION:</b> | Various   |
| <b>ZONING CLASSIFICATION:</b>    | Various   |
| <b>FILING DATE:</b>              | November 19, 2012   |
| <b>MEETING DATE:</b>             | November 19, 2012   |
| <b>ACTION:</b>                   | Amend the General Plan to update the Housing Element for 2009-2014                        |
| <b>RECOMMENDATION:</b>           | Recommend City Council amend the General Plan to update the Housing Element for 2009-2014 |

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### **I. Description of Request and Proposal**

The request is to adopt a Housing Element update, which would amend the General Plan by replacing the currently adopted Housing Element.

### **II. Background**

State law mandates that each city and county update their Housing Element regularly, with specific deadlines being established by the State Department of Housing and Community Development (HCD). The Housing Element is one of seven mandatory elements that must be included in the City's General Plan according to Section 65302(c) of the California Government Code. The Housing Element is the primary policy document guiding the development, rehabilitation, and preservation of its housing for all economic segments of the City.

### **III. Previous Actions**

On November 21, 2011, the Planning Commission reviewed the Draft Housing Element during a noticed public meeting. No public comments were submitted. The Planning Commission requested revisions to the Draft Housing Element, which were made prior to submittal of the document to HCD.

### **IV. Planning Considerations and Issues**

#### Legal Requirements

In order for a housing element to be found in compliance with state law it has to meet the detailed and increasingly specific mandates of state planning law set forth in Section 65583 of the California Government Code and must also be consistent with the other elements of the General Plan. State law requires that every city have a legally compliant Housing Element. A certified Housing Element is also a prerequisite to be eligible for a number of federal, state and regional funding programs including OneBayArea transportation grant funds.

#### Housing Element Contents

The Housing Element (Exhibit "A" to the attached Resolution) includes the following:

- Housing Element. The Housing Element is a stand-alone policy document, supported by the research and analysis contained in the Housing Element Background Report. The Housing Element includes an introduction that summarizes the information included in the Housing Element Background Report and the City's Housing Plan. The Housing Plan is the implementation component for the various goals, policies and actions. The Housing Plan sets forth the City's housing goals and provides policies and programs to address the City's housing needs.
- Housing Element Background Report. The Housing Element Background Report includes an assessment of housing needs, identifies governmental and non-governmental constraints to the development of housing, describes resources available for the development of housing, assesses the effectiveness of the 2002 Housing Element and describes the community outreach activities conducted. The chapters of the Background Report are identified below.
  1. Housing Needs Assessment. The Housing Needs Assessment chapter includes an analysis of population and employment trends, details the City's fair share of regional housing needs allocation, household characteristics and the condition of the housing stock.
  2. Constraints. The Constraints chapter reviews governmental constraints, including land use controls, fees and processing requirements, as well as non-governmental constraints such as construction costs, availability of land and financing, physical environmental conditions, and units at-risk of conversion that may impede the development, preservation and maintenance of housing.
  3. Resources. The Resources chapter identifies resources available for the production and maintenance of housing, including an inventory of land suitable for residential development, availability of infrastructure, and discussion of federal, state and local financial resources and programs available to address the City's housing goals.
  4. Effectiveness of Previous Housing Element. This chapter evaluates the City's accomplishments under the 2002 Element in order to determine the previous Element's effectiveness, the City's progress in implementing it, and the appropriateness of its goals, objectives, and policies.
  5. Community Participation. The Community Participation chapter describes how the City engaged the public, including residents, housing developers, business people, and interested parties, including housing and special needs advocates.
  6. Report Preparers and Sources. This chapter lists the report preparers and sources of information for the Housing Element and Housing Element Background Report.

#### Consistency with the General Plan

State Law requires that "...the general plan and elements and parts thereof comprise an integrated, internally consistent, and compatible statement of policies...". The purpose of requiring internal consistency is to avoid policy conflict and provide clear policy guidance for the future maintenance, improvement and development of housing within the City. All elements of the General Plan have been reviewed for consistency in coordination with this update to the Housing Element.

Since the City is in the process of updating the General Plan, the Housing Element was reviewed for consistency with both the adopted General Plan and the draft General Plan Update Goal and Policy sets. The Housing Element identifies potential for residential development on sites already designated for residential uses in the General Plan.

The Housing Element will not increase the number of residential units that could be developed in the City under the adopted General Plan.

The Housing Element includes programs to promote development of affordable housing, provide mixed use housing opportunities, and place housing proximate to services and transportation. The goals, policies and programs of the Housing Element are consistent with the goals of the adopted General Plan, which include the following:

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| Goal 1 (Community Development) | <i>to establish an efficient and environmentally sensitive land use pattern that provides adequate space to meet housing and economic needs while maintaining Cotati's small town image</i> |
| Goal 6 (Quality of Life)       | <i>to enhance the quality of life of Cotati residents through the creation and maintenance of well-designed and appropriately served neighborhoods</i>                                      |

The Housing Element identifies the need to bring the Land Use Code into compliance with various provisions of state law and to remove various constraints to housing development, but none of these revisions will conflict with the intent of the General Plan.

All development activities considered in the Housing Element, including affordable housing, special needs housing, market rate housing, and rehabilitation and preservation of existing housing, will be required to be consistent with the City's adopted policies and regulations, including the General Plan and Land Use Code.

#### Review of Draft Housing Element

The Draft Housing Element was made available for review in November 2011. The Planning Commission reviewed the Draft Housing Element at a public meeting held November 21, 2011. The public was invited to comment but no public comments were received, either at the meeting or in writing. Following comments from the Planning Commission, the Housing Element was revised and submitted to HCD for review from February 20, 2012 to April 23, 2012; the Housing Element also continued to be available for public review during this time period. No comments were received from the public during or after the public review period. In April 2012, HCD provided verbal comments that resulted in proposed revisions to the Housing Element. A revised Draft Housing Element was submitted to HCD for review on August 30, 2012 and additional revisions were submitted to HCD on October 3, 2012. Following review of additional proposed revisions, HCD provided the City with a letter on October 19, 2012 stating that the Housing Element, as revised, will addresses statutory requirements and will comply with State housing element law when adopted and submitted to HDC.

Revisions made in response to HCD's comments are identified below.

1. Affordable Housing Inventory. Table 1-30 in Chapter 1 has been updated to identify the specific number of very low, low, and moderate income units in each project as well as affordability mechanisms and terms of affordability for units created through the City's affordable housing requirement to the extent that the information is available. Program 1-7 (page 7 of the Housing Element chapter) has been updated to require the City to do additional research to determine specific affordability breakdowns and terms of affordability for those projects where the information is not readily available and require additional property title research.

2. Special Needs - Developmentally Disabled. The Housing Element was revised to address the needs of the developmentally disabled, consistent with the requirements of SB 812. Chapter 1 was revised to include an analysis of the special housing needs of the developmentally disabled, (see pages 1-19 and 1-20). The Housing Element goals, policies, and actions were revised to address housing for developmentally disabled persons (see pages 11 through 13. Chapter 3 was updated to identify resources for the developmentally disabled population (see pages 3-17 through 3-20).
3. Parking Requirements. Affordable housing projects receive the reduced parking requirement upon request by the affordable housing developer (see page 2-10); no special process is required. The discrepancy between pages 2-11 and 2-17 in parking standards quoted for residential care homes has been corrected; page 2-17 has been amended accordingly.
4. Affordable Housing Requirement. Chapter 2 has been updated to describe how the in-lieu fee is calculated, identify the Inclusionary Housing Fund balance, and to identify projects that may receive assistance through the fund. See pages 2-20 and 2-21.
5. Growth Management. Chapter 2 has been updated to include additional information regarding the growth management process (see pages 2-23 through 2-25). The text has been updated to identify how the allocations are processed (first-come, first-served). Table 2-5 has been added to provide historical allocation data, including the number of new and carryover allocations available on an annual basis, the number of allocations requested, and the number of exempt units.
6. Development Fees. The discussion on page 2-31 was updated to identify the cost of the City's fees as a percentage of total development cost for single family and multifamily units.
7. Environmental Constraints. Chapter 2 has been updated to identify whether environmental constraints will limit the development capacity of potential affordable housing sites. While one site is located in the floodplain, the process for development of the site is described. See pages 2-32 and 2-33.
8. Adequate Sites. Chapter 3 has been updated to provide the additional information.
  - a. Tables 3-1 and 3-4 have been updated to provide more details, such as specific levels of affordability and affordability mechanisms, for the affordable units that have been constructed or are planned/approved.
  - b. Table 3-5 (Very Low and Low Income Sites – Residential Only) and Table 3-6 (Very Low and Low Income Sites – Mixed Use) have been updated to provide greater detail for the very low and low income sites, including the minimum to maximum density range and identification of districts for the SPD sites.
9. Review of Previous Housing Element - IP-2.2.2. Chapter 4 has been revised to provide additional details regarding implementation of IP-2.2.2. IP-2.2.2 was implemented with the City's adoption of the Land Use Code update.
10. Priority Water and Sewer. Policy H-2.12 has been added to the Housing Element chapter to identify that lower income residential development is a priority for water and sewer service. Program 2-6 has been added to the Housing Element chapter to ensure the City's water and sewer service providers receive a copy of the Housing Element.

#### Funding Eligibility

In support of the climate change and sustainable communities requirements of Senate Bill 375 (2008), the Metropolitan Transportation Commission (MTC) has placed greater emphasis on the connection between land use,

housing, and transportation by requiring that jurisdictions have an adopted Housing Element that has been certified by HCD by January 31, 2013 in order to be eligible for OneBayArea grant funds. The OneBayArea grant includes the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) funds, which fund preservation and improvement of local streets and roads, bicycle and pedestrian improvements, safe routes to schools, and Priority Development Areas (PDAs). The Downtown Specific Plan and Santero Way Specific Plan/SMART station comprise Cotati's designated PDAs.

## **V. Environmental Review**

An Initial Study was prepared to analyze the potential environmental impacts of the Housing Element pursuant to the California Environmental Quality Act (CEQA). The Housing Element was determined to have either no impact in all environmental categories. Development envisioned under the Housing Element would be consistent with location, densities, and intensities allowed by the City's General Plan and Land Use Code. The Housing Element does not approve, entitle, require, or otherwise propose any development or rehabilitation projects. The Housing Element identifies that the City currently has adequate sites, through its existing General Plan and zoning designations, to accommodate the City's allocation of regional housing needs. No new housing sites are identified in the Housing Element. The goals and policies in the Housing Element support the development and rehabilitation of housing consistent with existing and proposed uses identified in the General Plan. The Housing Element also includes goals, policies, and programs to reduce constraints to housing. These goals, policies, and programs address land use designations that currently allow urban levels of development and would not result in any changes to the intensities or densities of allowed uses.

The Housing Element Update does not require additional environmental review under Section 15061(b)(3) of State CEQA Guidelines. This Section identifies that CEQA applies to projects that have the potential to cause a significant effect on the environment. The CEQA Checklist – Initial Study prepared for the project demonstrates with certainty that there is no possibility that the Housing Element Update will have a significant effect on the environment. Therefore, the Housing Element Update is not subject to CEQA and can be determined to be exempt. A Notice of Exemption will be filed with the County Clerk following project approval.

## **VI. Summary**

This Housing Element Update will provide the City with a Housing Element that addresses the City's current housing needs and is compliant with State law. Adoption of the Housing Element Update and subsequent certification by HCD will ensure the City's eligibility for a variety of housing and transportation funds, including the MTC One Bay Area Grant (OBAG) funds, which are an essential component of the City's planned transportation improvements.

## **VII. Staff Recommendation**

Staff recommends the Planning Commission adopt Resolution No. 12-14, recommending City Council adopt an amendment to the General Plan to update the Housing Element.

### Attachments

1. Resolution No. 12-14 Adopting the Housing Element Update
2. Planning Commission Meeting minutes of 11/21/11

## PLANNING COMMISSION RESOLUTION NO. 12-14

**THE PLANNING COMMISSION OF THE CITY OF COTATI  
RECOMMENDS THE CITY COUNCIL ADOPT AN  
AMENDMENT TO THE GENERAL PLAN TO  
UPDATE THE HOUSING ELEMENT**

**WHEREAS**, Sections 65580 through 65589.8 of the California Government Code requires each jurisdiction to regularly update its Housing Element in accordance with deadlines established by the State; and,

**WHEREAS**, on April 6, 2011, the City held a public workshop to provide the community and interested agencies with an opportunity to identify priorities and concerns related to the provision of housing; and,

**WHEREAS**, on November 21, 2011, the Planning Commission held a duly noticed public meeting to review the Draft Housing Element and to invite public comment regarding that draft Element; and,

**WHEREAS**, the City of Cotati submitted the Draft Housing Element Update to the California Department of Housing and Community Development (HCD) for HCD and public review from February 20, 2012 through April 23, 2012; and,

**WHEREAS**, the City did not receive any public comments regarding the Draft Housing Element Update at its November 21, 2011 meeting nor during HCD/public review period; and,

**WHEREAS**, HCD identified necessary revisions to the Draft Housing Element at a meeting on April 17, 2012; and,

**WHEREAS**, proposed revisions were made to the Draft Housing Element and submitted to HCD for review and HCD issued a letter to the City dated October 19, 2012 stating that the proposed revisions met the requirements of State law; and,

**WHEREAS**, the City has analyzed the Draft Housing Element and proposed revisions and determined that the Housing Element does not have the potential to result in a significant adverse environmental effect and is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) of the State CEQA Guidelines; and,

**WHEREAS**, the Housing Element Update consists of the Housing Element text and graphics detailed in Exhibit "A" attached hereto; and,

**WHEREAS**, the Planning Commission held a duly noticed public hearing on November 19, 2012 regarding the Housing Element Update, including the changes requested by HCD, at which time all interested persons were given an opportunity to be heard; and,

**WHEREAS**, the Planning Commission has reviewed and considered all evidence submitted in connection with the Housing Element Update, including the staff report, public testimony, and all other documents and evidence that are part of the City administrative record for these actions; and,

**WHEREAS**, the Planning Commission finds that the above recitals are true and correct, and constitute the Findings made by the Planning Commission in approving this Resolution.

**NOW, THEREFORE, THE PLANNING COMMISSION FINDS AND RESOLVES AS FOLLOWS:**

**A. Record**

The Record of Proceedings ("Record") upon which the Planning Commission bases its decision regarding the proposed amendment of the General Plan to update the Housing Element includes, but is not limited to: (1) the Draft Housing Element and all revisions thereto; (2) the 1998 General Plan; (3) the Cotati Municipal Code; (4) all staff reports, City files and records and other documents prepared for and/or submitted to and/or approved by the City relating to the Housing Element Update; (6) all documentary and oral evidence, including Planning Commission minutes, received at public hearings or submitted to the City; and (7) all other matters of common knowledge to the Planning Commission and the City, including, but not limited to, City, state and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.

The location and custodian of the Record is the Community Development Department of the City of Cotati, 201 West Sierra Avenue, Cotati, CA 94931. Records are available for viewing during regular business hours.

**B. Cotati General Plan (1998)**

1. The goals, policies, programs, and objectives contained in the Housing Element Update, considered individually and cumulatively, do not adversely affect the internal consistency of the City's General Plan, and the General Plan will be amended to incorporate this Update upon City Council adoption.
2. The Housing Element Update is consistent and compatible with the remainder of the City's General Plan 1998, as amended, and will further the objectives, policies, and programs of the General Plan.

**NOW, THEREFORE, BE IT FURTHER RESOLVED,** that the Planning Commission does hereby recommend that the City Council adopt the Housing Element Update as identified in Exhibit "A" as an amendment to the General Plan, based on the foregoing findings.

\* \* \* \* \*

**IT IS HEREBY CERTIFIED** that the foregoing Resolution was duly adopted at a regular meeting of the Planning Commission of the City of Cotati held on the 19<sup>th</sup> day of November, 2012 by the following vote, to wit:

|          |       |
|----------|-------|
| HANCOCK  | _____ |
| FORD     | _____ |
| BRADY    | _____ |
| MOORE    | _____ |
| SKILLMAN | _____ |

APPROVED: \_\_\_\_\_  
Chairperson

ATTEST: \_\_\_\_\_  
Secretary

Attachments:  
Exhibit A – Housing Element Update



CITY OF COTATI  
MINUTES for the Meeting of the Planning Commission

DATE OF MEETING: Monday, November 21, 2011  
TIME OF MEETING: 7:00 pm  
PLACE OF MEETING: Cotati City Hall, City Council Chambers  
201 West Sierra Avenue, Cotati, CA 94931

I. CALL TO ORDER

Chair Moore called the meeting to order at 7:00 pm

II. ROLL CALL

Commissioners Present: Brady, Ford, Hancock, Vice Chair Ritter and Chair Moore  
Commissioners Absent: None  
Staff Present: Parker, Harris, Pajon, Chief Parish, Assistant City Attorney  
Nancy Thorington, Officer Fernandez, Officer Murphy, and Sgt.  
Parker  
Consultants: Beth Thompson, DeNovo Planning Group

III. APPROVAL OF MINUTES

None

IV. CHANGES TO THE AGENDA

There were no changes to the agenda.

V. ORAL AND WRITTEN COMMUNICATIONS

None

VI. MATTERS AT HAND

- A. Hearing to consider Revocation of the zoning clearance for an existing massage therapy business known as Cotati Tan and Massage, located at 8492 Gravenstein Highway, Suite G.

APN: 144-130-024

Applicant: Sandy Chanthavy

Assistant Planner Harris presented the staff report. She summarized the violations and explained that revocation of zoning clearance is recommended due to the egregious nature of the violations. Staff recommends adoption of PC Resolution No.11-11 for revocation of the zoning clearance.

Christopher Hall, Attorney and representative for Sandy Chanthavy spoke about the site inspections and violations that were presented by staff. Mr. Hall requested that the

Planning Commission not revoke Ms. Chanthavy's zoning clearance. The following items were addressed by Mr. Hall.

- site inspections
- massage tables
- locked doors
- state certificates
- sofa beds
- tenant improvements
- black mold
- advertising
- used condom
- sting operation in which a police officer was solicited
- photograph of beer
- therapists without certificates
- Ms. Chanthavy's statement to police that she was a threat to her own life
- affidavit from Donna Tran that she is not an employee
- police vehicle parked in front of establishment all day
- affidavit from nearby businesses requesting proprietors to keep establishment open

In response to Chair Moore, Mr. Hall said that the beer was in a box and Sgt. Parker removed the beer from the container and placed it on the couch to take a photograph.

In response to Vice Chair Ritter, Ms. Chanthavy said that her business no longer has tanning beds.

In response to Commissioner Hancock, Mr. Hall answered the following questions:

- the used condom came from Ms. Chanthavy and her boyfriend
- the massage therapists perform deep tissue massage
- the business sees 5 to 6 customers a day
- the business gets its customers from newspaper ads
- their price range is from \$40 for ½ hour to \$60 for 1 hour

In response to Commissioner Hancock, Ms. Chanthavy said that they do not offer sex for money.

In response to Vice Chair Ritter, Ms. Chanthavy said that she sometimes has female clients.

PUBLIC HEARING opened at 7:55 pm

PUBLIC HEARING closed at 7:55 pm

In response to Commissioner Ford, Assistant City Attorney Nancy Thorington explained the Planning Commission's role in this proceeding.

Assistant Planner Harris responded to comments made by Mr. Hall.  
Discussion ensued on the inspections, violations and Mr. Hall's information.

Chief Parish responded to comments made by Mr. Hall.

In response to Commissioner Brady, Assistant Planner Harris explained that the City's involvement with massage businesses is due to a recently adopted City ordinance, which includes outreach and compliance inspections.

Commissioner Ford expressed belief that there is sufficient evidence to revoke the zoning clearance.

Commissioner Hancock said that he was impressed with the owner and her attorney and would like to know what options are available to bring them into compliance with the ordinance.

Chair Moore expressed her belief and Commissioner Brady agreed that the applicant has had ample opportunity to address the multiple code violations and she was ready to adopt the resolution revoking clearance.

Commissioner Ritter expressed belief that staff was acting in the best interest of the City.

Community Development Director Parker made amendments to the resolution to address the items that have been corrected to date.

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| Motion: | Commissioner Ford made a motion and Commissioner Brady seconded the motion to approve PC Resolution No. 11-11 as amended. |
|---------|---|

Yes: 4

Noes: 1

Abstain: 0

Absent: 0

B. General Plan Update Meeting: Review of Draft Housing Element

Community Development Director Parker welcomed everyone and turned the presentation over to Consultant Beth Thompson.

Consultant Thompson presented the Review of the Draft Housing Element segment of the General Plan Update.

PUBLIC COMMENT opened at 8:37 pm

PUBLIC COMMENT closed at 8:37 pm

In response to Chair Moore, Consultant Thompson said that aging infrastructure will be discussed with the Public Infrastructure segment of the General Plan.

In response to Chair Moore, Consultant Thompson clarified the reduction in the percentages of Inclusionary Housing and the options that the City can consider.

In response to Commissioner Ford, Community Development Director Parker explained why the policies for goal H-2 are about development of new housing instead of conversion.

Consultant Thompson said that they can include a policy in goal H-1 or H-3 that emphasizes making use of existing opportunities with the high foreclosure rate and short sales availability.

In response to Vice Chair Ritter comment on table 4-1, Community Development Director Parker explained how the Inclusionary Housing Program works.

Commissioner Brady asked how the programs and time lines are affected with reduced monies available from the General Fund.

Community Development Director Parker explained that items listed as General Fund indicate that staff will develop and/or administer the items in lieu of a developer implementing with a project, not a developer and there will be prioritizing done for these programs.

Chair Moore asked about Inclusionary Housing being lost over the years and the potential for improved monitoring. .

Community Development Director Parker said that there have been some units lost over the years because they weren't monitored sufficiently or they were sold and title companies disregarded the deed restriction. She said that staff has been putting together an inventory of what units should be available to only qualifying households and if there are too many to monitor, we will likely contract it out. She explained that lowering the inclusionary requirements was meant to keep Cotati consistent with surrounding jurisdictions, so that our regulations weren't more cumbersome.

Consultant Thompson recommended adding several mechanisms in place to assure that the City is notified if a unit comes up for sale.

Discussion on affordable housing, inclusionary housing and how Cotati can adequately manage a program.

Commissioner Ford stated and Commissioner Hancock agreed that the inclusionary process is important and they do not want to make it easier for developers to buy out.

The Planning Commission concurred that the following changes should be made to Housing Element:

- p.1, 1<sup>st</sup> paragraph – replace “standard of living” with “quality of life”
- p. 12 – Policy H-3-5 – strike “and reduced parking requirements”. Commissioner Brady discussed the shortage of parking at Charles Street Village.
- p.12 Program 3-1, 3<sup>rd</sup> bullet – replace “Update” with “Explore”

- p. 14 Program 3-2 – replace “0.6” with “one”
- p. 14 Program 3-7, 2<sup>nd</sup> bullet – add “curb cuts” to the list of allowed improvements for disabled persons and delete “and other accessibility improvements”

In response to Commissioner Ford, Consultant Thompson explained that the City is required to accommodate emergency housing.

Discussion on special needs housing, lack of definition of what constitutes a special needs house.

#### VII. REPORTS BY STAFF

Community Development Director Parker explained that the next Planning Commission meeting will be held on December 5<sup>th</sup> and that it will be a General Plan meeting. She also advised the Commissioners that the December 19<sup>th</sup> and January 2<sup>nd</sup> meetings will be cancelled.

#### VIII. REPORTS BY COMMISSION

MEETING ADJOURNED by Chair Moore at 9:15 pm

*Respectfully submitted by:*  
*Keri Pajon*  
Administrative Secretary