



MINUTES

Meeting of the
Scotts Valley City Council
Date: December 20, 2023
Time: 6:00 PM

CONTACT INFORMATION	MEETING LOCATION	POSTING
City of Scotts Valley 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5600	City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066 OR Zoom Video Conference https://us02web.zoom.us/j/83295730901	The agenda was posted on 12-15-2023 at City Hall, SV Senior Center, SV Public Works Building, and on the Internet at www.scottsvally.gov .

CALL TO ORDER 6:00 PM

The City Council meeting was called to order at 6:00 PM.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

ELECTED OFFICIALS PRESENT: Jack Dilles, Mayor Randy Johnson, Vice Mayor Donna Lind, Council Member Derek Timm, Council Member Allan Timms, Council Member	CITY STAFF MEMBERS PRESENT: Mali LaGoe, City Manager Kirsten Powell, City Attorney Steve Walpole, Police Chief Stephanie Hill, Administrative Services Director Taylor Bateman, Community Development Director Bret Swain, Public Works Director Cathie Simonovich, City Clerk
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SPECIAL SET MATTER

1. Nomination of Mayor

City Manager LaGoe called for nominations for Mayor.

Council Member Timm nominated Council Member Johnson.

Carried 5/0 (AYES: Dilles, Johnson, Lind, Timm, Timms)

2. Nomination of Vice Mayor

Mayor Johnson called for nominations for Vice Mayor.

Council Member Timms nominated Council Member Timm.

Carried 5/0 (AYES: Dilles, Johnson, Lind, Timm, Timms)

COMMITTEE REPORTS

CM Lind attended a meeting of the Santa Cruz Metropolitan Transit District (METRO) Board of Directors. METRO is implementing a major bus service improvement starting tomorrow as part of their Reimagine METRO campaign. This includes two weeks of free fares and changes to the fares and pass options. METRO has successfully received grants and rebates for a total amount of \$148.5 million.

CM Lind attended a meeting of the Criminal Justice Council where they approved the third-year behavioral health report. This report will be published on the Criminal Justice website.

CM Timms attended an extended meeting of the Area Agency on Aging Advisory Board and the Seniors Council. This was a meeting of the full Board and the full Council.

CM Timm, as an appointee to the Visit Santa Cruz Site Selection Committee, attended a meeting where they discussed potential sites.

CM Dilles attended a meeting of the Economic Development Subcommittee along with CM Timms, and they discussed the continued outreach to local businesses.

CM Dilles attended the Golden Eagle Event where the Golden Eagle award was given to Katelyn Taylor for achieving both the Eagle Scout award and Girl Scout Gold award.

CM Dilles met with the Executive Director of Housing Santa Cruz County, Elaine Johnson.

Mayor Johnson attended a meeting of the Regional Transportation Committee which was held in the Scotts Valley City Council Chambers, and he reported that Scotts Valley was awarded grants in the amount of \$500,000 for Scotts Valley Drive and \$500,000 for Mt. Hermon Road.

CITY MANAGER REPORT

City Office Closure: City Hall and City Offices will be closed the week of 12/25 and will reopen on 1/2.

Skypark Playground Construction: The Tot Lot installation of new equipment is moving forward, but with some delays due to weather.

Public Works Crews: A huge shout-out to our Public Works crews for keeping the streets and storm drains clear during the recent storms.

Updates from National Weather Service: Representatives from the Police Department, Public Works and the City Manager all participate on regional calls with the National Weather Service to keep updated on the storms and to coordinate the regional response. City Manager LaGoe thanked the County for organizing this important collaboration.

Green Hills Road Repairs: The repairs are moving forward but are also delayed due to weather. Residents and other users of the road should be aware that it will take more time to travel the road due to one-way traffic controls.

Road Striping: New safety striping has been completed in the last couple of weeks throughout the City.

January Council Meeting Schedule: There will not be a regular City Council meeting the first week of January, so the next meeting will be on 1/17.

PUBLIC COMMENT TIME

Fatima Alloo, a resident of Scotts Valley, spoke in support of a resolution for a cease-fire for the Israel-Hamas war. Ms. Alloo's husband also spoke in support of a cease-fire resolution.

Elana, a resident of Scotts Valley, requested clarification on what powers the Council has in regard to adopting a cease-fire resolution.

Mayor Johnson spoke regarding what is in the Council's jurisdiction.

The Council Members thanked outgoing Mayor Dilles for his leadership and for the work he did as Mayor in 2023.

Outgoing Mayor Dilles thanked the Council for their support this past year, and he also thanked the staff for their hard work.

ALTERATIONS TO CONSENT AGENDA

M/S: Timms/Lind

To approve the Consent Agenda with no alterations.

Carried 5/0 (AYES: Johnson, Timm, Dilles, Lind, Timms)

CONSENT AGENDA

1. Approve City Council minutes of 12-06-2023
2. Approve check registers dated 11-28-2023 through 12-07-2023 and 12-8-2023 through 12-14-23
3. Approve Resolution Accepting the FY 2022-23 Annual and 5-Year AB 1600 Development Impact Fee Report
4. Local Agency Special Tax and Bond Accountability Act for Fiscal Year 2022-23 - CFD 97-1
5. Appointment to Parks and Recreation Commission

PUBLIC HEARING

1. Adoption of the Housing Element of the City of Scotts Valley 2023-2031 Housing Element

Community Development Director Bateman introduced Ines Galmiche and Bill Wiseman from Kimley-Horn, and also introduced Sarah Wikle the Senior Planner for the City. Mr. Wiseman attended in-person and Ms. Galmiche presented virtually. The consultants and the staff members responded to questions from the Council.

Mayor Johnson opened the public hearing at 6:59 PM.

Mark Robson from Robson Homes, the development company for the Valley Gardens project, spoke in support of adopting the housing element.

Alberto Lustre, a representative from the Carpenters Union Local 505, spoke in favor of adopting language in the housing element which addresses utilizing local skilled labor.

Ryan Meckel, from Santa Cruz Yes In My Back Yard (YIMBY), expressed his opinion that the housing element does not substantially comply with state law.

Mayor Johnson closed the public hearing at 7:08 PM.

Written public comments (attached) were received from Evan Siroky, Paul Machlis, and Ryan Meckel.

M/S: Dilles/Timms

To adopt Resolution No. 1119.35 adopting a General Plan amendment to repeal

the 2015-2023 Housing Element and adopt the 2023-2031 Housing Element, as amended by the HCD Letter memo, and adopting findings that the project is exempt from the California Environmental Quality Act (CEQA), in compliance with State Housing Element law.

Carried 5/0 (AYES: Johnson, Timm, Dilles, Lind, Timms)

ALTERATIONS TO REGULAR AGENDA

M/S: Dilles/Timm

To approve the Regular Agenda with no alterations.

Carried 5/0 (AYES: Johnson, Timm, Dilles, Lind, Timms)

REGULAR AGENDA

1. Future Council Agenda Items

None.

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 7:30 PM to discuss the item below.

CLOSED SESSION SUBJECT(S)

1. Conference with legal counsel regarding liability claim
Legal Authority: Government Code Section 54956.9
Name of Case : Dudrick Claim
Staff Present: City Manager, City Attorney

RECONVENE TO OPEN SESSION

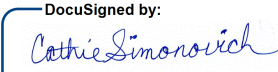
The City Council reconvened to open session at 7:40 PM.

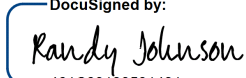
REPORT ON ACTION TAKE DURING CLOSED SESSION

City Attorney Powell reported that the Council voted unanimously to deny the claim made by Ms. Dudrick.

ADJOURNMENT

The meeting adjourned at 7:41 PM.

Attest: 
00BDB2B26C07422...
Cathie Simonovich, City Clerk

Approved: 
461C89138591431...
Randy Johnson, Mayor

Objection to self-certification of Housing Element

Evan Siroky [REDACTED]

Tue 12/19/2023 11:29 AM

To: City Council <citycouncil@scottsvally.gov>; Scotts Valley Planning Department <planningdepartment@scottsvally.gov>
Cc: lorigentile@gmail.com <lorigentile@gmail.com>; cmaffia@sbcglobal.net <cmaffia@sbcglobal.net>; pathfinder@pacbell.net
<pathfinder@pacbell.net>; shawn@scottsvallynet.com <shawn@scottsvallynet.com>; steve@santacruzpastafactory.com
<steve@santacruzpastafactory.com>

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To the City of Scotts Valley City Council, Planning Commission and Planning Department,

I am writing you all today to state my objection to the self-certification of the City of Scotts Valley Housing Element. I would comment during the City Council Meeting, but will be traveling for the holidays.

Self-certifying your Housing Element without having HCD certification would be almost the same situation as a child giving homework to a teacher who returned it with a score of 10 out of 100 and then you giving it back to the teacher having added an extra 0 to the 10 to make it 100. It is apparent with this proposed action that the City of Scotts Valley is acting in bad faith to attempt to meet their Housing Element obligations.

As a reminder, your Housing Element is not only mandated by state law, but is your contribution to society as a whole to meet the housing needs of current and future generations of residents in Scotts Valley and Californians in general. It is clear that all who subscribe to these actions are of the opinion that perhaps there is not a housing crisis and perhaps it is completely fine that homes are totally unaffordable except for people making more than \$400,000 per year.

But perhaps it's worse than that. Maybe everyone acting to shirk their responsibility to allow enough homes for people to live in believe that it is good thing that homes will be unaffordable, perhaps it's good that some people will go homeless. Regardless if the intent is not that way, the effect remains the same.

Given the previous actions of the leadership of this city, it seems likely a self-certification will be passed. However, all this does is kick the can down the road on ultimately providing for the need for enough housing for people to live in. All it does is add further evidence to state lawmakers on why strengthening statewide legislation is necessary if cities like yours behave this way. All it does is show that your local control powers are being used as a means to implement policies of exclusion instead of inclusion and abundance.

Evan Siroky

Proposed ceasefire resolution

Paul Machlis <[REDACTED]>

Wed 12/20/2023 7:37 AM

To: City Council <citycouncil@scottsvally.gov>

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Dear Scotts Valley City Council members --

I am writing in support of the proposed resolution. Without ignoring the travesty committed by Hamas on October 7, but at the same time acknowledging the decades of conflict between Israel and Palestine, I look with horror on the unwillingness of Israel to agree to a ceasefire. The United States can be much more forcefully working towards a two-state solution, but this is unlikely as long as Israel is unhesitatingly supported in bludgeoning its enemy.

While resolutions from Scotts Valley and other municipalities may seem pointless, it is worth remembering that the United States disengaged from the war in Vietnam largely in response to grassroots protests and civil disobedience. Even symbolic resolutions of the sort proposed can influence action at the federal level.

Thank you,
Paul Machlis

[REDACTED]
Scotts Valley CA 95066
[REDACTED]

Santa Cruz YIMBY Comments on Housing Element Adoption

Santa Cruz YIMBY <[REDACTED]>

Wed 12/20/2023 4:27 PM

To: City Council <citycouncil@scottsvally.gov>

Cc: Scotts Valley Planning Department <planningdepartment@scottsvally.gov>; Cathie Simonovich
<csimonovich@scottsvally.gov>

 3 attachments (305 KB)

YIMBY+HE+Compliance_v2.pdf; December - City of Scotts Valley Draft Housing Element.pdf; November - City of Scotts Valley Draft Housing Element.pdf;

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello,

Please find Santa Cruz YIMBY's comments on the Housing Element Adoption agenda item for the 12/20/2023 City Council agenda attached as well as our November letter to HCD and a flyer detailing Housing Element compliance.

Best,
Ryan Meckel
Lead, Santa Cruz YIMBY



November 21, 2023

To: Clare Blackwell, Housing Policy Analyst, HCD
CC: Taylor Bateman, Director, Community Development Department
Sarah Wikle, Senior Planner

RE: Scotts Valley Submitted Housing Element (October 20, 2023)

Santa Cruz YIMBY advocates for abundant housing at all levels of affordability to meet the needs of a growing population in Santa Cruz County. We support sustainable growth, including along transportation corridors and activity centers and a commitment to lower Vehicle Miles Traveled by housing people near services and jobs.

The following are our comments on the City of Scotts Valley's submitted [Housing Element of October 20, 2023](#) as they relate to [HCD's letter dated October 3, 2023](#)

AFFH - General

HCD comment: Contributing Factors: The element identifies two contributing factors to fair housing issues. However, these issues and goals do not appear to be rooted in the AFFH analysis and do not appear adequate to facilitate the formulation of meaningful action to AFFH. The element should re-assess contributing factors upon completion of analysis and make revisions as appropriate

Scotts Valley added more factors on Page E-53 and more analysis on E-57+. Without substantial changes to their site inventory or rezoning, Scotts Valley perpetuates segregation and exclusivity. In particular, they are not addressing housing mobility including in their Racially Concentrated Areas of Affluence.

AFFH - Census Tract 1

HCD comment: Identified Sites and AFFH: The element analyzed the identified sites for various fair housing components including access to opportunity and segregation and integration of income. However, the element states (p. E-11) that the City allocated a majority of its low- and very low-income Regional Housing Needs Allocation (RHNA) to Census Tract 1 since it has the lowest median income. The element must include analysis and reasoning about the location of sites and impact on current fair housing conditions. The element should discuss whether this strategy potentially isolates a significant number of the housing need for lower-income households and

include actions as appropriate to promote inclusive communities and equitable quality of life throughout the City.

Scotts Valley added more explanation regarding Census Tracts 2 and 3. Census Tract 2 and 3 can be targeted for more housing, especially Missing Middle housing.

- Both Census Tract 2 and 3 have large portions of R-1-10 zoning with 10,000 sq foot min lot size. (See Figure C-5 on page C-15) Lots are big enough.

The City claims that both of these Census Tracts “...experience topographic conditions that make the development of housing, specifically affordable housing, more difficult. The topography of this portion of the City creates a financial constraint to the development of housing.”

- Much of Census 2 and 3 R1-10 zoning has slope of 0-15% (See page E-59)

There is no Missing Middle housing mentioned in the Housing Element:

- Under Goal H-1, the City of Scotts Valley should commit to allowing a variety of housing types including duplexes, triplexes, fourplexes and other multifamily project types throughout the City.

They have not addressed housing mobility throughout the city.

Monitoring - Pipeline Projects

HCD comment: While the describes the status of each project, to fully demonstrate these units are expected to be constructed during the planning period, the element should provide information on anticipated remaining steps and any known barriers to development in the planning period. For example, the element could analyze infrastructure schedules, City's past completion rates on pipeline projects, outreach with project developers, and should describe any anticipated timelines for final approvals. This is particularly important given that several of these projects were identified to accommodate the RHNA during the last planning period but have not yet been constructed.

In addition, given the element's reliance on pipeline projects, the element should include a program that commits to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals, and monitoring of project progress, including rezoning or identification of additional sites, if necessary).

There is more language in Appendix F regarding the status and prospects of each of the pipeline projects. On page F-7: “Projects listed do not have any known constraints or barriers which may hold-up or delay the entitlement and/or permitting process. As such, these sites are included for their anticipated development in the planning period.”

However, some pipeline projects have been around for a while, including in the last RHNA cycle. The Town Center project has been in discussion since at least 2008, La Madrona's EIR was started in 2020, and Valley Gardens' in 2021. In order to meet this recommendation by

HCD, the city should create specific programs to monitor and expedite the progress of pipeline projects. This could include automatic entitlement extensions until midway through the 6th cycle and proactively reaching out to all pipeline project developers to confirm that there is still development interest.

Non Vacant sites - Lower Income

HCD comment: In addition, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, §65583.2, subd. (g)(2)). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA

Scotts Valley's "facilitation of affordable housing development" (Program H-1.8) is focused on the inclusionary zoning (IZ). They are not going to meet their targets using a 15% IZ citywide.

City-owned land - Lower Income (Town Ctr)

Program H-1.10 (Surplus Land): While the Program commits to surplus sites and comply with the surplus land act, it should include additional steps the City will take to encourage development in the planning period, including facilitating entitlements, assisting with funding, issuing building permits and taking alternative actions by a specified date if development will not occur in the planning period

Scotts Valley's Surplus Land Act program (H-1.10) indicates that City-owned land is for affordable housing. Town Center (city-owned) is identified as all lower-income and is the APNs identified in the Timeframe objective. However the Timeframe in H-1.10 allows for only 25% for lower income.

The only reference to the Town Center Specific Plan is in Program H-1.1 and does not include alternative actions if development is not occurring in the planning period.

Constraints

HCD Comment: Finally, While the element provides a brief analysis of development controls, the analysis must address height limits, minimum lot size, setbacks, site coverage and maximum density requirements. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

HCD Comment: In addition, while the element includes Program H-1.1 to increase the residential cap on R-H zoned sites from 50 percent to 70 percent, the commercial requirement may constrain residential development. The element should analyze the 30 percent commercial requirement as a constraint on multifamily development and add or modify programs as appropriate.

The city has correctly identified significant commercial and parking requirements as barriers to development but does not go far enough to remove these constraints. We strongly disagree with the assertion that "...the City's standards for lot size, setbacks, height, and site coverage are not considered [constraints].." (Page C-25)

If this is the case, why hasn't there been more housing built in the last cycle?

- In **Program H-1.6, H-1.7, and H-1.8** the city should better explore to what extent its density restrictions are a constraint to development, especially of affordable housing. With the city's highest density residential zoning district capped at 20 du/acre, this is likely a significant barrier. We recommend a higher base density than 40 du/acre for Mixed-Use parcels along transit corridors. These programs should also occur sooner than 2027, nearly halfway through the 6th cycle.
- In **Program H-1.7**, the city should commit to adopting a further reduction in residential square footage in mixed-use developments if the proposed rezoning does not result in developer interest as evidenced by at least one formally submitted project application where total unit count meets or exceeds the units expected in the site inventory.
- **Program H-1.7** should also include a comprehensive study on Mixed-Use development standards as constraints.
- **Program H-1.8** should include undertaking a study to ensure expansion of the inclusionary zoning policy will enable development of additional housing, not chill it.

Consolidation - Small Sites

HCD Comment: Small Sites: Sites smaller than half an acre are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size and affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element mentions some parcels are located next to one another and under common ownership but should also discuss the potential for consolidation. For example, the element could evaluate the circumstances potentially leading to consolidation such as existing shared access, necessity for consolidation to share access, necessity for consolidation to promote financial feasibility, meet development standards or facilitate site planning. Based on the outcomes of this analysis, the element should

add or modify actions (Program H-2.8) to encourage lot consolidation. For example, the element could consider graduated density as an additional incentive to promote lot consolidation.

There has been no change to Program H-2.8 which lacks active language and does not commit the City to any changes which would enable lot consolidation.

Large Lots

HCD Comment: Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing (Gov. Code, § 65583.2, subd. (c)(2)(A)). While the element mentions parceling is not necessary, it should also discuss how the site facilitate developments with units affordable to lower-income households, particularly how the level of affordability could be achieved as assumed in the inventory. Alternatively, the element could adjust affordability assumptions similar to the application of inclusionary requirements.

Program H-2.6 (Development of Large Lots): The Program should commit to establish incentives to promote affordability on identified large sites as assumed in the inventory.

There has been no change to Program H-2.6 which lacks active language and does not commit the City to any changes which would enable large lot development.

Transit Oriented Development

Scotts Valley added language on Page F-31: "This parcel contains the METRO Cavallero transit center and the Scotts Valley Park and Ride center. The City has been in discussions with METRO about converting the site to affordable residential units with workforce components.

Redevelopment of the site would result in parking being moved underground or provided through a parking structure. This would allow for Transit-Oriented Development (TOD) to occur in partnership with the transit center."

Despite being home to the METRO Cavallero transit center and the Scotts Valley Park and Ride center, Scotts Valley lacks any current or planned high quality transit stops. A high-quality transit stop can help Scotts Valley/affordable housing developers in securing additional funding, e.g. through grant programs that focus on transit-oriented development or reduction of green-house gasses.

We recommend Scotts Valley add a program objective::

"Scotts Valley will work with AMBAG in the 2050 MTP/SCS (scheduled for June 2026) to designate the METRO Cavallero transit center as a planned high quality major transit stop."



December 20, 2023

To: Scotts Valley City Council
CC: Scotts Valley Planning Department
City of Scotts Valley
1 Civic Center Drive
Scotts Valley, CA 95066

RE: Housing Element adoption on 12/20/2023 Agenda

The Housing Element process is intended to make sure all California jurisdictions undertake a good-faith effort to plan for the housing needs of their communities over the following eight years. We agree with HCD's assessment that Scotts Valley's October Housing Element does not substantially comply with state law and do not believe the changes on the revised December draft substantively address HCD's findings.

The city should not adopt a noncompliant Housing Element and expect to be exempt from the consequences of said noncompliance. Attached is a flier which reviews some potential impacts of noncompliance.

Our feedback to the city on the December draft carries over from our November 21st letter to HCD and city staff (attached). We will reiterate some of the major points which remain unaddressed with additional context from HCD's December 19th letter.

Affirmatively Furthering Fair Housing

HCD comment(s): [T]he element must include a significant suite of programs to promote housing mobility or housing choices and affordability throughout the City. These programs should not be limited to the RHNA and, instead, target significant and meaningful change... Given the fair housing conditions in the City and the location of RHNA sites, the element will need to include significant actions to promote housing mobility (e.g., housing choices and affordability) throughout the City to promote inclusive communities.

Without substantial changes, such as additional rezoning in R-1 single family neighborhoods, Scotts Valley perpetuates segregation and exclusivity.

Missing middle housing to add density in these R-1 neighborhoods must go beyond ADUs and SB9 - it should include rezoning and other incentives for duplexes, quadplexes, cottage courts and multiplexes. Gentle density can be done simply using SB10 and would allow Scotts Valley to equitably distribute new housing, especially in Census Tracts 1 and 2.

Pipeline Projects

HCD comment(s): For example, the element could address anticipated timelines for final maps submittal or detail the remaining steps and anticipated timelines for completion. The element could also discuss the City's completion rate on pipeline projects from the last planning period, analyze any infrastructure schedules, outreach with project developers on potential timelines or other relevant information.

Pipeline projects are incredibly important to the city meeting its housing goals, existing projects make up roughly 20 percent of site inventory units and 34 percent of RHNA. Due to the significance of these projects, Scotts Valley should be doing everything in its power to ensure they move forward and actually get built during the 6th cycle.

We would like to see anticipated timelines for development of these projects and a commitment to work with the developers to navigate any barriers which can be addressed by the city which may be delaying the process.

Constraints

We wholeheartedly agree with HCD's recommendations for expanding revisions to development standards across the entire city, not only proposed rezoned sites.

- In **Program H-1.6, H-1.7, and H-1.8** the city should better explore to what extent its density restrictions are a constraint to development, especially of affordable housing. With the city's highest density residential zoning district capped at 20 du/acre, this is likely a significant barrier. We recommend a higher base density than 40 du/acre for Mixed-Use parcels along transit corridors. These programs should also occur sooner than 2027, nearly halfway through the 6th cycle.
- In **Program H-1.7**, the city should commit to adopting a further reduction in residential square footage in mixed-use developments if the proposed rezoning does not result in developer interest as evidenced by at least one formally submitted project application where total unit count meets or exceeds the units expected in the site inventory.

The current Housing Element looks to re-assess progress and programs towards meeting RHNA goals (largely) in 2028, which kicks the housing crisis down the road. Four years of housing inaction by Scotts Valley will have a real and negative impact on those who already struggle to afford housing here. Analysis should be started as soon as possible so the city can properly address constraints and programs should be added to address known constraints (such as those HCD lists) now.

Public Participation

The Housing Element before you this evening is one that has (as of 12/20) not been published on the city's Housing Element website nor had its changes reviewed by the Planning Commission or HCD. While a 7-day public review period is only required prior to submitting a Housing Element to HCD, we believe this goes against the spirit of public review and participation and is concerning when considering HCD's critique on this matter in both their December 19th and October 3rd letters. "Moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households." (October 3)

If the council moves forward with the staff recommendation and adopts an unseen, unreviewed, uncertified Housing Element, Scotts Valley is further justifying the need for our state representatives to supersede local control to enable housing production. We cannot do nothing and expect our housing crisis to fix itself, cities like Scotts Valley must do their part. Without meaningful action, Scotts Valley will continue to become more unaffordable and existing residents will continue to be squeezed out.

We would be more than happy to discuss our concerns and suggestions with staff or councilmembers. Scotts Valley can and should be a place people from all walks of life can call home. Santa Cruz YIMBY can be reached at hello@santacruzylimby.org

HOUSING ELEMENT COMPLIANCE



YIMBY LAW

What are the consequences when a city does not adopt a certified Housing Element, or falls out of compliance with their Housing Element?



FINES & FEES

If a court finds a city to be out of compliance, the court can order the city to pay fines to the California state housing trust fund, attorney's fees to the plaintiff, or both. Cal. Gov. Code § 65585(l)(1) defines an escalating structure of fines with a minimum amount of \$10,000 per month and a maximum of \$100,000 per month. Continued failure to achieve a certified Housing Element allows the court to multiply the fines by a factor of three per month and later a factor of six per month.



FUNDING DISQUALIFICATION

In the event that a city is unable to produce a compliant Housing Element and get it certified by the state, that city is no longer eligible for a variety of state funds, including certain bonds, grants, and loans. Several state and federal funding programs consider compliance with housing element law as an eligibility or ranking criterion, e.g., SB 1 grant, Affordable Housing & Sustainable Communities program, SB 2 planning grant, Prop 1 Housing Program & Veterans Fund.



MANDATED COMPLIANCE

Courts can issue an order that a community bring its Housing Element into compliance. In *Sacramento Housing Alliance v. City of Folsom* (2011), the court forced the city to reinstate its inclusionary ordinance and update its Housing Element due to the previous element being insufficient. In extreme cases, Cal. Gov. Code § 65585(l)(3)(B) allows a court to appoint an agent with all powers necessary to bring a city's Housing Element into compliance with state law.



SUSPENSION OF LOCAL LAND USE POWER

Courts have the authority to suspend local land use powers to remove or reinstate policies as well as remove specific parcels and sites from local land use oversight. In *Mejia v. City of Mission Viejo* (2006), the court not only mandated that the city bring its Housing Element into compliance, the court also suspended Mission Viejo's land use authority over three parcels of land to preserve them for affordable housing.



COURT APPROVAL OF HOUSING DEVELOPMENTS

If a city fails to adopt a compliant housing element, the Housing Accountability Act requires that city to approve any proposed housing development project that has 20% of units set aside for low-income residents or 100% of units set aside for middle-income residents irrespective of its compliance with the applicable zoning or general plan (Cal. Gov. Code § 65589.5(d)).



MORATORIUM ON ALL PERMITS

Courts may also issue a moratorium on all permits in a city until its Housing Element is certified by HCD. Sonoma, Sacramento, and Mendocino Counties have all been subject to such moratoriums in the past as a result of legal settlements (Cal. Gov. Code § 65755(a)).

[Watch a short HCD explainer on Housing Element compliance and accountability here](#)