

St. Helena's Housing Problem - A Recap

The California Department of Housing and Community Development (HCD) is the agency that makes sure that all communities share the burden of providing housing for a growing population. They are the people to whom each community must submit a housing plan, called the Housing Element, every 5 years. Based on that Plan, the Association of Bay Area Governments (ABAG) then tells each town how many units of affordable housing they must make happen -- the town must comply -- it's called the RHNA [Regional Needs Housing Allocation].

Here is HCD's operating framework:

MISSION STATEMENT

Provide leadership, policies and programs to preserve and expand safe and affordable housing opportunities and promote strong communities for all Californians.

VISION

Recognizing that housing is a basic element of a just and successful society, HCD will provide leadership towards achieving vibrant communities with quality, adequate housing for all Californians.

In less than a year from now, the current St. Helena housing planning period ends and we will have to come up with a new one.

The Promises

Last time we promised the following policies, verbatim:

1. "Fast-track housing development that meet lower income and special housing needs."
2. "Implement a program to provide financial assistance for the development of second units in exchange for affordability restrictions that will provide workforce housing."
3. "Develop a program to encourage affordable housing in clusters of 4-6 units on Infill parcels on the west side of town. The City will post an inventory of potential sites on the City's web site. In addition the City will explore incentives to encourage affordable housing clusters, including, but not limited to priority permit processing, reduced or waived development fees, reduced parking and/or other City standards, and an additional density bonus."
4. "Explore the potential of using Housing Trust Fund money to purchase existing housing for conversion to restricted affordable housing. Priority for use of Housing Trust Fund monies will be given to the creation of housing affordable to extremely-low-income households."
5. "Ensure that affordable housing gets built."
6. "Construct 15 units of housing affordable to Extremely Low-Income households; 15 units of housing affordable to Very Low-Income households; 21 units for Low-Income households; 25 units for Moderate-Income households, and 45 unit for Above Moderate-Income households, and 45 units by June 30, 2014, or the end of the current Housing Element planning period, as may be amended by state law. Provide financial assistance for 5 units with affordability restrictions for workforce households by June 30, 2014, or the end of the current planning period, as may be amended by state law. "
7. "Assist in the acquisition of low-interest loans for rehabilitation, including energy conservation of 10 lower-income households by June 30, 2014 or the end of the current Housing Element planning period, as may be amended by state law."
8. "Review housing needs, conditions, achievements and challenges as part of the City's regular General Plan review."
9. "Reduce, defer, or waive fees for affordable housing developments. The City will establish a set of criteria for project eligibility to have fees reduced, deferred, or waived. The City will explore higher incentives for affordable housing developments with units affordable to extremely low- and very low-income households."
10. "Prioritize the use of Housing Trust Funds in support of the development and preservation of regulated affordable units for extremely low-income households."

Wow! We look like generous, fair-minded folks! On paper. Now for the reality check.

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We also had to identify where this great housing was going to be in town so the City hired a consultant, BAE (Bay Area Economics) to analyze the sites possible, the town's carrying capacity and what we need to do to make sure we meet our RHNA obligation.

How We Did

For each promise we made we must take stock by next June and tell them what we actually did. For each goal, with 9 months to go, here is what we have done, or not:

1. The City has not fast-tracked development that meet lower income and special housing needs. The singular example is the City's rejection of the responses (six in total) to the proposals presented to it for the City-owned Adams Street property. The City asked for proposals, received responses from six qualified housing developers, obtained Planning Commission evaluation of them and then rejected all of them.
2. The City has not developed a program to provide financial assistance for property owners for second units in exchange for affordable rents. This failure to do so in four years implies that such a program is simply not feasible in St. Helena.
3. The City has not developed a program to encourage affordable housing in clusters of 4-6 units. Again, this failure to do so in four years implies that such a program is not feasible in St. Helena. This was the conclusion of the City's own Affordable Housing Sub-Committee in 2011.
4. In the past four years, the City has not "explored" the use of Housing Trust Fund monies to purchase existing housing for conversion to restricted affordable housing. Further, there is no money remaining in the Housing Trust Fund due to its use in the City's purchase of 684 McCorkle Avenue in the spring of 2013. (The proposed use here is not the conversion of existing housing to restricted affordable housing but the construction of new housing. The City has not announced whether the units will be restricted affordable units.)
5. The City has not "ensured" that affordable housing gets built, as next discussed
6. The City has not met its housing numbers. The most recent information on those numbers is contained in a memorandum dated January 10, 2012 from the Interim Planning Director to the City Council. According to its Table I ("City of St. Helena RHNA Performance"), the City in the current housing planning period has remaining **not built or not** approved housing units as follows: 23 very low income units, 16 low income units, 5 moderate income units, and 5 above moderate income units. By percentage, 77% of the very low income units in the current housing planning period remain to be built or approved, 76% of low income units, 20% of moderate units, and 11% of above moderate units. *In summary, the City in the current planning period, with nine months remaining, is extremely short of its promise in the very low and low income categories.*
7. The City has not assisted in the acquisition of low-interest loans for rehabilitation of 10 lower income households. Yet again, this failure to do so in four years implies that such a program is just not feasible in St. Helena.
8. As it stands now, the city only has two parts of the General Plan yet to review and has not reviewed the Housing element of the Plan. The only review of the Housing Element in the General Plan was undertaken was by the Planning Commission in early 2011. The Planning Commission found at that time that the City was not likely to meet its quantified objective for very low and low income housing units in the current housing cycle.
9. The City has not established "a set of criteria" for project eligibility for reduction, deferral, or waiver of fees to build affordable housing. The City in four years has not "explored higher incentives for affordable housing developments with units affordable to extremely low- and very low-income households."
10. The only use of the City's Housing Trust Funds has been to purchase 684 McCorkle Avenue. Such use fully depleted the fund. The City has stated that the property will be developed for affordable or workforce housing -- not for extremely low-income housing.

So much for keeping our promises.

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But what about the other part where we must tell them where the housing will go, to prove our good intentions?

The three sites identified in the current cycle that have shown property owner interest in development are the City-owned Adams Street property, the Romero property, and the Hunter property.

1. Adams Street: The City removed this site as an opportunity site during the when it rejected the 6 proposals in early 2012.
2. Romero: The property owner has withdrawn the property from consideration for additional residential development.
3. Hunter: The City determined that the application was complete in March 2011. It issued the Final EIR in September 4, 2013, and found that there are three significant and unavoidable environmental impacts. The City Council has not determined as of this time whether to certify the EIR or order its recirculation. Assuming that the City Council certifies the Final EIR, it would appear that the project cannot proceed unless and until, the City Council overrides the Final EIR (with its findings of significant and unavoidable environmental impacts). As of this time (late September 2013), the developer, while advising that 25 affordable units will be included in the project, has not broken them down by income category. The Hunter project will not result in additional housing in the present Housing Element Planning period.
4. The remaining opportunity sites. The Affordable Housing Sub-Committee established that there was no owner interest in developing additional housing on the remaining opportunity sites.
5. The special case of 684 McCorkle Avenue (the Jatsek property). In the current cycle the City's housing needs document stated that "[t]he owner and his architect have met with Planning Department staff and will be proposing a 9 unit project in the near future."). No project developed. The owner sold the property at the end of 2012, and the City then purchased the property from the new owner in the spring of 2013.

The Bottom Line:

The conclusion is that the City did not meet, or substantially meet, the goals, policies, numbers, or promised actions as set forth in the Policy part of the 2009-2014 Housing Element (Plan). At its simplest, Policy #3 states: "Ensure that affordable housing gets built." Yet, the City remains far short of its stated goals, especially with respect to restricted housing for very low and low-income residents. Further, the City failed in most years to engage in a review, as specifically required by Action #3, of its "housing needs, conditions, achievements and challenges."

At times (though not in the last year), the City leadership repeatedly assured the community that the housing numbers would be met by June 30, 2014. There was no factual basis for these assurances. To the contrary, the City failed to develop a strategy that would result in it meeting, or substantially meeting, the objectives that it set for itself in the 2009 Policy Document, the current cycle.

This review supports the following two conclusions: (1) The City has not encouraged development clearly capable of supporting affordable housing; (2) The City listed numerous sites without evidence that the property owner had an interest in additional housing on the site.

As to the remaining nine sites listed as housing opportunity sites (not counting Adams St., Romero or Hunter) in the 2009 Housing Needs Assessment, only one (Jatsek) appears to have had the support of the property owner for consideration of additional housing (and the proposed project did not proceed).

Indeed, the City came to the position that the land inventory in the current Housing Needs Assessment was not satisfactory, either because the listed parcels were not available or those that were available for development (Adams Street, Romero, Hunter) were not to their liking. Thus, it began to evaluate sites not on the 2009 land inventory, such as at the Lower Reservoir, the City-owner pumping station in the Crinella subdivision, and properties on College Avenue and Fulton Lane. Nothing came of the additionally considered sites during the 2009-14 planning period.

The mandate is that the City cannot meet its housing objectives unless it lists sites that have owner support for housing and can be realistically developed within the planning period.

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The City cannot rely on policies, goals, and actions to meet its housing numbers when it lacks the resources, capability, and will to pursue those policies, goals, and actions. Promise #1 is a good example: it seeks a program to provide financial assistance for creating second units in exchange for making them affordable. Reality: the City lacks the resources to support such a program. Further, there is no factual basis for believing such a program would result in meaningful numbers of affordable units. To the contrary, St. Helena's track record shows that second units are mostly used as guest cottages for weekend and seasonal use by the property owner.

The crux of the Housing Element is the listing of identified housing opportunity sites in the Housing Needs Assessment every 5 years. The sites that are identified need to be ones where (1) the property owner has expressed an interest in additional housing development and (2) sites that are not going to be removed from consideration by the City (as in the case of the Adams Street property). The bottom line is the St. Helena Housing Element is now considered out of compliance; (1) it has not been revised and updated by the statutory deadline, nor (2) do its contents substantially comply with the statutory requirements.

What Could Happen if We Don't Honor Our Promises

1. There will be reduced access to certain funding.
2. There could be a court order to come into compliance within 120 days and suspend the locality's authority to issue building permits or grant zoning changes, variances or subdivision map approvals and/or mandate approval of residential developments that will not inhibit the ability of the locality to adopt an adequate housing element.
3. There could be a court order to issue an injunction prohibiting issuance of new building permits -- and making the point that could devastate small contractors and their employees. It would stop, for example, all remodels.
4. There could be potential fee-shifting to the plaintiff's attorneys (in addition to fees paid to the City's attorneys).
5. Mr. Hunter might well be in the driver's seat in a lawsuit to compel approval of his project if the City goes out of compliance by not timely having in place the next Housing Element.

The Next Round

The next housing planning period starts July 1, 2014. The preparation of an updated Housing Element is no small task. In particular, the identification of sites within the Urban Limit Line that a property owner supports for additional housing development will be a daunting task. If meaningful sites are not identified, great pressure could be placed on keeping the City's internal Urban Limit Line. This will be hugely controversial in our community.

The City needs to be responsive to the following questions. Each is mandated by Government Code and must be answered:

1. What is its timeline for preparing the updated Housing Element, including the date by which it plans to submit (as required by law) a draft Housing Element to the State Department of Housing & Community Development?
2. What does the City propose to budget for preparing the updated Housing Element?
3. Does the City propose to prepare the updated Housing Policy Document and/or Housing Needs Assessment with in-house staff or hire a consulting firm?
4. What are the criteria that the City will use in selecting good housing sites for land inventory in the Housing Needs Assessment?
 - i. Will it include whether the property owner is willing to consider additional housing development on his property?
 - ii. Will it contain information regarding any environmental constraints?
 - iii. Will it discuss the availability of utilities at the site?
 - iv. Will it contain other relevant site-specific information?

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5. Does the City propose listing the Hunter project as a housing opportunity site in the next housing cycle? (Whether the Hunter project proceeds or does not proceed will be an important factor in evaluating the City's affordable housing situation.)
6. Does the City propose listing the City-owned Adams Street property as an opportunity site in the next housing cycle? If so, does the City propose a feasibility study to determine the quantity and type of housing that is feasible on the site, including whether a responsible developer can be found who is interested in developing housing on the site, in light of the City's prior rejection of housing at the site?
7. Given that the City searched for additional sites in the current planning period due to unavailability or unacceptability of sites listed in the land inventory, will the City identify, in the new planning period, enough sites to accommodate the units **not** constructed in the current planning period?
8. What will be the process for citizen input, Planning Commission and City Council consideration with respect to the next 2014-19 Housing Element?