STATE OF CALIFORNIA -BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

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September 17, 2009

Mr. Kevin Gailey
Chief of Planning
Planning Division
Town of Danville
510 La Gonda Way
Danville, CA 94526

Dear Mr. Gailey:

RE: Review of the Town of Danville's Draft Housing Element

Thank you for submitting Danville's draft housing element received for review on July 21, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on September 8, 2009, with you, facilitated the review.

The Department applauds the Town's granting incentives to the Bridge Housing Senior Citizen and Willow Commons developments which provide housing opportunities for special needs populations. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). For example, the element must include an analysis of potential governmental constraints. The enclosed Appendix describes this and other revisions needed to comply with State housing element law.

The Department appreciates your cooperation and assistance during the course of the review and is committed to assisting Danville in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Jess Negrete, of our staff, at (916) 323-3185.

Sincerely,

Linda M. Wheaton
Cathy E. Creswell
Deputy Director

Enclosure

APPENDIX

TOWN OF DANVILLE

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

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

A. Housing Needs, Resources, and Constraints

1. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households (Section 65583(a)(1)).*

   While the element quantifies the number of projected extremely low-income (ELI) households, in accordance with Chapter 891, Statutes of 2006 (AB 2634), it must also include an estimate of the existing number of ELI households and analyze their housing needs. The analysis of needs should consider tenure and rates of overpayment and overcrowding. This analysis is essential to formulating policies and programs to assist in the development and conservation of housing for ELI households. To assist the analysis, see the enclosed Comprehensive Housing Affordability Strategy data and the sample analysis from the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/EHN_extremelylowincome.php.

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

   Danville has a regional housing needs allocation (RHNA) of 583 housing units, of which 326 are for lower-income households. To address this need, the element identifies vacant, underutilized, and candidate sites for rezoning. However, to demonstrate the adequacy of these sites and strategies to accommodate the Town's RHNA, the element must include complete analyses, as follows:

   Progress in Meeting the RHNA: The element indicates nine units affordable to very low-income households and 96 units affordable to low-income households, but provides no information documenting how affordability of the units was determined. To credit these units toward the Town's RHNA for lower-income households, the element must demonstrate the affordability of the units based on actual or anticipated sales price, rent level of the units, or other mechanisms (i.e., public financing) establishing affordability in the planning period.

Second Units: The element indicates 42 second units are utilized to accommodate a portion of the Town's share of housing needs for lower-income households (Table 32); however, it must include an analysis on the affordability of the units, resources and incentives available for their development and any other relevant factors.

Emergency Shelters: Policy 3.2 proposes to identify a zone and/or overlay districts where emergency shelters will be permitted through a ministerial permit process. However, pursuant to Chapter 633, Statutes of 2007 (SB 2), the element must specifically identify the zone(s) under consideration and demonstrate the capacity of the zone(s) to accommodate the need for emergency shelters. In addition, it should include an analysis demonstrating the appropriateness of the zone(s) for emergency shelters. See the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/housing_element2/SB2memo071708_final.pdf.

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

   Inclusionary Requirements: The element indicates the Town requires a specific percentage of residential developments to be affordable to low- and moderate-income households; however, it must also describe and analyze the impacts of the inclusionary requirements on the cost and supply of housing. For example, among other things, the element should describe what incentives the Town makes available for compliance with inclusionary requirements. This is particularly important given current market conditions and the cumulative impact of local regulations.

   Local Processing and Permit Procedures (Design Review): While the element states the Town utilizes a design review process (page 51), it does not describe the design review procedures and/or process to obtain a permit. The element should include a description and analysis of the design review process, including identifying requirements, approval procedures and availability of guidelines or standards to facilitate approval certainty.

   Constraints on Persons with Disabilities: While the element includes Policy 3.1 to adopt a reasonable accommodation procedure, it must include a complete analysis of potential constraints on the development, maintenance, and improvement of housing for persons with disabilities. The analysis should address zoning, development standards, building codes, and approval procedures for the development of housing for persons with disabilities. Examples of standards and requirements that should be analyzed include: (1) any definitions of family in the zoning code; and, (2) spacing or concentration requirements. It is important to keep in mind that a reasonable accommodation

procedure should not be limited to the installation of accessibility improvements, and should provide exception to broader zoning and land-use for maintenance improvement and development of housing for persons with disabilities. Refer to the Department's Chapter 671, Statutes of 2001 (SB 520), memo and the *Building Blocks*' sample analysis at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

B. Housing Programs

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

   The element identifies a shortfall of 221 units for lower-income households and includes Policy 1.7 to address the identified shortfall. However, the shortfall may need revision depending upon further analysis required by Finding A-2. In addition:

   Adequate Sites: Policy 1.7 must be consistent with Government Code Sections 65583.2 and 65583(c)(1) to permit owner-occupied and rental multifamily uses by-right sufficient to accommodate the remaining need for lower-income households. Pursuant to 65583.2(i), "by-right" means local government review must not require a conditional use permit (CUP), planned unit development or other discretionary review or approval. The policy must also ensure the adequate sites program provides:

   - a minimum of 16 units per site; and
   - commit to selecting from the identified candidate sites for rezoning (Table 33).

   Policy 3.2 (Emergency Shelters): The Policy should identify the zone(s) where emergency shelters will be permitted without discretionary review and commit to only subject shelters to the same development and management standards that apply to other allowed uses within the identified zone.

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

   The element does not include any specific programs to assist in the development of housing for ELI households. Pursuant to AB 2634, existing programs should either be expanded or new programs added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this

requirement, the element could revise programs to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as single-room occupancy units, which address the needs of this income group. In addition:

Policy 1.6 (Support Development of Affordable Housing) could state a date certain by which the Town will contact housing developers.

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

   As noted in Finding A-3, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the Town may need to revise or add programs and address and remove or mitigate any identified constraints.

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame (Section 65583(b)(1 & 2)).

The element must include an estimate of housing units objectives by income group for extremely low-, very low-, low-, moderate- and above moderate-income that can be constructed, rehabilitated, and conserved over a five-year time period. Refer to the Program Overview and Quantified Objectives analysis on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/PRO_home.php.

D. Flood Hazard and Flood Management Information

For your information, Government Code Section 65302 requires cities and counties in California to amend the safety and conservation elements of their general plan to include analysis and polices regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009. Government Code Section 65302 also requires cities and counties in California, effective January 1, 2008, to annually review the land-use element for those areas subject to flooding identified by flood plain prepared by the Federal Management Agency or the State Department of Water Resources (DWR).

Any amendments to the safety, conservation, and land-use elements, based on the requirements of Government Code Section 65302, will require a review of the housing element for internal consistency, which may in turn, require amendments to the housing element. Local jurisdictions should contact DWR's Division of Flood Management for assistance in obtaining the most current floodplain mapping information needed for the analysis. Contact information is available on the DWR's website at http://www.dwr.water.ca.gov/floodmgmt/lrafmo/fmb/.