

5/26/2021

To: City of Davis Planning Commission

From: Rik Keller

Re: Housing Element Update

I have been a long-term affordable housing consultant and advocate since the mid-1990s. Locally, I have recently advocated for increased affordable housing for various projects in the City review process...

- see:
<https://www.davisvanguard.org/2018/06/examination-affordability-nishi-projectmeasure-j-expensive-overcrowded/>

...and for more equitable and inclusive housing policies in general:

- see my 3-article series here:
<https://www.davisite.org/2018/10/keeping-davis-white-land-use-policy-is-a-civil-rights-issue.html>

I am a strong advocate for addressing exclusionary housing practices. We already have tools in place to counter “snob”/exclusionary zoning. These include inclusionary zoning (IZ) policies that the City of Davis has in place as part of its Affordable Housing Ordinance [AHO] (see Article 18.05 of the Davis Municipal Code:

http://qcode.us/codes/davis/view.php?version=beta&view=mobile&topic=18-18_05)

Unfortunately though, the City of Davis has drastically weakened its IZ policies in the past decade. In 2011, in response to pressure from development groups, it suspended its Middle Income Ordinance that was targeted to provide housing affordable to the local workforce. And in early 2018, the 25-35% requirement for inclusionary/affordable housing in the City’s Affordable Housing Ordinance (AHO) was reduced to 15% “temporarily” because of a need to respond to State rules. In the almost 3.5-years since, the City has been promising to update its IZ requirements, but has repeatedly broken its own deadlines, and hasn’t completed the required studies to update it.

The 5/26/201 Staff Report states that “The current interim housing requirements are scheduled to expire in November, 2021. The City continues to study the feasibility of inclusionary housing requirements and anticipates providing a comprehensive update to them as part of its Housing Element Update.” However, the actual Housing Element Update Draft discouragingly just kicks this can down the road further, and this vague promise is now scheduled for delivery in 2022 based on Program Action 2.1.2 (p. 217 of the Draft HE). Even if this commitment is not broken as the City has multiple times, it will still represent a massive lost opportunity.

The numbers provided to the Planning Commission in the Staff Report tell a sad tale of this policy failure and a failure to act that is hiding in plain sight:

- The City permitted 360 deed-restricted affordable units out of 1,839 total new residential units (19.6% of total units permitted) from 2009 through 2020
- The RHNA for the previous Housing Element for 2013-2021 called for a total 1,066 units, which was easily met (1,481 new units permitted from 2013 through 2020)
 - However, even under the previously stronger IZ provisions, low-income affordable housing was not sufficiently built: only 274 low-income units permitted compared to the assigned RHNA of 422 units
- Recent approvals/ proposal would provide a far lower percentage affordable units than Davis produced from 2009-2020:
 - Nishi, Davis Live, Lincoln 40, and University Commons together include 3,994 new bed/bedroom rentals
 - 541 will be affordable at the extremely- low, very-low, and low income levels = 13.5% of the total
 - Even taken at face value, that low percentage of affordable units is pathetic! The City squandered a huge opportunity to plan for and provide adequate affordable housing for this Housing Element cycle
 - Those numbers are also highly exaggerated based on actual analysis of affordability. The recent strategy of developers to maximize profits by leasing by-the-bed at exorbitant rates needs to be addressed
 - And to compound matters further, the units with more than three bedrooms won't even count at all towards the Housing Element RHNA as things currently stand

I am also troubled by the process in which the City of Davis Housing Element Committee on 5/20/2021 perfunctorily reviewed and signed-off on a series of vague and generic cookie-cutter “pro-housing” proposals from a shadowy, just-formed group calling itself “Sustainable Yolo Growth.” The Twitter handle for this group is “@YoloYIMBY” Let’s keep in mind that a good working definition for YIMBY groups is: “developer-funded astroturf groups who push for market density using neoliberal sophistry leading to gentrification”. Their “pro-housing” tagline masks policy proposals that represent a giveaway to development interests--it really just means pro-profit.

In response to massive opposition from actual grassroots community-based affordable housing groups, these YIMBY groups have gotten a bit crafty lately and now do things like develop logos to make it look like they are actual citizen’s groups, and use vaguely social justice-y and environmental-y language (“sustainable”), while pushing the same tired deregulation playbook taken straight from the Building Industry Association, and getting massive funding from development and tech interests.

As a caveat, some of these proposals sound good on the surface and try to echo actual sound affordable housing policy proposals, but have been systematically emasculated of provisions that would actually produce affordable housing. In many cases, if implemented as presented, they would be detrimental to the incentivizing the production of affordable housing, and their “pro-housing” approach would end up producing more expensive housing targeted at the upper-end of the market leading to gentrification and removal of existing affordable housing.

One key thing to note is that the “Yolo Growth” proposals only briefly mention the word “affordable” in passing. What they are really calling for is a deregulatory market approach that defangs the existing tools we have available to actually get affordable housing produced. The Yolo Growth approach represents a reliance on failed trickle-down strategies and a vast oversimplification of the way housing markets actually function.

As one example, Yolo Growth calls for a “by-right approval process,” which, in their formulation, represents a massive giveaway to developer’s pockets without gaining affordability. I have previously advocated against exclusionary zoning practices, and a proper approach is to carefully craft incentives such as increased density and reduced parking requirements that offset affordability requirements. Simply calling for by-right development without strengthening affordability requirements is bypassing half of the equation. Density does not necessarily (and usually doesn’t) equal affordability. Providing half of the equation in terms of incentives without receiving the other half in terms of actual commitments to affordability is missing the point.

As another example, Yolo Growth calls for vaguely “fully funding” the City of Davis Housing Trust Fund. What they conveniently don’t mention is that this is currently mostly funded from the City’s AHO where developers pay in-lieu fees instead of meeting requirements to actually build affordable units. The current in-lieu fee structure already represents a massive giveaway because it hasn’t been updated to reflect the realistic in-lieu costs of the affordable units. Increasing reliance on in-lieu fees to fund the Trust Fund would mean fewer affordable units actually being built, while also being a financial boon for developers. Furthermore, the City’s Social Service Commission has recommended linkage/development impact fees as the first listed potential source of increased funding for the HTF (see Housing Trust Fund Strategy 9/16/2020), whereas Yolo Growth skipped over this entirely.

As another example, Yolo Growth calls for eliminating the City’s 1% growth cap but does not mention that the policy exempts--and there is no cap on--affordable housing, ADUs, and units in mixed use buildings; and, along with actual low growth rates in Yolo County communities, the cap doesn’t represent an actual realistic constraint on housing development to meet local housing demand, especially affordable housing for its workforce. Yolo Growth is just using this as an end-run on challenging the City’s planning policy framework and to try to open up more potential for market rate housing at the high-end. The soft 1% growth cap is intended to be sufficient to meet “internal housing needs,” which means primarily housing needs of the city’s workforce.

This is reinforced by their proposal to “pre-zone” land currently outside city limits in an attempt to avoid citizen review of specific project proposals contrary to the provisions in Measure J/R protections of agriculture resource land. They don’t mention the exemptions for affordable housing projects built into Measure J/R. The City already has a bad track record of enforcing existing development agreements, and this would be a further weakening of regulatory oversight to adequately enforce affordability and other public health, safety, and welfare requirements.

Deregulation will just mean more luxury housing and more profits for landlords and developers. If we want affordable housing, let's advocate for affordable housing and hold developers to high standards in this regard, rather than accept these kinds of Trojan Horse proposals that are "sustainable" in marketing only. Let's not pretend that a "pro-housing" increased supply at the high end of the market can have a significant effect on overall affordability. Simply liberalizing zoning for taller buildings and denser development will not address the critical need to provide affordable housing for less advantaged people.

The City should focus on strengthening its inclusionary policies as they are one key thing that actually demonstrably produces affordable housing in any significant amount. Developers push back against IZ requirements because they claim they eat into their profit-margins, make it so projects won't "pencil out," and increase overall housing costs. However, actual economic analysis of the results implementing these programs do not bear this out: "The most highly regarded empirical evidence suggests that inclusionary housing programs can produce affordable housing and do not lead to significant declines in overall housing production or to increases in market-rate prices":

- (National Housing Conference's (NHC) Center for Housing Policy: "Separating Fact from Fiction to Design Effective Inclusionary Housing Programs."
<https://nhc.org/wp-content/uploads/2017/10/Separating-Fact-from-Fiction-to-Design.pdf>
- "In fact, inclusionary policies may even promote more market-rate development in cities with very constrained housing markets...There is no credible evidence to suggest that inclusionary housing policies lead to lower rates of housing production. This is likely because developers are able to adapt to flexible inclusionary housing policies by bargaining over land prices and adjusting their profits in the short run."
landowners.https://inclusionaryhousing.org/wp-content/uploads/2016/09/Economics-of-Inclusionary-Housing-Policies-Effects-on-Housing-Production_a.pdf

The City should use evidence-based local policy solutions that further goals for inclusive, equitable, and affordable housing solutions.