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Chico Planning Commission
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Via Email

We respectfully request that this letter be promptly provided to all members of the City of Chico Planning Commission, included in the agenda packet for the deliberations of the Commission concerning the proposed General Plan Amendments affecting residential development rights within the Corridor Opportunity Sites Overlay Zone.

Re: Proposed General Plan Amendments to the Corridor Opportunity Sites Overlay

Chico Planning Commission,

Yes In My Back Yard submits this letter to inform you that the Chico Planning Commission has an obligation to abide by all relevant state housing laws and CEQA when evaluating any zoning or general plan amendments. Additionally, the city of Chico cannot apply any new zoning or general plan policies to projects with complete applications.

The Housing Accountability Act

California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety.

Additionally, the HAA requires that when cities assess a project's compliance with objective zoning and general plan standards, the standards considered must be those

that were in place when the project application was deemed complete 65589.5.(d)(5). In the event that the general plan and zoning changes proposed here pass, they may not be applied to any projects with applications that have been deemed complete. As the city of Chico moves forward with possible changes to zoning and the general plan, it is important that any modifications are not used to unlawfully inhibit ongoing housing project applications.

Housing Element and RHNA

The housing element within Chico's general plan (2014) includes several sites within the Corridor Opportunity Sites Zoning Overlay. The city has yet to reach its RHNA goals for the current cycle and therefore should be careful to not discourage development in one of it's few dense, infill zones. Subsidized affordable housing development is especially dependent on a reasonable level of density and height to reach a feasible per-unit cost. Given the slow pace of affordable housing development in Chico, any new barriers are inadvisable.

CEQA Concerns

The California Environmental Quality Act requires cities to study and mitigate the environmental impacts of projects. For the purposes of CEQA any zoning or general plan amendment is considered a project. The statute defines a project as:

> (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700. (15378.(a))

The proposed changes to the Corridor Opportunity Sites Overlay necessitate both a zoning code amendment and a general plan amendment. These changes are not covered by the EIR completed for the General Plan. In cases where residential density is being reduced the impacts that must be studied are necessarily different from those that must be studied when residential density is being increased. Statute states that changes to an existing "project" require a new EIR if the changes will have an impact that was either not contemplated in the original EIR or if changes will result in new or more severe environmental impacts (Cal. code regs. 15162).

The Original EIR completed for the General Plan in 2011 did not contemplate the adverse impacts of a reduction of density in the COS Zoning Overlay. Reducing permitted density in the city center will cause more traffic and congestion as people have to travel into the city from farther and farther out. Additionally, by reducing the allowed height and density the city will restrict the types of housing that can be produced on the affected

sites, biasing towards higher end low-rise developments that do little for affordability and do not help the city make progress towards its RHNA goals. The City cannot continue with these proposed zoning changes without first doing a thorough review of the possible impacts and mitigations.

Conclusion

The timing of these changes to the COS Zoning Overlay is highly suspicious. A copy of SB 330 is attached to the staff report for these changes. It is hard to believe that staff is not aware that SB 330 would render the changes being contemplated here unlawful were they to be considered after January 1st, 2020. The city has had five years to make alterations to the COS overlay and doing so now, with little public process and virtually no long range planning, is a blatant attempt to circumvent state law.

It is good that planning staff have correctly flagged the need for Chico, and many other cities, to jettison subjective zoning and design standards in favor of objective standards. However, these changes do not achieve that goal. In fact, the new requirements would force applicants to subject themselves to more subjective standards in return for the density and height that they currently receive by right.

Chico has made many steps in the right direction on housing. This proposed general plan and zoning ordinance amendment would be a step backwards. We strongly encourage the Planning Commission to deny this proposed change or to ask for further study of the possible adverse impacts.

Yes In My Back Yard is a 501(c)3 non-profit corporation, incorporated on September 10, 2019, whose mission is to increase the accessibility and affordability of housing in California.

Sincerely,



Sonja Trauss
Secretary
Yes In My Back Yard