

## Delo Freitas

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**From:** Gregory Daggett [REDACTED]  
**Sent:** Saturday, March 25, 2023 11:09 PM  
**To:** Scott Davies; Christian Figueroa; Judith Mayer; Dan Tangney; David Loya; COM DEV; Delo Freitas; City Manager's Office; Matthew Simmons; Peter Lehman  
**Subject:** Land Use Element/Draft Circulation Element 3/25/2023

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commissioners,

The California State Attorney General requires local governments such as the City of Arcata to comply with SB1000 in Local Land Use Planning.

SB 1000-Environmental Justice in Local Land Use Planning. "Environmental justice" is defined in California law as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. (Cal. Gov. Code, § 65040.12, subd. (e).)

(a) A Land Use Element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources.

A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average sound level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

California Environmental Quality Act & Environmental Impact Report. The study is based on standard checklists covering topics such as air quality, traffic, and noise. The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly. The EIR shall also analyze any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected. The Noise Element is

required by California cities and counties (Government Code Section 65302) It falls under the California General Plan Guidelines. Local governments must analyze and quantify noise levels, and the extent of noise exposure, through actual measurements. Under Government code section 65302(f) Noise Element Requirement primary arterial and major streets such as H and 16<sup>th</sup> streets, G street, K street, to be monitored and noise research be done such as Average daily level of activity (traffic volume per days of the week, and seasonal variations. Distribution of activity over day and night time periods, day of the week, and seasonal variations. Average noise level emitted by the source. City of Arcata 3.1.1 Noise Element. Within the Noise Element of the General Plan, it specifies an exterior noise standard of 60 dB CNEL and an interior noise standard of 45 dB CNEL for multi-family residential. The Secretary of Interior's Standards for the treatment of Historic Properties, Preserving windows, and the relation to noise/environment for Historic Neighborhoods and houses, circulation systems, such as roads and streets. The Circulation System of traffic flow using the H street and G street for exiting and entering 101 North freeway is a disaster. The quality of life for people living on these busy streets in the future will be unbearable with the increase in air pollution and noise. This is a violation of SB1000 Environmental Justice in local planning.

The Gateway Area Plan must do an EIR on the noise exposure from the addition of thousands of more vehicles using the major streets H & 16<sup>th</sup> streets, G street, 8<sup>th</sup> and 9<sup>th</sup> Streets, K street and Alliance Road. Government section 65302(f) Noise Element Requirement primary arterial and major streets that falls under the California Environmental Quality Act and the California General Plan Guidelines.

In the near future Cal Poly Humboldt is building additional housing for 2,400 students with the goal of building additional housing in the future.

Craftsman Student Housing the project will resemble prior planning infill housing at the site. Total project budget 150 million. Planned opening Dec 2024

Library Circle Student Housing, Health, and Dining Building & Parking Structure. Total Project budget 175 million. Planned opening August 2026

Campus Apartments Student Housing and Parking Structure. Total project budget 110 million. Planned opening August 2026.

All of these projects at Cal Poly and the 3,500 units Gateway Area Project will be putting too much traffic, noise and air pollution on the North-town and Downtown of Arcata. Look at how the California courts ruled in the Berkeley vs Berkeley case regarding CEQA requirements and the inadequate environmental impact report addressing polluting neighborhoods with traffic and noise. After air pollution, noise is the second biggest environmental factor causing health problems, increasing the risk of cardiovascular disorders, high blood pressure, sleep disruption, hearing loss, and heart attacks. Noise exposure has also been linked to cognitive impairment and behavioral issues in children. All people have the right to a reasonably quiet environment.

A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of

the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peak load water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Tsunami Mapping page 7 for Arcata. [https://nctr.pmel.noaa.gov/tsu400/documents/Course\\_1\\_Day\\_2/Session\\_11/NCEE\\_patton\\_dengler.pdf](https://nctr.pmel.noaa.gov/tsu400/documents/Course_1_Day_2/Session_11/NCEE_patton_dengler.pdf) Update to the NOAA Dengler was published by Lori Dengler on Oct 8th,2022.

Please comply with California State Law by including SB1000 Environmental Justice in the Land Use Element for the City of Arcata.

Sincerely,

Gregory Daggett

## Delo Freitas

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**From:** Fred [REDACTED]  
**Sent:** Sunday, March 26, 2023 11:07 AM  
**To:** David Loya; Scott Davies; Judith Mayer; Christian Figueroa; Peter Lehman; Dan Tangney; Matthew Simmons  
**Subject:** Fwd: Land Use Element - Notes from Fred Weis  
**Attachments:** Fred Weis - 2023-03-26 - Land Use Element notes-v2.docx

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see the attached document:  
Fred Weis - 2023-03-26 - Land Use Element notes-v2.docx

This replaces the document sent earlier. (Or use the previous one, if desired.) It is better formatted for printing or reading.

It is identical to what was sent earlier -- not one word was added or changed. It is changed only where the paragraphs are on the pages.

In the Planning Commission staff reports for March 14 and 27, David included a concise explanation of California's myriad Density Bonus housing laws. I put this up on Arcata1.com so it can be referred to at any time. There are links to other articles which you may find useful, including Visualizing Compatible Density and Density Guide for Housing Types.

<https://arcata1.com/density-bonus-laws-david-loya-march-2023/>

Thank you.  
-- Fred Weis

----- Forwarded message -----

From: Fred [REDACTED]  
Date: Sun, Mar 26, 2023 at 9:59 AM  
Subject: Land Use Element - Notes from Fred Weis  
To: David Loya <[dloya@cityofarcata.org](mailto:dloya@cityofarcata.org)>, <[sdavies@cityofarcata.org](mailto:sdavies@cityofarcata.org)>, Judith Mayer <[jmayer@cityofarcata.org](mailto:jmayer@cityofarcata.org)>, <[cfigueroa@cityofarcata.org](mailto:cfigueroa@cityofarcata.org)>, <[plehman@cityofarcata.org](mailto:plehman@cityofarcata.org)>, <[dtangney@cityofarcata.org](mailto:dtangney@cityofarcata.org)>, <[msimmons@cityofarcata.org](mailto:msimmons@cityofarcata.org)>

For discussion at the March 27 meeting  
Sent prior to 10:00 a.m.  
Sunday, March 26, 2023

Attached

## **Delo Freitas**

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**From:** Fred [REDACTED]  
**Sent:** Sunday, March 26, 2023 10:00 AM  
**To:** David Loya; Scott Davies; Judith Mayer; Christian Figueroa; Peter Lehman; Dan Tangney; Matthew Simmons  
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**Attachments:** Fred Weis - 2023-03-26 - Land Use Element notes.docx

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For discussion at the March 27 meeting  
Sent prior to 10:00 a.m.  
Sunday, March 26, 2023

Attached

From: Fred Weis  
Land Use Element notes  
March 26, 2023 – for the March 27 Planning Commission Meeting

**My comments are indented.**

**There is some highlighting, and some words in red.**

Note: All references to State Route 101 should be replaced with "US Highway 101" --  
In at least 5 locations in the Land Use Element it is "State Route 101."  
(In at least 7 locations in the Circulation Element it is "State Route 101." )  
In at least 20 locations in the Circulation Element, it is "US 101" or similar.

There are about 20 instances of typographical errors, grammatical errors, run-on sentences, clumsily-worded sentences, unclear meaning to a sentence, repetitive wording, and so on. These can be addressed separately.

## Recognition of Arcata's history

### 2.1 Introduction Page 2-1

"The early settlement of the town, initially called Uniontown, grew around a central plaza."

Change to: The early **non-indigenous** settlement that formed a town, initially called Uniontown, grew around a central plaza.

or: The early **European-American settlement** that formed a town, initially called Uniontown, grew around a central plaza.

The very next paragraph in the Land Use Element is an acknowledgement to the Wiyott tribe.

History of Arcata:        **"Kori" was the name of the Wiyot settlement that existed on the site of what would become Arcata.** The name "Arcata" comes from the Yurok term oket'oh that means "where there is a lagoon" and referred to Humboldt Bay which is a barrier lagoon. Potawot is the Wiyot name for what is now called Mad River  
<https://www.cityofarcata.org/DocumentCenter/View/114/City-of-Arcata-Historic-Context-Statement---March-2012-PDF>

Reference is made to the City's Priority Infill Opportunity Zones.  
It would be good to have a **map of the City's Priority Infill Opportunity Zones**.

Page 2-3

“... commercial areas along Valley West Boulevard, a mix of businesses along Giuntoli Lane, and surrounding **nearby high-density residential** and light and heavy industrial areas”

The area is zoned R-M -- it is not high-density residential.

## Ministerial Review

### **LU - 1 b Page 2-10**

Infill Opportunity Zones are intended to encourage and **streamline** infill development in these areas, based on available land and proximity to transit, services, jobs, and activity centers.

### **LU - 1 d Page 2-10**

Streamlined Review and Standards in Infill Opportunity Zones. Infill Opportunity Zones are intended to identify areas where the City plans to accommodate high density residential uses through a ministerial review process in order to facilitate housing production. In addition to creating a ministerial pathway for residential projects, applicable standards (parking ratios, height limitations, site coverage, etc.) shall be consistent with development at greater densities with a larger reliance on multi-modal transit.

Until the word "streamline" and the phrase "ministerial review" are clearly defined, they cannot be used in the General Plan.

The word and phrase have different meanings to different people, and what's more they may have different meanings in five years than they do currently. For the Planning Commission to establish their definitions is necessary. **This is NOT something that can be put off -- that the Planning Commission "can do later."**

In my view, there is no way that this General Plan could survive a legal challenge unless those phrases are clearly defined.

To use "streamlined review" and "ministerial review" without clear definitions is like saying "The terms of the divorce said that I would have to buy a house for my ex-wife." It is far too vague.

**We can note that, for us here in Arcata, the phrase "ministerial review" had a different meaning on June 28th, 2022, than it did on June 29th, 2022 -- after we were given definitions from Ben Noble that replaced the definition that we'd received from David Loya.**

## General Issue: The promise of Single-Family Home development

### LU - 1 e Page 2-10

Development of a diversity of housing types. The land use plan map shall provide sufficient quantities of land in the various residential use categories to allow for development of a variety of types of new housing units and residential environments. The purpose shall be to **maintain an appropriate balance between single-family housing on individual lots and multi-unit housing types.**

This General Plan is not going to “maintain an appropriate balance between single-family housing on individual lots and multi-unit housing types.” It is not going to “provide sufficient quantities of land in the various residential use categories.”

## Craftsman's Mall / St. Louis Opportunity Zone

### Page 2-5

The Craftsman's Mall/St. Louis Road Opportunity Zone includes roughly forty-one acres near the geographic center of the urbanized portions of the City and Cal Poly Humboldt. The average parcel size is 0.7 ac or 29,145.7 sq ft, and the Craftsman's Mall property, which has the highest immediate potential for redevelopment is owned by Cal Poly Humboldt. This area is near Cal Poly's campus and is an ideal location for high density housing. It is surrounded by lower density residential zoning districts. The area also includes existing industrial uses.

This should be re-worded to reflect current reality. The available Opportunity Zone is no longer 41 acres.

An "average" parcel size is a meaningless figure. A smaller number are large parcels. A larger number are SFR low-density smaller parcels.

In calculating the average, my guess is that it includes the 8.5 acres for the new dorms -- that has already been spoken for, and thus is no longer available as an Opportunity. An honest assessment would identify the possible high density building sites.

There are 32 parcels (that figure may be off by 1 or 2) that have access on Eye Street or Todd Court, coming from the south, off of Grant Street. These parcels have little in common with the parcels that have access from St. Louis Road.

In my view, the Opportunity Zone here is -- or was -- the larger parcels coming from St. Louis Road.

In my view, the southern section of this 2019-designated Opportunity Zone is no more an opportunity zone than many areas of Arcata that are near commercial or re-developed parcels. If you're going to re-zone this area from low-density to high-density,

perhaps we would want to explore re-zoning Northtown / Arcata Heights, East Arcata / Bayview, and sections of Westwood from low-density to high-density also – because the same logic would apply.

And hear public input from residents of those neighborhoods.

Page 2-8

G. Maintain community facilities such as schools, community centers, parks and recreation areas, and other civic uses and ensure they are equitably distributed and located in areas that are accessible to all segments of the community.

This is a tough one -- because the facilities mentioned are not "equitably distributed" -- and the City cannot "ensure" that they are. (Also, "civic uses" is not a facility.)

If the Gateway element talks about adding 3500 housing units -- or even adding 500 -- then schools, parks, community centers would no longer be equitably distributed.

Perhaps re-word as something similar to:

"Support existing community facilities -- including schools, community centers, parks and recreation areas, and other civic facilities -- and encourage new community facilities so that they are equitably distributed and located in areas that are accessible to all segments of the community."

Page 2-8

B. Establish and maintain a greenbelt around the City that consists of agricultural, forest, and natural resource lands; in order to focusing future developing in infill areas, as opposed to annexation of these lands.

**Natural resource lands could be annexed and still kept as natural resource.** Re-word to say what you mean.

Preserve, as productive natural resources areas, the open agricultural lands in the Arcata Bottom, the forests on the eastern hillsides, and aquaculture in Arcata Bay.

Suggest: Remove the word "productive."

Whether a natural resource area is productive has nothing to do with its preservation.

Page 2-8

C. Allow for a range of housing choices **that includes affordable dwellings for community residents, accommodates families as well as individuals and groups, and varies in size and type to reflect the diverse character of the community** and to provide equitable access to opportunities and resources in all of Arcata's neighborhoods.

If this is a Guiding Principle that is wanted to be included in the Land Use Element, then these words will be difficult to justify in the future, and could result in a lawsuit.

**In my view, it is an impossible goal, and should be recognized as that.**

It's the Commission's choice about how to word this and whether to include it -- but we can recognize the possibility of being sued from those people who view this as a promise -- even though the operative word is "Allow" and is not, say, "Ensure."

**Further, it could be argued that the City is effectively creating conditions that will do just the opposite of this.**

I would recommend removing Guiding Principle C -- unless you think you can back it up.

Page 2-8

H: Encourage infill development of vacant, brownfield, and underutilized land designated for development as a way of meeting housing and employment needs without major extensions of infrastructure and services. .... **Ensure displacement and affordability issues** related to the City's infill strategy are addressed.

I would break this sentence away from "Encourage infill development of vacant, brownfield, and underutilized land " etc. and give it its own list item.

Again, we have the issue with the word "Ensure." "Ensure" means "make certain that (something) shall occur."

There is no way in the world that Arcata can "ensure" that the affordability issues related to the City's infill strategies are addressed.

Seeing as the City cannot "ensure" this, any polite wording becomes duplicitous -- false.

**Perhaps: "Incorporate and promote available methods to assist with displacement and affordability issues as is possible."**

Page 2-8

I. Permit vertical and/or horizontal mixed-use development close to clusters of activity and at major transportation crossroads where they can take advantage of higher levels of access.

**Remove the words "vertical and/or horizontal "** -- there is vertical development and there is horizontal development. If you're promoting one or the other or both, then there's no need to make a distinction.

What is meant by "major transportation crossroads"? 101 and 299? 101 and Samoa Blvd.?

"Permit" -- as in "Permit mixed-use development" -- is a very weak word. Isn't mixed-use development permitted everywhere, just about?

Do you want to say "**Promote** mixed-use development close to clusters of activity...."?

Page 2-8

J. has been removed. "Promote racial equity, diversity, and accessibility in all City land uses."

Why is this removed? Not worded well? It is similar to A.

## 2.2 Policies

### LU - 1 Page 2-10

Objective. Establish a pattern of development that concentrates activity and amenities in a pattern of centers, clusters and mixes of uses to support the City's focus on infill development and active transportation. Provide an overall land use arrangement that concentrates city-wide uses and functions in these areas with an emphasis on areas within walking distance of the central Plaza Area, Cal Poly Humboldt, and existing neighborhood and employment centers which provide a mix of commercial services, residential uses, and community facilities.

**I'm not at all clear what is being said here. To me, it is vague and non-communicative.**

Concentrate "city-wide uses and functions" in areas -- but they are city-wide so how do you concentrate that?

Concentrate activity and amenities in a pattern of "mixes of uses"? What does that mean?

#### How about something like:

Objective. Establish development that concentrates activity in centers that support the City's focus on infill development and active transportation. Provide an overall land use arrangement that concentrates functions in these areas with an emphasis on areas within walking distance of the central Plaza area, Cal Poly Humboldt, and existing neighborhood and employment centers, to create a mix of commercial services, residential uses, and community facilities.

### LU - 1 a Page 2-10

Their productive, open space, and natural resource values are important to the community and shall be preserved.

It is impossible to preserve productivity or to insist on it. Suggest remove the word "productive."

**LU - 1 b** Page 2-10

The City encourages appropriate redevelopment of certain parcels of land that are either underutilized, **brownfields**, or vacant, but **surrounded by existing urban development**.

Definition of brownfields: A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

**Unless there is a good reason, I would omit "brownfields." Just say "underutilized or vacant."**

The parcels may not be "surrounded" by existing urban development. They may be just touching other parcels -- that is, at the edge of the urban services boundary.

Make the sentences simpler.

Perhaps:

**The City encourages appropriate redevelopment of parcels of land that may be underutilized or vacant and within or near to existing urban development.**

**LU - 1 c** Page 2-10

Prioritization of transit and active transportation. Reduce or eliminate minimum parking requirements in areas where transit and active transportation is planned to support the transportation needs of the community, including neighborhoods where biking infrastructure, trails, complete streets, and transit is or is planned to be accessible.

Do what you want on this one. Legally it is a very weak premise to say that you are taking an action because of something that is planned to take place.

If you want, you can simplify and just say something like:

"Reduce or eliminate minimum parking requirements to promote use of public transit, the use of bicycles and other non-motorized vehicles, and walking."

**2.3 Implementation Measures Page 2-31**

**LU-4** Pedestrian-friendly activity centers

Update zoning to improve the walkability of commercial activity centers using such strategies as:

Update land use plan and zoning to concentrate retail land use designations in areas that are less than  $\frac{1}{2}$  mile across, and ideally along a single street that is less than 1000 feet from end to end. • Require maximum pedestrian block sizes of less than 1,600 or 2,000 feet in primary areas of activity.

What does this refer to – Pedestrian block sizes less than 1,600 or 2,000 feet?

To put this into perspective – From F Street to the entrance door of Safeway is 400 feet. The entire length of Valley West shopping center is under 800 feet. From 9th Street to 14th Street is 1500 feet. The entire length of the Barrel District along Samoa Boulevard is 1500 feet.

**Where is it that we have to regulate a pedestrian block size of 1,600 or 2,000 feet?**  
And why would we want a block of that size? A pedestrian-friendly block is 250 or 300 feet or so.

### **2.3 Implementation Measures Page 2-32**

LU-7 Affordable Housing

**Include inclusionary zoning measures and/or incentives in the next update of the Housing Element.**

In the draft Land Use Element, this is removed. (There is a strike-through on all of it.)

**Why ?** Does it still have to be implemented in the Housing Element?

What does that mean – the “next update” of the Housing Element?

It can be seen at LU-2b.

### **Policy LU-2 Residential Land Use**

**Objective.** Allow for a mix of housing types and densities to ensure residents at all ages and abilities have safe, healthy, and affordable homes that meet their physical, social, and economic needs through housing production, preservation, and conversion that is compatible with established and planned neighborhood design elements.

1. With “mix of housing types” defined in the usual way, the Gateway Plan does not allow for a mix of housing types and densities.
2. **The City cannot possibly “ensure” that residents will have “affordable homes” that meet their “economic needs.”**  
The definition of “ensure”: **make certain that something shall occur** or be the case.
3. It has been suggested by members of the senior community that for them to have a “safe” home that meets their “physical, social” needs, they will have to have a car and a parking space.
4. **What do you want to do? Leave this paragraph phrased as-is? Re-word it? Eliminate it entirely?**

For the record: The phrases “with new and converted housing designed to be **compatible with the established neighborhood character**” and “**that is compatible with established and planned neighborhood character**” have been discarded.

### **LU-2a Residential Land Use Classifications.**

#### **Residential – Low Density [R-L].**

Small change. Where it says “Under current state land use and planning law...” –

Suggest putting in the date, as: “Under current **(2023)** State land use and planning law...”

Those law may change and change again during the time of the 2045 General Plan.  
Also, capitalizing State.

#### **Residential High Density [R-H]**

High density residential uses are designated in central Arcata and other areas to allow multi-family housing located in proximity to commercial and employment uses, public services, schools, and parks.

**Suggest removing “in central Arcata and other areas”**

Because R-H is all over the place.

Such as: “High density residential uses are designated to allow multi-family housing located in proximity to commercial and employment uses, public services, schools, and parks.”

### **LU-2b Diversity and choice in residential environments.**

The City shall encourage residential developments ~~which~~ that collectively provide a variety of choices for housing consumers in terms of types of units, location, unit sizes, costs, design, amount of privacy, and neighborhood environment. Inclusionary measures shall be provided for affordable housing. To encourage this, the City will implement inclusionary zoning in higher density developments and provide incentives to developers to include low and moderate income housing units in their proposals.

Why inclusionary zoning only in higher density developments? What is the objective standard of a “higher density development”?

Why not remove “in higher density developments” ?

“To encourage this, the City will implement inclusionary zoning and provide incentives to developers to include low and moderate income housing units in their proposals.”

**See: Policy LU-2 Residential Land Use, above.**

LU-2b says: “The City shall encourage... a variety of choices for housing consumers in terms of types of units, location, unit sizes, costs, design....”

**The City cannot possibly provide “a variety of choices” as outlined here.  
Why pretend that the City can?**

### **LU-2c Planned Development – residential**

The purpose of a Planned Development shall be to: incorporate a mix of residential types, unit sizes, affordability levels, and styles in a coordinated manner; to allow clustering of units; to provide larger, more usable areas of common open space; and to protect natural resources or site features, such as creekside riparian areas, wetlands, and significant vegetation such as trees to incorporate health-promoting design.

Based on our experience with the “Westwood Gardens Apartments” Planned Development in September-October, 2022, it does not appear that there is any change in LU-2C that would prevent that from happening again. In actuality, the addition of requiring “affordability levels” and “to incorporate health-promoting design” seems like that would squash any Planned Development instantly.

Change this? Or leave it in its impossible-to-satisfy state?

### **Policy LU-3 Commercial Land Use**

Objective. Grow a pattern of activity centers that meet the daily needs of the community and visitors and with a variety of retail goods, food, and services that are convenient, safe, accessible **and affordable to all**.

“with a variety of retail goods, food, and services that are ...**affordable to all**. “

Affordable to all? Can’t be done. Impossible.

Choices are to re-phrase this, or live in a world of make-believe.

### **Policy LU-4 Industrial Land Use**

**Objective.** Provide for a variety of industrial uses ~~which~~ that will retain and generate living wage jobs, including labor-intensive manufacturing, processing, assembly, warehousing, services, and complementary non-industrial uses, in appropriate locations. Build on the City’s 50-year history of supporting industrial jobs, businesses, and product generation by supporting new and existing users in identified industrial nodes.

“the City’s **50-year history** of supporting industrial jobs”?

Fifty years = 1973. Doesn’t Arcata have a 150-year-history of supporting industrial jobs?  
What does “the City’s 50-year history of supporting industrial jobs” mean or refer to?

## Important consideration -- Sea Level Rise issues on South G Street

**Is the City promoting development in the South G Street area?**

**See also: LU1-m Page 2-14**

**And simultaneously discussing moving people and business out of the South G Street area?**

### **LU-4a Industrial uses.**

The following land use designations are applicable to industrial lands. **Table LU-6** defines permitted uses, densities, lot sizes, and coverages for each classification.

The major I-L areas are the ~~West Samoa Boulevard Employment Center~~, and the portion of the West End Employment Center (near the State Route 299/Giuntoli Lane interchange and including the Aldergrove Industrial Park and Happy Valley; **and areas south of Samoa Blvd. including Little Lake and along south G Street**), the area west of "K" Street, South "G" Street, and South "I" Street. These **two**-industrial areas **will be the primary focus of industrial and mixed-industrial development and investment during the timeframe of this General Plan.**

Typo note: Should have a closing parenthesis at "Happy Valley) and areas...."

### **LU-4b Little Lake.**

~~Development of a new industrial "business park" at the site of the~~ **The former Little Lake Industries lumber mill on South "I" Street shall [be] developed for industrial or business park uses.** ~~be a priority of the City.~~ The site shall be planned as a mixed-use development including passive recreational uses and ~~regional~~ a dog park. Development shall be consistent with the adopted Long Range Property Management Plan.

Typo note: Missing the word "be"

### **LU-6d Uses allowed in diked/reclaimed former tidelands.** Page 2-30

Allowable uses and development in grazed or farmed **diked former tidelands** wetlands are limited to uses compatible with the Public Trust. These uses are summarized below:

1. Agricultural operations limited to accessory structures, apiaries, field and truck crops, livestock raising, greenhouses (provided they are not located on slab foundations and crops are grown in the existing soil on site), and orchards.
2. Farm-related structures, including barns, sheds, and farmer-occupied housing, necessary for the performance of agricultural operations. Such structures may be located on an **existing grazed or farmed wetland parcel** only if no alternative upland location is available for such purpose and the structures are sited and designed to minimize adverse environmental effects on Public Trust resources and uses. No more than one primary and one secondary residential unit shall be allowed per parcel.

Note: Language in (2) should be consistent with “diked former tidelands”

Without a map of what the “diked former tidelands” – this is ambiguous.  
I have a map of the diked former tidelands, supplied by Aldaron Laird.

This can be left as-is, but it is weak.

#### **LU-5c Limitation of corporation yard expansion.**

Development of the City corporation yard facilities shall be restricted to its existing boundaries.

Suggest put in the location or address – as this could possibly change during the life of General Plan 2045.

Such as: “Development of the City corporation yard facilities **at its current [2023] 600 South G Street location....**”

## Mad River Hospital Area

### **Table LU-5 Specific Considerations for Certain Public Facility Areas**

Page 2-27

Area: Mad River Hospital Area APN's 507-191-033, 507-191-076, 507-291-032 & 507-191-077

Specific Consideration: “Hospital development on APN's 507-191-077 and 507-291-032, ~~in conjunction with an overall~~ shall be developed consistent with the Master Site Plan adopted in 2011.”

**A reference as to what the “Master Site Plan adopted in 2011” is required.**

The text of what has been struck out on Page 2-27 includes “If a Master Site Plan for the Mad River Hospital Area is not approved by the year 2020....” – so we know that the Master Site Plan is something other than that.

The Area lists four parcels. The Specific Consideration speaks to just two parcels. What about the other two parcels?

I have found a one-page diagram dating from 2011 of a Mad River Hospital Master Site Plan, from the engineering consultant LACO. I have at this time found no record of the adoption of a 2011 Master Site Plan. The Community Development Department would have these documents.

The Arcata General Plan 2020 and the Land Use Element are very specific as to open space and other environmental requirements for the Mad River Hospital parcels. These requirements appear to have been substantially altered in 2011.

**The 2011 Master Plan shows 712 parking spaces.**

This includes 75 parking spaces for a 60 to 75 room Assisted Living facility, and 109 spaces for a 95 to 100 room Assisted Living facility.

The one-page LACO diagram is general, and has no mention of permeability requirements or other environmental concerns.

**The Planning Commission should look into this and see if the 2011 Master Plan is acceptable for the future.** Arcata's vision for the next 20 years includes less parking.

## **Delo Freitas**

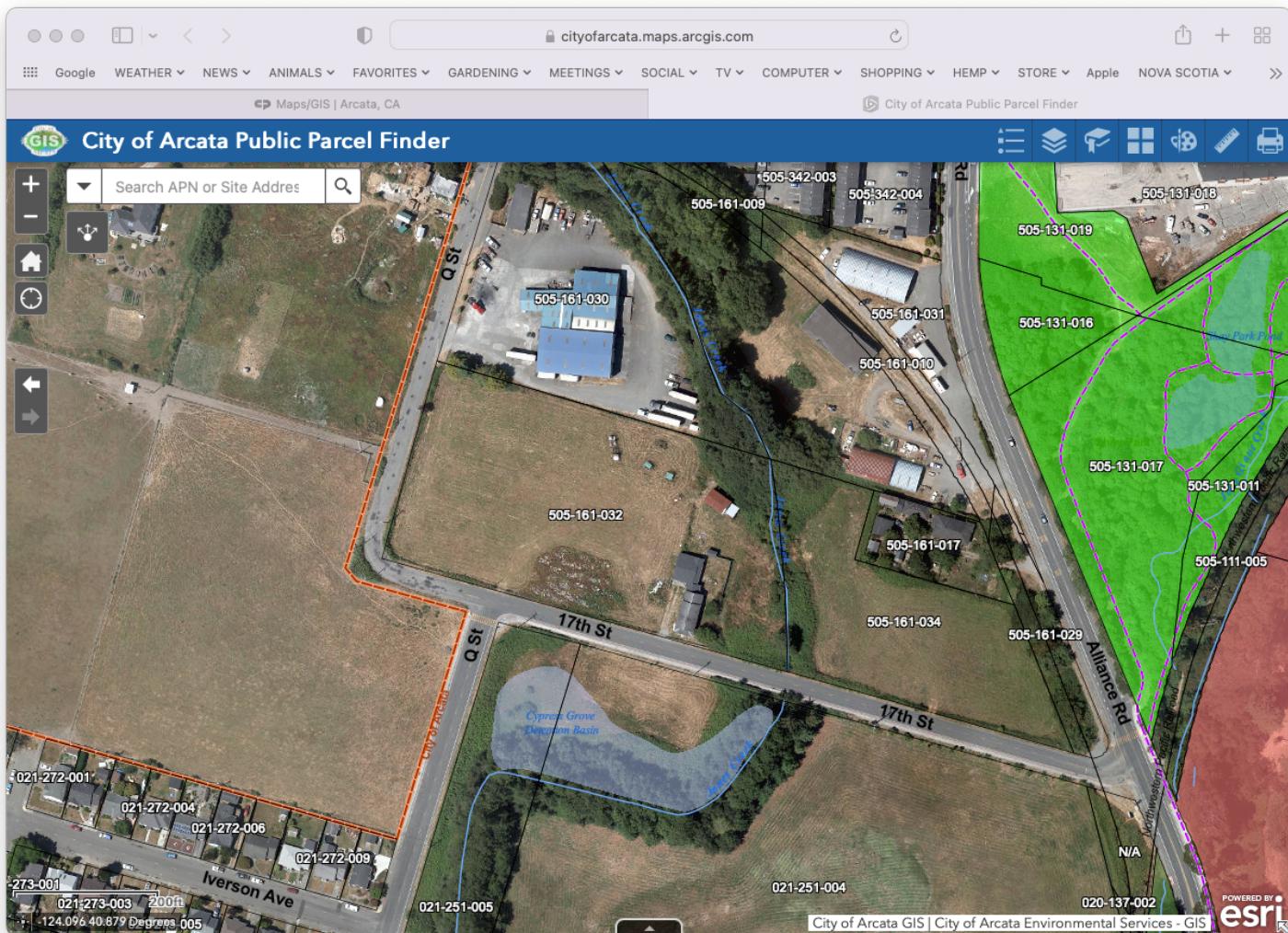
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**From:** lisab [REDACTED]  
**Sent:** Monday, March 27, 2023 11:17 AM  
**To:** Judith Mayer; Dan Tangney; Scott Davies; Christian Figueroa; Peter Lehman; Matthew Simmons  
**Cc:** David Loya  
**Subject:** March 27th comments  
**Attachments:** PC March 27th 2023.pdf; PC March 14,2023.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioners. Please find my comments for tonight's discussion attached as well as my corrected letter from the last meeting.

Thank you. Lisa



Dear Arcata Planning Commissioners,

Please orient yourself to the three parcels identified in the map shown above located north of 17<sup>th</sup> Street and east of Q just off of Alliance. To help identify the location, note that the Cypress Grove conservation easement is across the street to the south.

Parcels #505-161-032 #505-161-034 and Parcel #505-161-017 (described below)

These two large parcels total 5.15 acres and are currently zoned Agriculture Residential which is an Agricultural and Resource Zoning District as per our General Plan and Land Use code.

Janes Creek essentially bisects the two parcels, which are currently in the same ownership. The properties are in a AE-Floodway FEMA mapping zone as well as a Moderate to High Liquefaction area.

The soil in this area is considered prime agricultural soil as per Arcata's Land Use code and is by all means protected by policies in our General Plan 2020 as a valuable, scenic and prime agricultural parcel within our city limits. The properties flank our western edge (as denoted by the red line on the map).

At your last hearing, these parcels were included with several other parcels to the north for consideration by the Commission for a zone change to RH, Residential High. I am very opposed to this recommended change as it violates our own policies designed to protect agricultural resources, both within and to the west of our city limits. These parcels combined with surrounding resource lands form an important "Gateway" or transition to the rural setting of the Arcata Bottom and our Greenbelt. They are flanked on all sides excepting the north by resource lands including a park and a conservation easement.

The importance of small agricultural parcels hosting suitable soils for small scale agricultural pursuits are an unusual commodity and extremely valuable to retain in our community. Please retain the agricultural zoning (AR) for these parcels in keeping with our General Plan policies and intent.

Thank you for your attention.

Lisa Brown

Arcata

Dear Arcata Planning Commissioners,

It was brought to my attention that I should introduce myself to the newer members of the Commission. While it has been a matter of a few years since I have attended a city meeting, I am by no means a stranger.

I do not enjoy tooting my own horn, so please forgive me for trying and if you would like to skip the next three paragraphs, I would not be offended. ;)

I started my involvement at the City of Arcata in the early 1990's when I became aware of a large development proposal that threatened close to 200 acres of prime agricultural land in the Arcata Bottom. I endeavored to educate myself about the critical and limited resource of prime agricultural land in Humboldt County and quickly understood that while the City of Arcata wanted to preserve these vital resources for future generations, in practice the community continued to lose ground in these efforts.

Along with many other community members, I worked hard to prevent intrusion of development into these resource lands over many years through education, community involvement and helping guide policies in General Plan 2020 and the Land Use code.

I was a founding member of the Open Space Committee for the City of Arcata and served on this committee for 14 years. The Open Space Committee advised the city on all projects affecting agricultural and open space lands and helped to include open space lands within development by integration of gardens, wildlife habitat and edible landscapes. Our committee continuously made recommendations on resource land acquisitions during a time of great expansion. Additionally, our committee wrote the Open Space Plan for the city, the City's Greenbelt Plan and worked on the initial development of the now voter approved Measure A for Open Space, prior to the Committee being disbanded in 2017.

The City of Arcata has a long history in its intent to recognize the importance of these resources. The first Open Space and Conservation Element policies were established in 1975. One of my favorite planning documents (excerpt below) that I continue to lean on is a technical report from 1989 written by city staff to help inform decision makers about the city's resource lands.

**c. The development issues relevant to each resource.**

While all the natural resources play an important role in Arcata's character and functioning as a community, the two most critical resources are Arcata's agricultural land and soils, and Arcata's hillside areas.

These resources are critical because they are the most affected by Arcata's growth and development patterns. Arcata's growth is such that the availability of these resources for development will soon control Arcata's growth and development patterns. City policies on these two resources will affect the City's growth as the City "runs out" of land zoned for urban development. Chapter V addresses agricultural land and soils, and forest and hillside land.

Unfortunately, the City of Arcata continues to find itself challenged to keep these precious resource lands preserved despite all efforts. By conservative estimations the percentage of prime agricultural lands lost to development in our city is around 85%. I have included my favorite soils map which shows the narrow swath of prime agricultural land that skirts the city to the west and north, much of it under pavement and buildings.



Prime Agricultural Land: Class One (darkest grey) Class Two (lighter grey)

In this update to the General Plan it is critical to strengthen and not diminish our commitment to protecting resource land for future generations by careful evaluation of the planning policies and strategies being presented to make sure that they align with our long standing intent to retain these lands.

First big concern: **Sphere of Influence**. All agricultural parcels to the west and north of the city limits should be removed from the Sphere of Influence. Simply put, as per State law, a Sphere of Influence identifies areas for future expansion of a city and while GP2020 attempted an alternate strategy (to utilize the Sphere to help protect these lands), the recent attempt to annex the prime agricultural lands west of the city without a protective easement is indicative of why this strategy clearly will not work into the future.

Second big concern: **Do not Rezone Resource Land**. Two prime agricultural soil parcels with a Natural Resource designation of **AR** are mapped for conversion to **RH**. Not only is this not necessary, it is contrary to all policies in our current and proposed future plan. The two parcels are north of 17<sup>th</sup> Street and east of Q Street on the western edge of the city. I have provided you with information about this at the last meeting and include it here as an attachment with needed corrections.

Third big concern: **Specific Language changes being recommended**.

LU1-af- Packet Page 25-

Protection of natural and agricultural lands. The last sentence should remain in the document, "Their productive, open space and natural resource values are important to the community and shall be preserved and conversion to other non-compatible uses shall be prohibited."

This language found in GP2020 underlined above has been lined out in the recommended draft.

Please do not eliminate this strong protective policy. It stood the test of time in GP2020 and there is no good reason to eliminate it now.



Pictured above is the **AR** property that is being recommended for a zone change to **RH**. The Creamline Diary conservation easement is to the south across 17<sup>th</sup> Street. You can see Shay Park in the upper left hand corner. I am standing on the city limit line while taking this picture and behind me is the Arcata Bottom. Janes Creek is found on the east side of the home as well as the remaining prime soil field. This is clearly a resource land and is currently zoned as a resource land.

A General Plan must consider what a community needs to be healthy and abundant over many, many years. Community vision is expressed through a long line of General Plans and the retention of natural lands within our city has always been vitally important to our community. We should not abandon years of important work and values to solve current challenges. It is not necessary.

We have an abundance of underutilized land that has already been impacted with past development and the city should continue to focus infill in these areas.

I can attest to the importance of these small acreages for their ability to produce food for a community, provide economic and educational opportunities, as well maintain wildlife refuge and important open space values. My partner and I have a small farm in the city and grow two acres of certified organic apples which we wholesale to our local grocers. Over the years we have grown various specialty crops, hosted school gardens, held educational classes and produced hay and pastureland. We have planted hundreds of trees, for agricultural purposes and wildlife habitat and have protected and enhanced the wetland values. Our high organic matter soil stores carbon at levels that are competitive with forests. Small farms can be mighty endeavors. They deserve a place in our community.

These small upland agricultural properties will surely be increasingly important in a increasingly insecure future, serving as food banks for future generations of farmers.

We should do all we can to ensure that they remain undeveloped and available for many generations ahead.

With much gratitude.

Lisa Brown, Arcata

## Madeline Odom

---

**From:** Susan Ornelas [REDACTED]  
**Sent:** Monday, March 27, 2023 11:26 AM  
**To:** Stillman Alex; Stacy Atkins-Salazar; Sarah Schaefer; Meredith Matthews; Kimberley White  
**Cc:** Karen Diemer; David Loya  
**Subject:** Arcata population and housing  
**Attachments:** Arcata Population and Housing.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor and Council members -

Good Morning! Hope you are all well and anticipating Spring - once it finally is here!

Let me start by thanking you for your service to the citizens of Arcata. I know it is a demanding job.

I'm writing today to present information that (seems to me) gets overlooked in the housing development discussion.

Following is a chart of 50 years (1970-2020) of census Arcata population data, FTE enrollment at CPH (HSU), and housing units built each decade. As you will notice in 1970 there were 8,985 people living in Arcata and the university FTE was 5,200 students. At that time there were ~ 4,000 housing units in town (~2.3 people per household).

<b>Year</b>	<b>Town Population</b>	<b>CPH (HSU) Enrollment (FTE's)</b>	<b>Housing Units built by decade end</b>
1970	8,985	5,200	Base of ~ 4,000
1980	12,850	6,700	1,500
1990	15,604	7,160	1,200
2000	16,651	6,838	700
2010	17,231	7,669	666
2021	19,114	5,739	350-900(slightly unclear)

**Current Housing Units in Arcata is ~ 8,423 units.**

Moving forward to 1990 - population of 15,604; FTE was 7,160 students, and housing units developed was ~6,700. (~2.3 people per household)

The FTE's at the university reached 7,500 in mid 1990's, and peaked at 8,500 students in 2015.

Today the population in Arcata is ~19,114; CPH has a FTE of 5,739 students; and there are ~8,423 housing units (~2.3 people per household).

The student population dropped by 32%. I know it is the goal of CPH to grow the student population, and I agree with that plan, but to say we have a student housing crisis seems incorrect.

The general population has grown over 200% in the last 50 years. The median age in Arcata is 27.5 years. When I talk with people I know in their 30's and 40's, they tell me they wish they could buy a house. They want to build financial equity.

I attached a sheet with the above Census Data (in case it is scrambled in the email), and information about CA Senate Bill 9. Senate Bill 9 is written to assist CA communities in being able to develop more housing options, to provide opportunity for medium to lower income people to build generational equity. We know when people own a home in a town, they are more likely to volunteer for City boards, school boards, PTA's, as sports coaches for their kids, etc. Home ownership helps to create the kind of town we all want to live in!

I plan to address this subject at public comment at the next City Council meeting, but want to give you a heads up first. My thought is maybe we could have an ad hoc Senate Bill 9 committee in Arcata, to see if citizens can find ways to incorporate the states idea to open up housing and help young people have an opportunity for home ownership.

May I request this letter and email be included in the next agenda packet under public comments?

Thank you.

Susan Ornelas

# Arcata Population and Housing

Year	Town Population	CPH (HSU) Enrollment (FTE's)	Housing Units built by decade end
1970	8,985	5,200	Base of ~ 4,000
1980	12,850	6,700	1,500
1990	15,604	7,160	1,200
2000	16,651	6,838	700
2010	17,231	7,669	666
2021	19,114	5,739	350-900(slightly unclear)

**Currently have ~ 8,423 housing units (2020 census)**

**CA Senate Bill 9** – Took effect in Jan 2022

**Senate Bill 9** – the California Housing Opportunity and More Efficiency (HOME) Act streamlines the process for a homeowner to create a duplex or subdivide an existing lot. Any new housing created as a result of this bill must meet a specific list of qualifications that protects historic districts, preserves environmental quality and the look of communities, and prevents tenants from being displaced. This legislation will enable homeowners to create intergenerational wealth, and provides access to more rental and ownership options for working families who would otherwise be priced out of neighborhoods.

- **Provides options for homeowners to build intergenerational wealth.** SB 9 provides more options for families to maintain and build intergenerational wealth a currency we know is crucial to combatting inequity and creating social mobility. The families who own these properties could provide affordable rental opportunities for other working families who may be struggling to find a rental home in their price range, or who may be looking for their own path to home ownership.
- **Benefits homeowners NOT institutional investors.** Recent amendments require a local agency to impose an owner occupancy requirement as a condition of a homeowner receiving a ministerial lot split. This bill also prohibits the development of small subdivisions and prohibits ministerial lot splits on adjacent parcels by the same individual to prevent investor speculation. In fact, allowing for more neighborhood scale housing in California's communities actually curbs the market power of institutional investors. SB 9 prevents profiteers from evicting or displacing tenants by excluding properties where a tenant has resided in the past three years.
- **Establishes a maximum number of units.** Recent amendments clarify that this bill would allow no more than four units on what is currently a single-family parcel.
- **Preserves historic neighborhoods.** SB 9 excludes historic and landmark districts.
- **Respects local control.** Homeowners must comply with local zoning requirements when developing a duplex (height, floor area ratios, lot coverage etc.) as long as they do not physically preclude a lot split or duplex. This bill also allows locals to require a percolation test for any duplex proposed to be on septic tanks.
- **Promotes strategic infill growth.** Under this bill, the parcel must be located in a jurisdiction that is part of an urbanized area or urban cluster, as designated by the US Census. This means that it applies only to areas that meet certain population and density thresholds. It excludes the provisions of the bill being used in very high fire hazard severity zones, prime agriculture land, hazardous waste sites, earthquake zones, floodplains that do not have adequate mitigation, and others. At the end of the day, if local governments do not allow people to build homes in an area, then the bill does not apply.

## Delo Freitas

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**From:** Fred [REDACTED]  
**Sent:** Tuesday, March 28, 2023 9:55 AM  
**To:** Karen Diemer; David Loya; Scott Davies; Dan Tangney; Judith Mayer; Sarah Schaefer  
**Subject:** from Fred Weis: New Planning Commission "Framework" for meetings unfortunately violates the Brown Act

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To: City Manager Karen Deimer, Mayor Sarah Schaefer  
Community Development Director David Loya  
Planning Commission Chair Scott Davies, Vice-Chair Dan Tangney  
Planning Commissioner Judith Mayer

From: Fred Weis  
Date: March 28, 2023  
Subject: New Planning Commission "framework" for meetings unfortunately violates the Brown Act

### **Summary:**

The new "Framework" for conducting Planning Commission meetings involves "Serial Meetings." For the Commissioners to be sending their thoughts to David, and David compiling and sending the thoughts of the many Commissioners back to them, in writing, outside of public view -- that is a violation of the Brown Act open meeting laws regarding serial discussions outside of a meeting.

**There are solutions to this. Even having material posted on-line in a timely manner might be good enough.**

I'm not trying to get in the way in terms of getting things done. But procedures do have to be open to the public view.

---

I am in favor of having the Planning Commission meetings be more efficient and having it be easier to make decisions. However, it is my view that the "Framework" that is intended to be used at every Planning Commission meeting is in direct and clear violation of California's Brown Act.

The Framework is outlined the the Memorandum from Scott Davies and David Loya to the Planning Commissioners, dated March 10, 2023, and sent to to the "Long-Range Planning & Community Visioning" e-mail list on March 13. It was on the agenda and discussed extensively at the March 14 Planning Commission, but was not in the Agenda Packet for that meeting.

The Framework includes the provision that, quote:

- 1) Commissioners will provide a ranked priority list of the policies they wish to discuss by Monday 10 a.m. **in advance of the meeting.**
- 2) Staff will collate the responses to facilitate discussion and **send the compiled list out to Commissioners** by 5 p.m. Monday.

The actual days prior to a meeting that the sending of materials takes place is not important. (The day of the week was changed at the March 27 meeting.) **The point is that this interaction among the Commissioners occurs outside of a Planning Commission meeting.**

This action constitutes a "Serial Meeting" under the definition of the Brown Act. To preempt a possible question, it does not matter that the names of the Commissioners are not included on the document with the compilation that is sent to the Commissioners.

To help understand this, here are some statements from the March 14 meeting regarding this framework:

Matt Simmons March 14, 2023 1:32 on the video

**Something I like about this is that we'll see each other's thoughts before the meeting, because I think often, you know, we're all hearing each other's thoughts for the first time at a meeting.** And so it takes a little while to like understand what's being said, and come to consensus in that sense of what everyone agrees that we're talking about the same thing. And I think hopefully -- like when you gave your notes on the Land Use Element, and all that, which was really helpful -- we can all figure that out.

Scott Davies 1:32:45

And it may not always work for all of us at one time for one reason or another. And it doesn't preclude items being raised in meetings. **But to the extent that we can bring things up ahead of time, I think the idea is that it gets us into our meeting further down the road, where we've already seen each other's thoughts, have considered it, and can enter into more sort of meaningful discussions right out of the gate.**

David Loya 1:35:19

Okay, so this is an over-simplification of the process that's outlined in the memo. But I just wanted to start with this as a way for us to wrap our brains around what it is that we're doing. So it has a couple of different stages. We [the Commissioners] do some preliminary work, some work before the meeting. We've just been talking about this, including getting drafts out early, **putting our [the Commissioners'] thoughts together on paper, submitting that [the Commissioners' thoughts] to staff, staff compiling it, working from the draft policy that's in the packet, those kinds of issues. So there's pre-work [i.e. outside the Commission meetings] that will rank and organize the policies. We'll [Staff] go through a process ahead of time and get that back out [to the Commissioners] before your meeting.**

Later:

But the idea here is that we won't spend time in the meeting, discussing what we should be discussing. Instead, we'll spend our time in the meeting discussing that material.

I am including in this message (below) material from the California League of Cities on serial meetings and material from the law firm Best Best & Krieger, who write extensively about the Brown Act.

**There are solutions to this.** The Framework, as it exists, will be tried at one further Planning Commission meeting, with the topic of the Circulation Element of the General Plan, scheduled for April 11, 2023. It could be the case that it is modified after that meeting.

In the interests of expediency, and in terms of getting the Planning Commission out of what can be regarded as a stagnant situation, I personally am willing to accept some of this. But it is not entirely up to me. The Brown Act is the law. There are consequences to acting outside of the Brown Act, mainly that it exposes those

decisions -- **and recommendations** -- made while in violation of the Brown Act open to suspension, as well as the actions which took place subsequent to the violations.

As I said, there are solutions. Unfortunately, almost anything other than this current serial communication will add to the time of the meeting. I think that a slight modification to this Framework could be done, and would add perhaps 10 minutes of time to a meeting -- and maybe even less. But to do that involves following the rules.

**To conclude:** I and many citizens have been extremely vexed by the "discussions about what is needed to be discussed" that has gone on at the Planning Commission meetings over this past year. I chalk it up to the management style -- a little bit here, a little bit there, with nothing ever remotely approaching a conclusion. There is a big question as to why the General Plan was not done to completion first -- but that is part of the past now. Even one of our newest Planning Commissioners, Peter Lehman, has spoken on the folly of doing things as they are currently set.

Please get in touch with your thoughts on this.

Thank you.

-- Fred Weis

Two sources on Serial Meetings, from the Internet.  
There are dozens of articles on this. Highlighting has been added.

**From the California League of Cities**

[https://www.calcities.org/docs/default-source/city-attorneys/essential-hour-your-first-public-meeting---brown-act-basics-paper-.pdf?sfvrsn=82a6ab89\\_3](https://www.calcities.org/docs/default-source/city-attorneys/essential-hour-your-first-public-meeting---brown-act-basics-paper-.pdf?sfvrsn=82a6ab89_3)

Further, substantive staff briefings are permitted to answer questions and provide information to individual members of a legislative body

**if staff does not serve as an intermediary and communicate to members of the body the comments or positions of other members.**

The Brown Act also prohibits use of a series of communications, of any kind, among a majority of members of a legislative body, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. These are commonly referred to as serial or seriatim meetings. Unlawful seriatim meetings can occur through

- In-person contacts among a majority of members of a legislative body;
- Technological contacts (such as fax, email, text message, telephone, or social media) among a majority; or
- Contacts with a majority through staff members or others acting on behalf of the body or one of its members.

However, the ban on *seriatim* meetings does not prevent a staff member from engaging in separate conversations or communications, outside of a meeting, with members of a legislative body to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, **if the staff member does not communicate to members of the legislative body the comments or position of any other member of the legislative body.**

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Best Best & Krieger – Attorney at Law

<https://www.bbklaw.com/bbk/media/library/pdf/major-provisions-and-requirements-of-the-brown-act.pdf>

## B. Meetings

The central provision of the Brown Act requires that all “meetings” of a legislative body be open and public. The Brown Act definition of the term “meeting” (Section 54952.2) is a very broad definition that encompasses almost every gathering of a majority of Council members and includes:

“Any congregation of a majority of members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.”

In plain English, this means that a meeting is any gathering of a majority of members to hear or discuss any item of city business or potential city business.

## C. Serial Meetings

In addition to regulating all gatherings of a majority of members of a legislative body, the Brown Act also addresses some contacts between individual members of legislative bodies. On the one hand, the Brown Act specifically states that nothing in the Act is intended to impose Brown Act requirements on individual contacts or conversations between a member of a legislative body and any other person (Section 54952.2(c)(1)). However, the Brown Act also prohibits a series of such individual contacts if they result in a “serial meeting” (Section 54952.2(b)).

Section 54952.2(b)(1) prohibits a majority of members of a legislative body outside of a lawful meeting from directly or indirectly using a series of meetings to discuss, deliberate or take action on any item of business within the subject matter jurisdiction of the body. Paragraph (b)(2) expressly provides that substantive briefings of members of a legislative body by staff are permissible, as long as staff does not communicate the comments or positions of members to any other members.

**A serial meeting is a series of meetings or communications between individuals in which ideas are exchanged among a majority of a legislative body** (i.e., three council members) **through either one or more persons acting as intermediaries** or through use of a technological device (such as a telephone answering machine, or e-mail or voice mail), even though a majority of members never gather in a room at the same time.

Serial meetings commonly occur in one of two ways; either a staff member, a member of the body, or some other person individually contacts a majority of members of a body and shares ideas among the majority (“I’ve talked to Councilmembers A and B and they will vote ‘yes.’ Will you?”) or, without the involvement of a third person, member A calls member B, who then calls member C, and so on, until a majority of the body has reached a collective concurrence on a matter.

We recommend the following guidelines be followed to avoid inadvertent violation of the serial meeting rule. These rules of conduct apply **only** when a majority of a legislative body is involved in a series of contacts or communications.

The types of contacts considered include contacts with local agency staff members, constituents, developers, lobbyists and other members of the legislative body.

## 1. Contacts with staff

**Staff can inadvertently become a conduit among a majority of a legislative body in the course of providing briefings on items of local agency business.**

To avoid an illegal serial meeting through a staff briefing:

- a. **Individual briefings of a majority of members of a legislative body should be “unidirectional,”** in that information should flow from staff to the member and the member's participation should be limited to asking questions and acquiring information.

**Otherwise, multiple members could separately give staff direction thereby causing staff to shape or modify its ultimate recommendations in order to reconcile the views of the various members, resulting in an action outside a meeting.**

- b. Members should not ask staff to describe the views of other members of the body, and **staff should not volunteer views [the views of another member] if known.**
- c. Staff may present its viewpoint to the member, **but should not ask for the member's views and the member should avoid providing his or her views unless it is absolutely clear that the staff member is not discussing the matter with a quorum of the legislative body.**

These suggested rules of conduct may seem unduly restrictive and impractical, and may make acquisition of important information more difficult or time-consuming. Nevertheless, following them will help assure that your conduct comports with the Brown Act's goal of achieving open government.

From: Fred Weis  
Land Use Element notes  
March 26, 2023 – for the March 27 Planning Commission Meeting

**My comments are indented.**

**There is some highlighting, and some words in red.**

Note: All references to State Route 101 should be replaced with "US Highway 101" --  
In at least 5 locations in the Land Use Element it is "State Route 101."  
(In at least 7 locations in the Circulation Element it is "State Route 101." )  
In at least 20 locations in the Circulation Element, it is "US 101" or similar.

There are about 20 instances of typographical errors, grammatical errors, run-on sentences, clumsily-worded sentences, unclear meaning to a sentence, repetitive wording, and so on. These can be addressed separately.

## Recognition of Arcata's history

### 2.1 Introduction Page 2-1

"The early settlement of the town, initially called Uniontown, grew around a central plaza."

Change to: The early **non-indigenous** settlement that formed a town, initially called Uniontown, grew around a central plaza.

or: The early **European-American settlement** that formed a town, initially called Uniontown, grew around a central plaza.

The very next paragraph in the Land Use Element is an acknowledgement to the Wiyott tribe.

History of Arcata:        **"Kori" was the name of the Wiyot settlement that existed on the site of what would become Arcata.** The name "Arcata" comes from the Yurok term oket'oh that means "where there is a lagoon" and referred to Humboldt Bay which is a barrier lagoon. Potawot is the Wiyot name for what is now called Mad River  
<https://www.cityofarcata.org/DocumentCenter/View/114/City-of-Arcata-Historic-Context-Statement---March-2012-PDF>

Page 2-2, 2-3

Reference is made to the City's Priority Infill Opportunity Zones.  
It would be good to have a **map of the City's Priority Infill Opportunity Zones**.

Page 2-3

“... commercial areas along Valley West Boulevard, a mix of businesses along Giuntoli Lane, and surrounding nearby high-density residential and light and heavy industrial areas”

The area is zoned R-M -- it is not high-density residential.

## Ministerial Review

### **LU - 1 b Page 2-10**

Infill Opportunity Zones are intended to encourage and **streamline** infill development in these areas, based on available land and proximity to transit, services, jobs, and activity centers.

### **LU - 1 d Page 2-10**

Streamlined Review and Standards in Infill Opportunity Zones. Infill Opportunity Zones are intended to identify areas where the City plans to accommodate high density residential uses through a ministerial review process in order to facilitate housing production. In addition to creating a ministerial pathway for residential projects, applicable standards (parking ratios, height limitations, site coverage, etc.) shall be consistent with development at greater densities with a larger reliance on multi-modal transit.

Until the word "streamline" and the phrase "ministerial review" are clearly defined, they cannot be used in the General Plan.

The word and phrase have different meanings to different people, and what's more they may have different meanings in five years than they do currently. For the Planning Commission to establish their definitions is necessary. **This is NOT something that can be put off -- that the Planning Commission "can do later."**

In my view, there is no way that this General Plan could survive a legal challenge unless those phrases are clearly defined.

To use "streamlined review" and "ministerial review" without clear definitions is like saying "The terms of the divorce said that I would have to buy a house for my ex-wife." It is far too vague.

**We can note that, for us here in Arcata, the phrase "ministerial review" had a different meaning on June 28th, 2022, than it did on June 29th, 2022 -- after we were given definitions from Ben Noble that replaced the definition that we'd received from David Loya.**

## General Issue: The promise of Single-Family Home development

### **LU - 1 e Page 2-10**

Development of a diversity of housing types. The land use plan map shall provide sufficient quantities of land in the various residential use categories to allow for development of a variety of types of new housing units and residential environments. The purpose shall be to **maintain an appropriate balance between single-family housing on individual lots and multi-unit housing types.**

This General Plan is not going to “maintain an appropriate balance between single-family housing on individual lots and multi-unit housing types.” It is not going to “provide sufficient quantities of land in the various residential use categories.”

## Craftsman's Mall / St. Louis Opportunity Zone

### **Page 2-5**

The Craftsman's Mall/St. Louis Road Opportunity Zone includes roughly forty-one acres near the geographic center of the urbanized portions of the City and Cal Poly Humboldt. The average parcel size is 0.7 ac or 29,145.7 sq ft, and the Craftsman's Mall property, which has the highest immediate potential for redevelopment is owned by Cal Poly Humboldt. This area is near Cal Poly's campus and is an ideal location for high density housing. It is surrounded by lower density residential zoning districts. The area also includes existing industrial uses.

This should be re-worded to reflect current reality. The available Opportunity Zone is no longer 41 acres.

An "average" parcel size is a meaningless figure. A smaller number are large parcels. A larger number are SFR low-density smaller parcels.

In calculating the average, my guess is that it includes the 8.5 acres for the new dorms -- that has already been spoken for, and thus is no longer available as an Opportunity. An honest assessment would identify the possible high density building sites.

There are 32 parcels (that figure may be off by 1 or 2) that have access on Eye Street or Todd Court, coming from the south, off of Grant Street. These parcels have little in common with the parcels that have access from St. Louis Road.

In my view, the Opportunity Zone here is -- or was -- the larger parcels coming from St. Louis Road.

In my view, the southern section of this 2019-designated Opportunity Zone is no more an opportunity zone than many areas of Arcata that are near commercial or re-developed parcels. If you're going to re-zone this area from low-density to high-density, perhaps we would want to explore re-zoning Northtown / Arcata Heights, East Arcata / Bayview, and sections of Westwood from low-density to high-density also – because the same logic would apply.

And hear public input from residents of those neighborhoods.

Page 2-8

G. Maintain community facilities such as schools, community centers, parks and recreation areas, and other civic uses and ensure they are equitably distributed and located in areas that are accessible to all segments of the community.

This is a tough one -- because the facilities mentioned are not "equitably distributed" -- and the City cannot "ensure" that they are. (Also, "civic uses" is not a facility.)

If the Gateway element talks about adding 3500 housing units -- or even adding 500 -- then schools, parks, community centers would no longer be equitably distributed.

Perhaps re-word as something similar to:

"Support existing community facilities -- including schools, community centers, parks and recreation areas, and other civic facilities -- and encourage new community facilities so that they are equitably distributed and located in areas that are accessible to all segments of the community."

Page 2-8

B. Establish and maintain a greenbelt around the City that consists of agricultural, forest, and natural resource lands; in order to focusing future developing in infill areas, as opposed to annexation of these lands.

**Natural resource lands could be annexed and still kept as natural resource.** Re-word to say what you mean.

Preserve, as productive natural resources areas, the open agricultural lands in the Arcata Bottom, the forests on the eastern hillsides, and aquaculture in Arcata Bay.

Suggest: Remove the word "productive."

Whether a natural resource area is productive has nothing to do with its preservation.

Page 2-8

C. Allow for a range of housing choices **that includes affordable dwellings for community residents, accommodates families as well as individuals and groups, and varies in size and type to reflect the diverse character of the community** and to provide equitable access to opportunities and resources in all of Arcata's neighborhoods.

If this is a Guiding Principle that is wanted to be included in the Land Use Element, then these words will be difficult to justify in the future, and could result in a lawsuit.

**In my view, it is an impossible goal, and should be recognized as that.**

It's the Commission's choice about how to word this and whether to include it -- but we can recognize the possibility of being sued from those people who view this as a promise -- even though the operative word is "Allow" and is not, say, "Ensure."

**Further, it could be argued that the City is effectively creating conditions that will do just the opposite of this.**

I would recommend removing Guiding Principle C -- unless you think you can back it up.

Page 2-8

H: Encourage infill development of vacant, brownfield, and underutilized land designated for development as a way of meeting housing and employment needs without major extensions of infrastructure and services. .... **Ensure displacement and affordability issues** related to the City's infill strategy are addressed.

I would break this sentence away from "Encourage infill development of vacant, brownfield, and underutilized land " etc. and give it its own list item.

Again, we have the issue with the word "Ensure." "Ensure" means "make certain that (something) shall occur."

There is no way in the world that Arcata can "ensure" that the affordability issues related to the City's infill strategies are addressed.

Seeing as the City cannot "ensure" this, any polite wording becomes duplicitous -- false.

**Perhaps: "Incorporate and promote available methods to assist with displacement and affordability issues as is possible."**

Page 2-8

I. Permit vertical and/or horizontal mixed-use development close to clusters of activity and at major transportation crossroads where they can take advantage of higher levels of access.

**Remove the words "vertical and/or horizontal "** -- there is vertical development and there is horizontal development. If you're promoting one or the other or both, then there's no need to make a distinction.

What is meant by "major transportation crossroads"? 101 and 299? 101 and Samoa Blvd.?

"Permit" -- as in "Permit mixed-use development" -- is a very weak word. Isn't mixed-use development permitted everywhere, just about?

Do you want to say "**Promote** mixed-use development close to clusters of activity...."?

Page 2-8

J. has been removed. "Promote racial equity, diversity, and accessibility in all City land uses."

Why is this removed? Not worded well? It is similar to A.

## 2.2 Policies

### LU - 1 Page 2-10

Objective. Establish a pattern of development that concentrates activity and amenities in a pattern of centers, clusters and mixes of uses to support the City's focus on infill development and active transportation. Provide an overall land use arrangement that concentrates city-wide uses and functions in these areas with an emphasis on areas within walking distance of the central Plaza Area, Cal Poly Humboldt, and existing neighborhood and employment centers which provide a mix of commercial services, residential uses, and community facilities.

**I'm not at all clear what is being said here. To me, it is vague and non-communicative.**

Concentrate "city-wide uses and functions" in areas -- but they are city-wide so how do you concentrate that?

Concentrate activity and amenities in a pattern of "mixes of uses"? What does that mean?

**How about something like:**

Objective. Establish development that concentrates activity in centers that support the City's focus on infill development and active transportation. Provide an overall land use arrangement that concentrates functions in these areas with an emphasis on areas within walking distance of the central Plaza area, Cal Poly Humboldt, and existing neighborhood and employment centers, to create a mix of commercial services, residential uses, and community facilities.

**LU - 1 a** Page 2-10

Their productive, open space, and natural resource values are important to the community and shall be preserved.

It is impossible to preserve productivity or to insist on it. Suggest remove the word "productive."

**LU - 1 b** Page 2-10

The City encourages appropriate redevelopment of certain parcels of land that are either underutilized, **brownfields**, or vacant, but **surrounded by existing urban development**.

Definition of brownfields: A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

**Unless there is a good reason, I would omit "brownfields." Just say "underutilized or vacant."**

The parcels may not be "surrounded" by existing urban development. They may be just touching other parcels -- that is, at the edge of the urban services boundary.

Make the sentences simpler.

Perhaps:

**The City encourages appropriate redevelopment of parcels of land that may be underutilized or vacant and within or near to existing urban development.**

**LU - 1 c** Page 2-10

Prioritization of transit and active transportation. Reduce or eliminate minimum parking requirements in areas where transit and active transportation is planned to support the transportation needs of the community, including neighborhoods where biking infrastructure, trails, complete streets, and transit is or is planned to be accessible.

Do what you want on this one. Legally it is a very weak premise to say that you are taking an action because of something that is planned to take place.

If you want, you can simplify and just say something like:

"Reduce or eliminate minimum parking requirements to promote use of public transit, the use of bicycles and other non-motorized vehicles, and walking."

**2.3 Implementation Measures Page 2-31**

**LU-4 Pedestrian-friendly activity centers**

Update zoning to improve the walkability of commercial activity centers using such strategies as:

Update land use plan and zoning to concentrate retail land use designations in areas that are less than  $\frac{1}{2}$  mile across, and ideally along a single street that is less than 1000 feet from end to end. • Require maximum pedestrian block sizes of less than 1,600 or 2,000 feet in primary areas of activity.

What does this refer to – Pedestrian block sizes less than 1,600 or 2,000 feet?

To put this into perspective – From F Street to the entrance door of Safeway is 400 feet. The entire length of Valley West shopping center is under 800 feet. From 9th Street to 14th Street is 1500 feet. The entire length of the Barrel District along Samoa Boulevard is 1500 feet.

**Where is it that we have to regulate a pedestrian block size of 1,600 or 2,000 feet?**

And why would we want a block of that size? A pedestrian-friendly block is 250 or 300 feet or so.

**2.3 Implementation Measures Page 2-32**

**LU-7 Affordable Housing**

**Include inclusionary zoning measures and/or incentives in the next update of the Housing Element.**

In the draft Land Use Element, this is removed. (There is a strike-through on all of it.)

**Why ?** Does it still have to be implemented in the Housing Element?

What does that mean – the “next update” of the Housing Element?

It can be seen at LU-2b.

### **Policy LU-2 Residential Land Use**

**Objective.** Allow for a mix of housing types and densities to ensure residents at all ages and abilities have safe, healthy, and affordable homes that meet their physical, social, and economic needs through housing production, preservation, and conversion that is compatible with established and planned neighborhood design elements.

1. With “mix of housing types” defined in the usual way, the Gateway Plan does not allow for a mix of housing types and densities.
2. **The City cannot possibly “ensure” that residents will have “affordable homes” that meet their “economic needs.”**  
The definition of “ensure”: **make certain that something shall occur** or be the case.
3. It has been suggested by members of the senior community that for them to have a “safe” home that meets their “physical, social” needs, they will have to have a car and a parking space.
4. **What do you want to do? Leave this paragraph phrased as-is? Re-word it? Eliminate it entirely?**

For the record: The phrases “with new and converted housing designed to be **compatible with the established neighborhood character**” and “**that is compatible with established and planned neighborhood character**” have been discarded.

#### **LU-2a Residential Land Use Classifications.**

##### **Residential – Low Density [R-L].**

Small change. Where it says “Under current state land use and planning law...” –

Suggest putting in the date, as: “Under current **(2023)** State land use and planning law...”

Those law may change and change again during the time of the 2045 General Plan.  
Also, capitalizing State.

##### **Residential High Density [R-H]**

High density residential uses are designated in central Arcata and other areas to allow multi-family housing located in proximity to commercial and employment uses, public services, schools, and parks.

**Suggest removing “in central Arcata and other areas”**

Because R-H is all over the place.

Such as: “High density residential uses are designated to allow multi-family housing located in proximity to commercial and employment uses, public services, schools, and parks.”

### **LU-2b Diversity and choice in residential environments.**

The City shall encourage residential developments which that collectively provide a variety of choices for housing consumers in terms of types of units, location, unit sizes, costs, design, amount of privacy, and neighborhood environment. Inclusionary measures shall be provided for affordable housing. To encourage this, the City will implement inclusionary zoning in higher density developments and provide incentives to developers to include low and moderate income housing units in their proposals.

Why inclusionary zoning only in higher density developments? What is the objective standard of a “higher density development”?

Why not remove “in higher density developments” ?

“To encourage this, the City will implement inclusionary zoning and provide incentives to developers to include low and moderate income housing units in their proposals.”

**See: Policy LU-2 Residential Land Use, above.**

LU-2b says: “The City shall encourage... a variety of choices for housing consumers in terms of types of units, location, unit sizes, costs, design....”

**The City cannot possibly provide “a variety of choices” as outlined here.**

**Why pretend that the City can?**

### **LU-2c Planned Development – residential**

The purpose of a Planned Development shall be to: incorporate a mix of residential types, unit sizes, affordability levels, and styles in a coordinated manner; to allow clustering of units; to provide larger, more usable areas of common open space; and to protect natural resources or site features, such as creekside riparian areas, wetlands, and significant vegetation such as trees to incorporate health-promoting design.

Based on our experience with the “Westwood Gardens Apartments” Planned Development in September-October, 2022, it does not appear that there is any change in LU-2C that would prevent that from happening again. In actuality, the addition of requiring “affordability levels” and “to incorporate health-promoting design” seems like that would squash any Planned Development instantly.

Change this? Or leave it in its impossible-to-satisfy state?

### **Policy LU-3 Commercial Land Use**

**Objective.** Grow a pattern of activity centers that meet the daily needs of the community and visitors and with a variety of retail goods, food, and services that are convenient, safe, accessible **and affordable to all.**

“with a variety of retail goods, food, and services that are ...**affordable to all.** “

Affordable to all? Can't be done. Impossible.

Choices are to re-phrase this, or live in a world of make-believe.

### **Policy LU-4 Industrial Land Use**

**Objective.** Provide for a variety of industrial uses ~~which~~ that will retain and generate living wage jobs, including labor-intensive manufacturing, processing, assembly, warehousing, services, and complementary non-industrial uses, in appropriate locations. Build on the City's 50-year history of supporting industrial jobs, businesses, and product generation by supporting new and existing users in identified industrial nodes.

“the City's **50-year history** of supporting industrial jobs”?

Fifty years = 1973. Doesn't Arcata have a 150-year-history of supporting industrial jobs?  
What does “the City's 50-year history of supporting industrial jobs” mean or refer to?

## Important consideration -- Sea Level Rise issues on South G Street

**Is the City promoting development in the South G Street area?**

**See also: LU1-m Page 2-14**

**And simultaneously discussing moving people and business out of the South G Street area?**

### **LU-4a Industrial uses.**

The following land use designations are applicable to industrial lands. **Table LU-6** defines permitted uses, densities, lot sizes, and coverages for each classification.

The major I-L areas are the ~~West Samoa Boulevard Employment Center, and the portion of the West End Employment Center (near the State Route 299/Giuntoli Lane interchange and including the Aldergrove Industrial Park and Happy Valley; and areas south of Samoa Blvd. including Little Lake and along south G Street)~~, the area west of “K” Street, South “G” Street, and South “I” Street. These ~~two~~ industrial areas **will be the primary focus of industrial and mixed-industrial development and investment during the timeframe of this General Plan.**

Typo note: Should have a closing parenthesis at “Happy Valley) and areas....”

**LU-4b Little Lake.**

~~Development of a new industrial “business park” at the site of the~~ **The former Little Lake Industries lumber mill on South “I” Street shall [be] developed for industrial or business park uses. ~~be a priority of the City.~~ The site shall be planned as a mixed-use development including passive recreational uses and regional dog park. Development shall be consistent with the adopted Long Range Property Management Plan.**

Typo note: Missing the word “be”

**LU-6d Uses allowed in diked/reclaimed former tidelands.** Page 2-30

Allowable uses and development in grazed or farmed **diked former tidelands** wetlands are limited to uses compatible with the Public Trust. These uses are summarized below:

1. Agricultural operations limited to accessory structures, apiaries, field and truck crops, livestock raising, greenhouses (provided they are not located on slab foundations and crops are grown in the existing soil on site), and orchards.
2. Farm-related structures, including barns, sheds, and farmer-occupied housing, necessary for the performance of agricultural operations. Such structures may be located on an **existing grazed or farmed wetland parcel** only if no alternative upland location is available for such purpose and the structures are sited and designed to minimize adverse environmental effects on Public Trust resources and uses. No more than one primary and one secondary residential unit shall be allowed per parcel.

Note: Language in (2) should be consistent with “diked former tidelands”

Without a map of what the “diked former tidelands” – this is ambiguous.  
I have a map of the diked former tidelands, supplied by Aldaron Laird.

This can be left as-is, but it is weak.

**LU-5c Limitation of corporation yard expansion.**

Development of the City corporation yard facilities shall be restricted to its existing boundaries.

Suggest put in the location or address – as this could possibly change during the life of General Plan 2045.

Such as: “Development of the City corporation yard facilities **at its current [2023] 600 South G Street location....**”

## Mad River Hospital Area

### Table LU-5 Specific Considerations for Certain Public Facility Areas

Page 2-27

Area: Mad River Hospital Area APN's 507-191-033, 507-191-076, 507-291-032 & 507-191-077

Specific Consideration: "Hospital development on APN's 507-191-077 and 507-291-032, ~~in conjunction with an overall~~ shall be developed consistent with the Master Site Plan adopted in 2011."

**A reference as to what the "Master Site Plan adopted in 2011" is required.**

The text of what has been struck out on Page 2-27 includes "If a Master Site Plan for the Mad River Hospital Area is not approved by the year 2020...." – so we know that the Master Site Plan is something other than that.

The Area lists four parcels. The Specific Consideration speaks to just two parcels. What about the other two parcels?

I have found a one-page diagram dating from 2011 of a Mad River Hospital Master Site Plan, from the engineering consultant LACO. I have at this time found no record of the adoption of a 2011 Master Site Plan. The Community Development Department would have these documents.

The Arcata General Plan 2020 and the Land Use Element are very specific as to open space and other environmental requirements for the Mad River Hospital parcels. These requirements appear to have been substantially altered in 2011.

**The 2011 Master Plan shows 712 parking spaces.**

This includes 75 parking spaces for a 60 to 75 room Assisted Living facility, and 109 spaces for a 95 to 100 room Assisted Living facility.

The one-page LACO diagram is general, and has no mention of permeability requirements or other environmental concerns.

**The Planning Commission should look into this and see if the 2011 Master Plan is acceptable for the future.** Arcata's vision for the next 20 years includes less parking.

## Delo Freitas

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**From:** Fred [REDACTED]  
**Sent:** Tuesday, March 28, 2023 9:55 AM  
**To:** Karen Diemer; David Loya; Scott Davies; Dan Tangney; Judith Mayer; Sarah Schaefer  
**Subject:** from Fred Weis: New Planning Commission "Framework" for meetings unfortunately violates the Brown Act

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: City Manager Karen Deimer, Mayor Sarah Schaefer  
Community Development Director David Loya  
Planning Commission Chair Scott Davies, Vice-Chair Dan Tangney  
Planning Commissioner Judith Mayer

From: Fred Weis  
Date: March 28, 2023  
Subject: New Planning Commission "framework" for meetings unfortunately violates the Brown Act

### **Summary:**

The new "Framework" for conducting Planning Commission meetings involves "Serial Meetings." For the Commissioners to be sending their thoughts to David, and David compiling and sending the thoughts of the many Commissioners back to them, in writing, outside of public view -- that is a violation of the Brown Act open meeting laws regarding serial discussions outside of a meeting.

**There are solutions to this. Even having material posted on-line in a timely manner might be good enough.**

I'm not trying to get in the way in terms of getting things done. But procedures do have to be open to the public view.

---

I am in favor of having the Planning Commission meetings be more efficient and having it be easier to make decisions. However, it is my view that the "Framework" that is intended to be used at every Planning Commission meeting is in direct and clear violation of California's Brown Act.

The Framework is outlined the the Memorandum from Scott Davies and David Loya to the Planning Commissioners, dated March 10, 2023, and sent to to the "Long-Range Planning & Community Visioning" e-mail list on March 13. It was on the agenda and discussed extensively at the March 14 Planning Commission, but was not in the Agenda Packet for that meeting.

The Framework includes the provision that, quote:

- 1) Commissioners will provide a ranked priority list of the policies they wish to discuss by Monday 10 a.m. **in advance of the meeting.**
- 2) Staff will collate the responses to facilitate discussion and **send the compiled list out to Commissioners** by 5 p.m. Monday.

The actual days prior to a meeting that the sending of materials takes place is not important. (The day of the week was changed at the March 27 meeting.) **The point is that this interaction among the Commissioners occurs outside of a Planning Commission meeting.**

This action constitutes a "Serial Meeting" under the definition of the Brown Act. To preempt a possible question, it does not matter that the names of the Commissioners are not included on the document with the compilation that is sent to the Commissioners.

To help understand this, here are some statements from the March 14 meeting regarding this framework:

Matt Simmons March 14, 2023 1:32 on the video

**Something I like about this is that we'll see each other's thoughts before the meeting, because I think often, you know, we're all hearing each other's thoughts for the first time at a meeting.** And so it takes a little while to like understand what's being said, and come to consensus in that sense of what everyone agrees that we're talking about the same thing. And I think hopefully -- like when you gave your notes on the Land Use Element, and all that, which was really helpful -- we can all figure that out.

Scott Davies 1:32:45

And it may not always work for all of us at one time for one reason or another. And it doesn't preclude items being raised in meetings. **But to the extent that we can bring things up ahead of time, I think the idea is that it gets us into our meeting further down the road, where we've already seen each other's thoughts, have considered it, and can enter into more sort of meaningful discussions right out of the gate.**

David Loya 1:35:19

Okay, so this is an over-simplification of the process that's outlined in the memo. But I just wanted to start with this as a way for us to wrap our brains around what it is that we're doing. So it has a couple of different stages. We [the Commissioners] do some preliminary work, some work before the meeting. We've just been talking about this, including getting drafts out early, **putting our [the Commissioners'] thoughts together on paper, submitting that [the Commissioners' thoughts] to staff, staff compiling it, working from the draft policy that's in the packet, those kinds of issues. So there's pre-work [i.e. outside the Commission meetings] that will rank and organize the policies. We'll [Staff] go through a process ahead of time and get that back out [to the Commissioners] before your meeting.**

Later:

But the idea here is that we won't spend time in the meeting, discussing what we should be discussing. Instead, we'll spend our time in the meeting discussing that material.

I am including in this message (below) material from the California League of Cities on serial meetings and material from the law firm Best Best & Krieger, who write extensively about the Brown Act.

**There are solutions to this.** The Framework, as it exists, will be tried at one further Planning Commission meeting, with the topic of the Circulation Element of the General Plan, scheduled for April 11, 2023. It could be the case that it is modified after that meeting.

In the interests of expediency, and in terms of getting the Planning Commission out of what can be regarded as a stagnant situation, I personally am willing to accept some of this. But it is not entirely up to me. The Brown Act is the law. There are consequences to acting outside of the Brown Act, mainly that it exposes those

decisions -- **and recommendations** -- made while in violation of the Brown Act open to suspension, as well as the actions which took place subsequent to the violations.

As I said, there are solutions. Unfortunately, almost anything other than this current serial communication will add to the time of the meeting. I think that a slight modification to this Framework could be done, and would add perhaps 10 minutes of time to a meeting -- and maybe even less. But to do that involves following the rules.

**To conclude:** I and many citizens have been extremely vexed by the "discussions about what is needed to be discussed" that has gone on at the Planning Commission meetings over this past year. I chalk it up to the management style -- a little bit here, a little bit there, with nothing ever remotely approaching a conclusion. There is a big question as to why the General Plan was not done to completion first -- but that is part of the past now. Even one of our newest Planning Commissioners, Peter Lehman, has spoken on the folly of doing things as they are currently set.

Please get in touch with your thoughts on this.

Thank you.

-- Fred Weis

Two sources on Serial Meetings, from the Internet.  
There are dozens of articles on this. Highlighting has been added.

**From the California League of Cities**

[https://www.calcities.org/docs/default-source/city-attorneys/essential-hour-your-first-public-meeting---brown-act-basics-paper-.pdf?sfvrsn=82a6ab89\\_3](https://www.calcities.org/docs/default-source/city-attorneys/essential-hour-your-first-public-meeting---brown-act-basics-paper-.pdf?sfvrsn=82a6ab89_3)

Further, substantive staff briefings are permitted to answer questions and provide information to individual members of a legislative body

**if staff does not serve as an intermediary and communicate to members of the body the comments or positions of other members.**

The Brown Act also prohibits use of a series of communications, of any kind, among a majority of members of a legislative body, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. These are commonly referred to as serial or seriatim meetings. Unlawful seriatim meetings can occur through

- In-person contacts among a majority of members of a legislative body;
- Technological contacts (such as fax, email, text message, telephone, or social media) among a majority; or
- Contacts with a majority through staff members or others acting on behalf of the body or one of its members.

However, the ban on *seriatim* meetings does not prevent a staff member from engaging in separate conversations or communications, outside of a meeting, with members of a legislative body to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, **if the staff member does not communicate to members of the legislative body the comments or position of any other member of the legislative body.**

---

Best Best & Krieger – Attorney at Law

<https://www.bbklaw.com/bbk/media/library/pdf/major-provisions-and-requirements-of-the-brown-act.pdf>

## B. Meetings

The central provision of the Brown Act requires that all “meetings” of a legislative body be open and public. The Brown Act definition of the term “meeting” (Section 54952.2) is a very broad definition that encompasses almost every gathering of a majority of Council members and includes:

“Any congregation of a majority of members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.”

In plain English, this means that a meeting is any gathering of a majority of members to hear or discuss any item of city business or potential city business.

## C. Serial Meetings

In addition to regulating all gatherings of a majority of members of a legislative body, the Brown Act also addresses some contacts between individual members of legislative bodies. On the one hand, the Brown Act specifically states that nothing in the Act is intended to impose Brown Act requirements on individual contacts or conversations between a member of a legislative body and any other person (Section 54952.2(c)(1)). However, the Brown Act also prohibits a series of such individual contacts if they result in a “serial meeting” (Section 54952.2(b)).

Section 54952.2(b)(1) prohibits a majority of members of a legislative body outside of a lawful meeting from directly or indirectly using a series of meetings to discuss, deliberate or take action on any item of business within the subject matter jurisdiction of the body. Paragraph (b)(2) expressly provides that substantive briefings of members of a legislative body by staff are permissible, as long as staff does not communicate the comments or positions of members to any other members.

**A serial meeting is a series of meetings or communications between individuals in which ideas are exchanged among a majority of a legislative body** (i.e., three council members) **through either one or more persons acting as intermediaries** or through use of a technological device (such as a telephone answering machine, or e-mail or voice mail), even though a majority of members never gather in a room at the same time.

Serial meetings commonly occur in one of two ways; either a staff member, a member of the body, or some other person individually contacts a majority of members of a body and shares ideas among the majority (“I’ve talked to Councilmembers A and B and they will vote ‘yes.’ Will you?”) or, without the involvement of a third person, member A calls member B, who then calls member C, and so on, until a majority of the body has reached a collective concurrence on a matter.

We recommend the following guidelines be followed to avoid inadvertent violation of the serial meeting rule. These rules of conduct apply **only** when a majority of a legislative body is involved in a series of contacts or communications.

The types of contacts considered include contacts with local agency staff members, constituents, developers, lobbyists and other members of the legislative body.

## 1. Contacts with staff

**Staff can inadvertently become a conduit among a majority of a legislative body in the course of providing briefings on items of local agency business.**

To avoid an illegal serial meeting through a staff briefing:

- a. **Individual briefings of a majority of members of a legislative body should be “unidirectional,”** in that information should flow from staff to the member and the member's participation should be limited to asking questions and acquiring information.

**Otherwise, multiple members could separately give staff direction thereby causing staff to shape or modify its ultimate recommendations in order to reconcile the views of the various members, resulting in an action outside a meeting.**

- b. Members should not ask staff to describe the views of other members of the body, and **staff should not volunteer views [the views of another member] if known.**
- c. Staff may present its viewpoint to the member, **but should not ask for the member's views and the member should avoid providing his or her views unless it is absolutely clear that the staff member is not discussing the matter with a quorum of the legislative body.**

These suggested rules of conduct may seem unduly restrictive and impractical, and may make acquisition of important information more difficult or time-consuming. Nevertheless, following them will help assure that your conduct comports with the Brown Act's goal of achieving open government.

## Delo Freitas

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**From:** janepwoodward [REDACTED]  
**Sent:** Monday, March 27, 2023 4:10 PM  
**To:** Peter Lehman; Scott Davies; Christian Figueroa; Judith Mayer; Dan Tangney; Matthew Simmons; David Loya  
**Subject:** Public comment on Land Use Plan  
**Attachments:** PUBLIC COMMENT RE LAND USE PLAN FOR MARCH 27 2023 PC.docx

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Attached are my public comments on the Land Use Plan elements. Also included here:

### **PUBLIC COMMENT RE LAND USE PLAN FOR MARCH 27, 2023 PLANNING COMMISSION MEETING**

First, I want to note that I agree with most of the comments included in the additional comments published this morning, presumably drafted by Judith Mayer, the only experienced Land Use Planning expert on the Planning Commission and who takes the time to thoroughly examine the draft provisions and make suggestions for improvement. Are you listening to her?

In particular, I want to note problems with the current plan on P. 25, which states as follows:

LU-1d Streamlined Review and Standards in Infill Opportunity Zones. As described in the City's 6th Cycle Housing Element, Priority Infill Opportunity Zones are intended to identify areas where the City plans to accommodate high density residential uses through a ministerial review process in order to facilitate housing production. In addition to creating a ministerial pathway for residential projects, applicable standards (parking ratios, height limitations, site coverage, etc.) shall be modified to allow consistent with development at greater densities with a larger reliance on multi-modal transit.

First, the final sentence makes no sense unless the word "consistent" is meant to be "consistency." Secondly, there has still been no clarification of what is meant by "a ministerial review process" and "a ministerial pathway for residential projects." Before anyone signs onto this particular provision, this needs to be clarified. Which of the 3 streamlining models are we talking about here: Option #1: review simply by the Community Development Director, Option 3 review by the Planning Commission, or Option 3? Or are we talking about "by right approval?"

Please make clear what is being discussed before approving this particular provision.

Finally, I think it is very short-sighted and negligent to propose high density housing in areas that are going to be inundated by sea level rise within 30-50 years, regardless of their location within Arcata. We don't need to build in future flood zones.

Move such plans to higher elevations and don't invest in short-term solutions.

Thank you. Jane Woodward

**From:** [janepwoodward](#)  
**To:** [David Loya](#); [Karen Diemer](#)  
**Subject:** Fwd: Public Comment for March 27 Planning Commission meeting  
**Date:** Monday, March 27, 2023 9:55:45 AM  
**Attachments:** [PUBLIC COMMENT FOR MARCH 27 2023 PC R.docx](#)

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I appear to have failed to attach the comments.

Please confirm receipt. Thank you.

Jane

-----Original Message-----

From: janepwoodward [REDACTED]  
To: dloya@cityofarcata.org <[dloya@cityofarcata.org](mailto:dloya@cityofarcata.org)>; kdiemer@cityofarcata.org  
<[kdiemer@cityofarcata.org](mailto:kdiemer@cityofarcata.org)>  
Sent: Sun, Mar 26, 2023 7:08 pm  
Subject: Public Comment for March 27 Planning Commission meeting

Hello David and Karen,

Please send these comments to the Planning Commission members Monday morning & include them in the public record so they can be considered assuming they get to discussion of the Circulation Element as mentioned in the agenda... I plan to discuss them during oral communications on the assumption that PlanCo will not get to the Circulation element, but it's unclear to me at this time, although apparently it will not be discussed

Thank you! Happy Monday! It's going to be a very busy week!

Jane

**PUBLIC COMMENT FOR MARCH 27, 2023 PLANNING COMMISSION MEETING**

Good evening. I have several comments regarding tonight's Planning Commission meeting:

- 1) As I requested at the Feb 28 meeting, in order to address the L street choices, I think it is necessary to lay out a visual representation of what L Street would look like either as a one-way street, or as a linear park with surrounding building options. I think that would make it easier for both the PC and the public to visualize each option and make an informed decision. None of the current 3 options presented about L Street accurately presents the Transportation Safety Committee's actual recommendations. Why hasn't the City done this alternative plan or had a thorough discussion of L Street as a linear park? Why are the Transportation Safety Committee's recommendations ignored? Will you give the committee's chair Dave Ryan an opportunity to present their recommendations in person to the Commission? Why is the 2010 L Street Vision report not being discussed?
- 2) I don't believe that the City owns all the property required to create L Street as a one-way street, and has stated that it doesn't plan to use eminent domain in the area. How does the City plan to address this issue?
- 3) The Great Redwood Trail Authority now has jurisdiction over the railroad's right of way. Have they been consulted in terms of making L Street a one-way street? Isn't that an important thing to do?
- 4) It is a goal of the City to make the Gateway Area bike and pedestrian friendly. Why not take advantage of an existing linear path and develop it into a public park to be used by bicyclists and pedestrians as an alternative to using K Street? It goes throughout the Gateway area. Why are we proposing there will be lots of additional traffic on K Street if we're encouraging and planning for less vehicle traffic? If bicycle and pedestrian traffic is directed toward L Street, major space for it can be removed from K Street.

Thank you. Jane Woodward