

Exhibit B: Findings Responding to Letter from Department of Housing and Community Development Dated October 17, 2022

HCD COMMENT	COUNTY FINDINGS
<p><u>A.1. Outreach and Enforcement</u>: While the element includes an extensive discussion of outreach and enforcement capacity, it should also discuss how the County complies with state and federal fair housing laws, including regulations, lawsuits, and related enforcement actions. For more information, see page 29 of HCD’s Affirmatively Furthering Fair Housing Guidance Memo at <a href="https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing">https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing</a>.</p>	<p>Appendix D: D-2: additional information on how the County complies with state and federal fair housing laws included.</p>
<p><u>A.1. Concentrated Areas of Poverty and Concentrated Areas of Affluence</u>: The element identifies areas of concentrated poverty, high segregation and poverty and concentrated areas of affluence but should include specific analysis of these areas to guide an appropriate policy response. The analysis should at least address evaluating trends, conditions, comparisons to other neighborhoods, effectiveness or absence of past strategies, local data and knowledge and other relevant factors related to equitable quality of life. The element must add or modify programs based on the outcomes of this analysis.</p>	<p>Appendix D: D 69-73: includes additional analysis on areas of concentrated poverty, high segregation and poverty, and concentrated areas of affluence.</p> <p>Section 5, page 253-260 (AFFH Matrix): updated based on this analysis.</p>
<p><u>A.1. Disproportionate Housing Needs including Displacement Risk</u>: The element includes some discussion of persons experiencing homelessness, like reporting characteristics such as race and disability. However, the element should also analyze the disproportionate impact on protected characteristics and evaluate patterns or concentrations of persons experiencing homelessness including proximity to transportation and services.</p>	<p>Appendix D: D 127-130 describes demographics of persons experiencing homeless, including protected classes.</p>
<p><u>A.1. Other Relevant Factors</u>: The element provides some historical context for some areas such as Marin City; however, the element should utilize other relevant factors to complement state and federal data and complete an analysis of fair housing conditions. Other relevant factors could include historical land use, zoning and barriers to housing choices, investment practices, seeking investment or lack of seeking investment to promote affordability and inclusion, information about redlining/greenlining, restrictive covenants and other discriminatory</p>	<p>Appendix D added local historical information on page D-69 and D-70, describing how local zoning has contributed to patterns of segregation. The County also conducted a Deed Justice project to identify properties with racially restrictive covenants.</p>

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<p>practices, land use related lawsuits, local initiatives, demographic trends or other information that complements the state and federal data.</p>	
<p><u>A.2. Extremely Low-Income (ELI) Households:</u> While the element quantifies existing and projected ELI households, it must also analyze their housing needs. Specifically, analysis of ELI housing needs could consider tenure, overpayment, magnitude of needs, resources and strategies and gaps in meeting those housing needs and then add or modify programs as appropriate.</p>	<p>Section 2, page 87: includes analysis of housing tenure, overpayment and magnitude of needs. Programs, such as program 31 (Tenant Protection Strategies), are included to address the needs of ELI households, who are predominantly renter-occupied, and cost burdened.</p>
<p><u>A.3. Housing Conditions:</u> The element identifies the age of the housing stock (p. C-118). However, it must estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable sources such as the housing authority or Environmental Health Services (p. 37). For additional information, see the Building Blocks at <a href="http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml">http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml</a></p>	<p>Section 2, page 37: expanded to include windshield survey; inspections by Environmental Health Division; and Marin Housing Authority.</p>
<p><u>A.4. Realistic Capacity:</u> While the element mentions residential capacity assumptions are conservative and one recent project example, it should list other recent examples by zone, allowable density, built density and affordability to better support realistic residential capacity assumptions. In addition, the calculation of residential capacity should also account for the likelihood of 100 percent nonresidential development. For example, the element could analyze all development activity in nonresidential zones allowing 100 percent nonresidential uses, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. This analysis may incorporate any proposed policies such as residential performance standards, prohibition of commercial uses and should clarify that all zones allow residential uses, particularly 100 percent residential uses.</p>	<p>Section 4, page 206: includes statement that 100% residential use is allowed in the RMPC zone. See Exhibit D Countywide Plan Land Use Policies allowing residential densities and separate FARs for commercial on mixed use sites.</p>
<p><u>A.4. Suitability of Nonvacant Sites:</u> The element must demonstrate the potential for additional development on nonvacant sites. The element generally lists three</p>	<p>Appendix C, page C-2: includes additional criteria.</p>

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<p>types of nonvacant sites: (1) underutilized residential sites, (2) underutilized nonresidential sites and (3) publicly owned sites (e.g., County, State and School). For underutilized residential and nonresidential sites, the element should consider additional factors (e.g., existing versus allowable number of units or floor area, property owner interest, structure conditions, vacancies) and include a discussion of recent trends to support the various factors.</p>	
<p>For publicly owned sites, the analysis should address allowable densities, support for residential capacity assumptions, existing uses, any known conditions that preclude or could promote development in the planning period, status, and potential schedule for development.</p>	<p>Appendix C, added to site suitability criteria.</p>
<p>Based on this analysis, the element should add or modify programs. Programs should include a schedule of actions to facilitate development in the planning period in stride with assumptions in the inventory such as numerical objectives, compliance with the Surplus Land Act, outreach with developers or property owners, removing barriers to development, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.</p>	<p>Section 5, more details/timeline added to programs 1, 2, 3, 4, 11, 15.</p>
<p>In addition, if relying upon nonvacant sites to accommodate more than 50 percent of the regional housing need allocation (RHNA) for lower income households, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the regional housing need allocation.</p>	<p>Appendix C has been expanded to demonstrate that existing uses are not an impediment to additional residential development. The Board of Supervisors’ resolution adopting the Housing Element contains the required finding.</p>
<p><u>A.4. Large Sites:</u> Sites smaller than half an acre or greater than ten acres are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size and affordability were successfully developed during the prior planning period or</p>	<p>Section 3, page 152: information added to address barriers to residential development including the addition of a Housing Overlay Designation (HOD)</p>

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<p>other evidence demonstrates the suitability of these sites. The element describes various larger sites and the potential for development, including acreage. However, the element should describe how affordability will be facilitated (e.g., inclusionary) or how sites will be parceled in a manner to facilitate affordability (e.g., 50 to 150 units) then add or modify programs as appropriate to support and encourage the necessary circumstances to facilitate affordability.</p>	<p>permitting multiunit housing by right on all Housing Inventory sites.</p> <p>To facilitate affordability on larger sites, the HOD allows multiunit housing on a smaller portion of the site.</p> <p>Appendix C includes additional details on how affordable units will be factored in the identified large sites.</p>
<p><u>A.4. Accessory Dwelling Units (ADU):</u> The element assumes 280 ADUs in the planning period toward various incomes of the RHNA but must also provide supporting information for affordability assumptions. For example, the element may utilize data and approaches available through the Association of Bay Area Governments (ABAG).</p>	<p>Section 4, page 203 describes assumptions for affordability.</p>
<p><u>A.4. Availability of Infrastructure:</u> The element lists water capacity by service area and development potential in terms of the number of housing units. The element should conduct a similar analysis for sewer capacity to demonstrate adequate total capacity to accommodate the RHNA.</p>	<p>The element added an analysis of sewer capacity in Section 3, page 111-118</p>
<p><u>A.4. AB 725:</u> For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above-moderate RHNA on sites that allow at least four units of housing (e.g., four plex or greater). (Gov. Code, § 65583.2, subd. (c)(4).)</p>	<p>This provision does not apply to unincorporated areas (Government Code Section 65583.2(c)(4)(C)). The County is also considered to be suburban, not metropolitan, under Section 65583.2(e)(2)(A).</p>
<p><u>A.4. Electronic Sites Inventory:</u> Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the County must submit an electronic version of the sites inventory with its adopted housing element to <a href="mailto:sitesinventory@hcd.ca.gov">sitesinventory@hcd.ca.gov</a>. HCD has not received a copy of the electronic inventory. Please note, the County must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD’s housing element webpage at <a href="https://www.hcd.ca.gov/community-development/housing-">https://www.hcd.ca.gov/community-development/housing-</a></p>	<p>An electronic Sites Inventory will be submitted post-adoption.</p>

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<p><a href="#">element/index.shtml#element</a> for a copy of the form and instructions. The County can reach out to HCD at <a href="mailto:sitesinventory@hcd.ca.gov">sitesinventory@hcd.ca.gov</a> for technical assistance.</p>	
<p><u>A.4. Emergency Shelters</u>: While the element describes development standards and a non-discretionary process for emergency shelters, it should also discuss capacity, including potential for reuse, proximity to transportation and services and any conditions inappropriate for human habitability.</p>	<p>Section 3, Page 167 Discusses capacity analysis including analysis of surrounding uses.</p>
<p><u>A.4. Transitional and Supportive Housing and Group Homes</u>: The element mentions transitional and supportive housing and group homes (six or fewer and seven or more persons) are allowed in all residential zones. However, Table H-3.18 appears to exclude these uses from several residential zones. The element should clarify whether these uses are allowed in all residential zones and add or amend programs if necessary.</p>	<p>Section 3, page 165-166: Discusses that transitional and supportive housing must be allowed in the coastal zone. We amended language to include group homes and residential care facilities.</p>
<p><u>A.5. Fees and Exactions</u>: The element lists the cumulative impact of fees on two development scenarios but should list all impact fees, including those not controlled by the County and then analyze the cumulative impact of fees on development.</p>	<p>Section 3, page 151-152: Fees of outside agencies have been added to show the cumulative impact of fees.</p>
<p><u>A.5. Local Processing and Permit Procedures</u>: While the element includes some general information about processing and permit procedures, it should also describe the procedures for a typical single family and multifamily development. The analysis should address the approval body(s), the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, feasibility, timing, and approval certainty. For example, the element should list and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate.</p>	<p>Section 3, page 173-178 added detail on permit procedures and timeline. The County has also added a Housing Overlay Program to provide for ministerial review on all Housing Inventory sites.</p>
<p>Additionally, the analysis should specifically address the Master Plan/Design Review process, including steps, approval body, typical number of hearings,</p>	<p>Section 3, page 183-184 describes the Master Plan and Design Review process and adds a Housing</p>

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<p>findings of approval, lack of fixed development standards and processing times. The analysis should address impacts on housing cost, supply, feasibility, timing, and approval certainty.</p>	<p>Overlay Designation which allows ministerial review of all Housing Inventory Sites.</p>
<p>Finally, HCD recognizes the County’s efforts related to the creation of Objective Design and Development Standards or a Form-Based Code with anticipated adoption by the end of 2022. If the schedule for adoption does not occur as anticipated, the element should include a program committing to adopt the standards early in the planning period.</p>	<p>The Form-Based Code and Objective Design Standards have been adopted with the Housing Element.</p>
<p><u>A.5. On/Off-Site Improvements:</u> The element mentions standards for on- and off-site improvements are detailed in the County Code but should also list typical examples of improvements and evaluate their impact on housing cost, supply, timing and feasibility.</p>	<p>Section 3, page 188 and Program 10: Objective Standards for Off-Site Improvements</p>
<p><u>A.5. Other Local Ordinances:</u> The element must analyze any locally adopted ordinances that directly impact the cost and supply of residential development (e.g., inclusionary requirements, short term rentals, growth controls). While the draft element provides a brief description of inclusionary requirements, it should analyze impacts as potential constraints on the development of housing for all income levels. The analysis should evaluate the inclusionary policy’s implementation framework, including levels of mandated affordability and the types of options and incentives offered to encourage and facilitate compliance with the inclusionary requirements. The County could engage the development community to facilitate this analysis.</p>	<p>Sections added on STRs and growth controls Section 3, pages 151-152. Inclusionary program analysis added in Section 3, pages 97, and 150-151.</p>
<p><u>A.6. Requests for Lesser Densities:</u> The element must include analysis of requests to develop housing at densities below those identified in the sites inventory. In response, the element (p. 93) notes none of the identified sites in the prior planning period were developed. The element should closely examine why none of the identified sites in the prior planning period were developed, including obstacles and circumstances leading to the lack of development and add or modify programs to address identified constraints.</p>	<p>Section 3, page 93: Text has been amended to provide more analysis of lack of development and describe programs that will correct these deficiencies.</p>

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<p>C.1. As noted in Finding A4, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the County may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.</p>	<p>Appendix C. pg. C-1 &amp; C-2: Information added about underutilized sites and methodology in identifying sites and explanation of site criteria. Pgs C-4 &amp; C-5: recent dev activity and realistic capacity info added. Pgs C-8 to C-26: information filled in for Sites Inventory table (Table C-4).</p>
<p><i>C.1. Concurrent Rezoning:</i> HCD understands the County will be completing rezoning prior to the start of the planning period (January 31, 2023) to accommodate the RHNA, including for lower-income households. Please be aware, if rezoning is not completed by January 31, 2023, the element must add or revise program(s) to rezone sites with appropriate zoning and development standards pursuant to Government Code sections 65583, subdivision (c)(1), and meet all requirements pursuant to 65583.2, subdivisions (h) and (i).</p>	<p>Section 5, Page 221: Program 1 Rezoning</p>
<p><i>C.1. Program 11 (Water Availability):</i> The Program currently commits to collaborate with providers to conduct an assessment. However, the program should include specific commitment and discrete timing toward actual housing outcomes in the planning period, such as applying for funding, updating plans, adopting additional conservation measures. In addition, the Program commits to deliver the housing element to water providers but should also commit to deliver the housing element to sewer providers.</p>	<p>Section 5, Pages 232-233: Information added about issuing an RFP for the Drought and Water Storage Risk Mitigation Plan in 2025.</p>
<p><i>C.2. State Density Bonus Law:</i> As noted on page 143, the element should include a program to amend the County’s density bonus ordinance in compliance with state law.</p>	<p>Section 5, Page 230: Amendments to the Development Code regarding density bonus added to Program 8: Development Code Amendments.</p>
<p><i>C.2. Program 15 (Housing for Farmworkers and Hospitality Workers):</i> The Program commits to develop a strategy by 2025 but should also commit to how often the County will pursue implementation (e.g., at least annually).</p>	<p>Section 5, Page 235 language about annual implementation measures added. Also, language added about assessing the strategies, and modifying if needed.</p>

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<p>C.2. <i>Program 16 (Project Homekey)</i>: The Program should commit to how often the County will pursue funding.</p> <p>C.2. <i>Program 25 (Incentives for Affordable Housing)</i>: The Program commits to annual outreach to evaluate effectiveness of incentives. In addition, the Program should commit to annual outreach with affordable housing developers to identify and pursue development opportunities.</p>	<p>Section 5, Page 236: Program 16 – pursuing funding annually has been added.</p> <p>Page 242: Program 25 – language added about annually identifying and pursuing development opportunities.</p>
<p>C.3. As noted in Findings A5 and A6, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints.</p>	<p>Section 5, Page 223: Program 1 – Language added about updating the Local Coastal Plan to be consistent with the CWP.</p>
<p>In addition, Program 32 (Comprehensive Review of Zoning and Planning Policies) commits to conduct a “review” of zoning and planning to remove discriminatory language and policies. The Program should also commit to actions beyond reviewing such as revising, removing, modifying, or establishing appropriate zoning and planning policies.</p>	<p>Section 5, Page 249: Program 32 – Text “and make appropriate revisions” added to actions.</p>
<p>C.4. As noted in Finding A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.</p>	<p>Section 5, Page 249 to 251: Program 33 – Community Engagement and Regional Collaboration program expanded. Page 253-260 – AFFH Matrix modified to reflect fair housing program changes.</p>
<p>C.5. While the element includes Program 23 (Preservation of At-risk Housing) with many meaningful actions, the Program should also commit to assist with funding and support funding applications.</p>	<p>Section 5, Page 241: Program 23 – the following language was added: “As funding permits, assist in funding the acquisition or support funding applications by nonprofit providers”.</p>
<p>C.6. The element includes Program 4 (Accessory Dwelling Units (ADU)) to facilitate ADU production and review the production of ADUs once in the planning period. A review of production should also: (1) review affordability, (2) conduct a review more than once in the plan period (e.g., 3-4 times) and (3) commit to a menu of alternative actions that includes rezoning, if necessary, by a specific date (e.g., within six months of review).</p>	<p>Section 5, Page 226: Program 4 – Additional action measures included to address HCD’s comments, including # of reviews during the planning period, reviewing affordability and production strategies.</p>