



COMMUNITY DEVELOPMENT AGENCY  
**HOUSING AND FEDERAL GRANTS DIVISION**

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DIRECTOR

January 24, 2023

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Board of Supervisors  
County of Marin  
3501 Civic Center Drive  
San Rafael, California 94903

**SUBJECT:** 2023 Draft Housing Element update, and associated Countywide Plan Amendments, Marin County Development Code Amendments, and Zoning Map Amendments.

Dear Board Members:

**RECOMMENDATION:** Staff recommends that your Board consider taking the following actions:

1. Review the administrative record and conduct a public hearing on the merits of the Draft Housing Element, and associated Countywide Plan amendments, Development Code amendments, and Zoning Map amendments;
2. Consider the Planning Commission recommendation;
3. Consider feedback from the Airport Land Use Commission;
4. Consider adoption of a Resolution approving the Housing Element, Countywide Plan Amendments as recommended by staff, and
5. Consider adoption of Ordinances approving the Development Code Amendments, related to Housing Element and the Form Based Code.

**SUMMARY:**

The Community Development Agency is in the process of updating the Housing and Safety Elements, which are integral parts of the Countywide Plan (CWP). The Housing Element update will establish a strategy for meeting housing needs at all income levels for the 2022-2030 planning period. The Housing Element must be submitted to the State Department of Housing and Community Development (HCD) for review and certification no later than January 31, 2023. Beginning in October of 2020, including tonight, your Board has held eight public hearings and five joint sessions with the Planning Commission on the Draft Housing Element<sup>1</sup>.

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<sup>1</sup> Board of Supervisors hearings regarding the Draft Housing Element were held on October 6, 2020, January 26 and June 22, 2021, and December 6, 2022. Joint Board of

The background includes an overview of the Housing Element and summary of past hearings, including the January 5, 2023, Planning Commission recommendation and feedback from the January 9, 2023, Airport Land Use Committee. The discussion outlines key portions of the Housing Element including Needs Assessment, Countywide Plan Amendments and Rezoning. Other discussion items related to the Housing Element include the Form Based Code and related Development Code Amendments.

## **BACKGROUND:**

### **❖ *Housing Element***

The California State Legislature has found the availability of housing to be of statewide importance. To ensure that counties and cities recognize their collective responsibility in implementing the statewide housing goals, housing element legislation was originally enacted in 1969, requiring all local governments to prepare and implement housing elements as part of their general and countywide plans. State legislation enacted in 1980 required councils of governments (e.g., the Association of Bay Area Governments (ABAG) for Bay Area counties) to determine the existing and projected housing needs at all income levels for each city and county in the region, which is then to be addressed in each local jurisdiction's housing element. This process became the Regional Housing Need Allocation (RHNA), which determines the fair share of housing need for each county, city and town in California.

Every eight years, all California jurisdictions are required to revise and update their individual Housing Elements consistent with State law. Marin County is updating its Housing Element along the same timetable as other Bay Area jurisdictions.

The Housing Element identifies and analyzes existing and projected housing needs and constraints to create goals, policies, and programs for the development, preservation, and improvement of housing. The Housing Element plans for new housing for all income levels to meet the RHNA and the local housing needs of the community. As part of the plan, the site inventory identifies sites in the unincorporated County where new housing may be built. If a local government does not meet the housing element requirements, they face the possibility of litigation loss of land use discretion, housing, transportation and other infrastructure grant ineligibility, and other penalties.

Staff worked with MIG, Inc., the consultant retained by the County to support the Housing and Safety Element updates. Throughout the last 18 months, MIG and staff have done significant outreach to inform the community about the Housing Element process and receive feedback on housing needs, constraints, and sites, including over 40 meetings, community workshops, and Board of Supervisor/Planning Commission workshops. The feedback from focus groups, surveys, community workshops, and Board of Supervisors/Planning Commission

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Supervisors and Planning Commission hearings were held on December 7, 2021, March 1, March 15, April 12, June 14, August 9, September 27, and October 25, 2022.

joint workshops has informed the preparation of the Draft Housing Element. The public engagement and outreach effort is detailed in Appendix A of the Draft Housing Element.

❖ **Planning Commission Recommendation**

On January 5, 2023, the Planning Commission met to review the Draft Housing Element and recommended that the Board not adopt the Draft Housing Element, related Amendments to the Countywide Plan (CWP), Development Code Amendments, and Zoning Map amendments as considered. The exception was to the Development Code Amendments not related to the Housing Element, including implementation of the State housing laws, SB 35 and SB 9, and the Form Based Code (Attachment 3, Exhibit B), which they recommended to the Board for adoption.

The Planning Commission discussed their specific concerns with the Housing Element, which are described below:

**1. Community Plans**

- **Planning Commission recommendation:** Limit proposed amendments to CWP policies to retain all aspects of Community Plans except where they are not compliant with state law.
- **Staff recommendation:** Amendments to CWP language regarding applicability of Community Plan policies are needed to ensure that there is not conflicting policy direction between a Community Plan and the Housing Element that would limit multifamily housing proposed within a Community Plan area, particularly on a site included in the Housing Element sites list. Proposed language would retain all aspects of Community Plans that do not actively discourage or prevent housing development. See Attachment 1 Exhibit D for proposed language that was reviewed at the Planning Commission.

**2. Density range in Ridge and Upland Greenbelt/Baylands**

- **Planning Commission recommendation:** Proposed removal of density limits in the Baylands and Ridge and Upland Greenbelt Corridors would apply to Housing Element sites only.
- **Staff recommendation:** Remove the limits on housing to the low end of the density range, not limited to the Housing Element sites. This would eliminate existing constraints to housing production discussed in detail in the Housing Element constraints section.

**3. Density Calculation in Commercial/Mixed Use Areas**

- **Planning Commission recommendation:** No change to existing floor area ratio (FAR) calculations for mixed use zones.
- **Staff recommendation:** The commercial component of the development is subject to FAR while the residential component is subject to the density standard. The existing policy may limit housing development.

#### 4. Housing Overlay Designation (HOD)

- **Planning Commission recommendation:** Planning Commissioners were concerned about potential for more units based on underlying zoning on sites where the HOD is applied to only a portion of the site.
- **Staff recommendation:** The HOD would encourage clustered housing with incentives at higher densities. Properties could also develop using the underlying zoning. The HOD mechanics are discussed in the Discussion section below.

#### 5. Ministerial Review

- **Planning Commission recommendation:** Commissioners continued to express concern with this approach because the nature of ministerial review allows for minimal public feedback and CEQA review.
- **Staff recommendation:** Staff recommend ministerial review to eliminate constraints to housing development and comply with state law, see the Discussion section of the staff report for a detailed explanation.

#### 6. Sites:

- **Planning Commissioners continue to be concerned with the following sites:**
  - *805 Atherton Avenue (55 units)* – due to a seasonal wetland on a portion of the site.
  - *Greenpoint Nursery (53 units)* – history of the site and too much density being considered.
  - *Buck Center Vacant Property (249 units)* – too much increased density.
  - *St. Vincent’s (680 units)* – too much development potential based on the history of this site and the many constraints.
  - *Carmelite Monastery of the Mother of God (32 units)* – Catholic Charities has expressed that this site will not be available for housing development.
  - *Miller Creek School District Properties (Marinwood Plaza adjacent) (10 units)* – due to a creek on a portion of the site.
  - *Sacramento/San Anselmo Properties (64 units)* – too much density for the location and concern with loss of existing naturally occurring affordable units.
  - *Holiday Inn Mill Valley (72 units)* – because it is within the floodplain.
  - *Jack Krystal Hotel Parcel Site (36 units)* – because it is within the floodplain.
- **Staff recommendation:** The site inventory was developed through an extensive analysis of sites throughout the County and took into consideration feedback from the Board of Supervisors, Planning Commission, and the public over the past several months, including the Board of Supervisors and Planning Commission Joint Workshops (December 7, 2021, March 1, 2022, March 15, 2022, and April 12, 2022) and a Board of Supervisors workshop on December 6, 2022. These sites were reviewed by the FEIR. Because the County has much larger RHNA than in previous housing element cycles, more sites in all areas of

unincorporated County are considered. At this point staff are not recommending changes, other than removing the Carmelite Monastery site since the owner has informed us that they are no longer seeking to add additional housing to the site.

❖ **Airport Land Use Commission**

On January 9, 2023, the Airport Land Use Commission met to review and comment on the Draft Housing Element as it pertains to the Gness Field Airport Land Use Plan (ALUP). The Housing Element proposed housing opportunity sites that are within the Federal Aviation Regulation Part 77 Obstruction Imaginary Surfaces. The Commission met and reviewed the possible impacts and requested that the Board of Supervisors budget funds to update the ALUP which is out of date.

**DISCUSSION:**

The Housing Element consists of an extensive assessment of housing needs, constraints to housing development, housing resources, goals, programs and policies, a list of proposed housing sites, review of the prior housing element, a summary of community outreach, and analysis and policies related to affirmatively furthering fair housing (AFFH). The Housing Element is available on the County website:

<https://www.marincounty.org/depts/cd/divisions/housing/housing-element/draft-2023-2031-housing-element>

❖ **Key Sections of the Housing Element**

**1. Housing Needs Assessment and Constraints**

The housing needs assessment presents demographic information from local, state, and federal sources. This data is complemented with information from the public outreach process, including information gathered from focus groups, surveys, and workshops. This includes a focused assessment of existing and proposed housing employment and demographic trends, with an emphasis on the following topics:

- Population Trends
- Household Characteristics
- Housing Stock Characteristics
- Housing Costs, Household Income, and Ability to Pay for Housing
- Special Needs Housing

Findings from the analysis include:

- **Limited Housing Options:** In unincorporated Marin County, over 80% of housing types are single, detached dwellings. The median home sale price of a single-family detached home of \$1.91 million or of a condominium of \$740,088 is out-of-reach for a significant portion of the population.
- **Cost Burden:** Thirty-five percent (35%) of owner-occupied households and forty-three percent (43%) of renter-occupied households are cost-burdened, meaning they pay more than one-third (30%) of their income towards their rent or mortgage. Sixteen percent (16%) of owner-occupied

households and twenty percent (20%) of renter-occupied households are severely cost-burdened, meaning they spend more than half (50%) of their income toward their rent or mortgage.

- **Overcrowding:** Over 13% of renter households and 0.9% of owner households are overcrowded, which is defined as units with more than one inhabitant per room, excluding kitchens and bathrooms. Studies show that overcrowding results in negative public health indicators, including increased transmission of tuberculosis and hepatitis and, most recently, COVID-19. In addition, studies show increases in domestic violence, sexual assault, mental health problems, and substance abuse related to overcrowded living conditions.

Housing element law requires that jurisdictions analyze governmental and non-governmental constraints to the development of housing, such as market forces, financing availability and construction costs. The Housing Element discusses non-governmental constraints related to financing, infrastructure, emergency considerations, and environmental issues, providing the information for responsible agencies throughout the county to use in addressing the constraints to support housing development and affordability. Local land use, zoning, permit procedures and review procedures were analyzed to identify governmental constraints. Some constraints identified in this analysis include long and unpredictable approvals processes, community opposition affecting the outcome of discretionary approvals, and lack of available sites zoned for multifamily housing. The policies and programs included in the Housing Plan are intended to minimize or remove these constraints.

## 2. Housing Plan

The Housing Plan contains a set of goals, policies, and implementing programs. Goals are defined as broad and comprehensive targets that describe the vision for the unincorporated County’s Housing Element. A policy is a specific guideline. The goals and policies are carried out through a series of implementing programs that identify specific timelines and actions the County will undertake toward putting each goal and policy into action.

Policies and programs are organized around four central goals:

### ➔ Goal 1: Use Land Efficiently

Use Marin’s land efficiently to meet housing needs and implement smart and sustainable development principles.

### ➔ Goal 2: Meet Housing Needs through a Variety of Housing Choices

Respond to the broad range of housing needs in Marin County by supporting a mix of housing types, densities, affordability levels, and designs.

### ➔ Goal 3: Ensure Leadership and Institutional Capacity

Build and maintain local government institutional capacity and monitor accomplishments to respond to housing needs effectively over time.

### ➔ Goal 4: Combat Housing Discrimination, Eliminate Racial Bias, Undo Historic Patterns of Segregation

Lift barriers that restrict access in order to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all Californians.

See Section 5 of Attachment 1 Exhibit C, the Draft Housing Element, for a list of policies and programs.

**3. Affirmatively Furthering Fair Housing**

Assembly Bill 686, passed in 2017, and other legislation requires the Housing Element include an analysis of barriers that restrict access to opportunity and a commitment to specific meaningful actions to affirmatively further fair housing in order to promote desegregation. California Department of Housing and Community Development (HCD) guidelines mandate that local governments identify meaningful goals to address the impacts of systemic issues such as residential segregation, housing cost burden, and unequal educational or employment opportunities to the extent these issues create and/or perpetuate discrimination against protected classes. The assessment of fair housing must consider the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. The analysis addresses patterns at a regional and local level and trends in patterns over time. This analysis compares the locality at a county level and regional level.

**4. Site Inventory**

State law requires the County to provide information that shows the location of sites that are suitable and available for new housing units during the planning period. These new sites must meet the minimum RHNA of 3,569 homes, at all income levels. It is also recommended that the sites list provide for an additional “buffer” of at least 15% for the lower-income RHNA categories to ensure ongoing feasibility of meeting housing goals if some sites are not able to be developed as projected. The proposed sites list took into consideration the feedback from the Board of Supervisors, Planning Commission, and the public over the past several months, including the Board of Supervisors and Planning Commission Joint Workshops.

❖ **Countywide Plan Amendments**

To achieve the RHNA assigned to the unincorporated County and remove identified constraints to housing development and affordability, a number of amendments are proposed to the Countywide Plan as described in the next section. See Attachment 1 Exhibit D for proposed language.

**1. Eliminating Existing CWP Policies Limiting Density**

The proposed CWP amendments would eliminate the program: *Consider Annexation of Urbanized Area (Program CD-6.a)*. The stated intent of the policy is to encourage annexation of lands proposed for intensified development by calculating density at the lowest end of the CWP designation range, thereby allowing less-intensive development than would be permitted by the neighboring city or town. While this policy currently allows housing affordable to very low- or low-income residents to be developed above the lowest end of density range, staff is proposing to eliminate this policy entirely. This policy has not had the desired

effect of encouraging annexation and is a barrier to housing development in areas where utilities and infrastructure are already in place. Housing development in areas already served by utilities and infrastructure generally provide the best development opportunities and should be supported rather than prohibited.

The amendments would eliminate the program: *Limit Density for Areas Without Water or Sewer Connections (Program CD-5.e)*. Water and wastewater treatment can often be provided safely onsite with wells and septic systems. Additionally, the amendments would eliminate text that limits density for the Ridge and Upland Greenbelt and Baylands Corridor (*Program DES-4.d and Goal BIO-5*) to the lowest end of the density range. These policies unreasonably constrain the ability to meet the RHNA and plan for needed housing throughout Marin County. Environmental protection standards in the Development Code, including Stream and Wetland Conservation areas would still apply. In combination with implementation of mitigation measures identified in the Program Environmental Impact Report (EIR) prepared for the Housing Element, these policies would continue to ensure protection of important natural features on housing sites.

**2. Policies Specific to Regional Sites**

Amendments to the CWP to accommodate increased densities on the regional sites identified in the draft sites list, including St. Vincent's and the Buck Center sites, are needed as the sites are identified for housing in the RHNA. The Buck Center site change would also necessitate an adjustment of the City Centered Corridor boundary into the Inland Rural Corridor to include a portion of the Buck property as the site is located near the freeway and shares other characteristics with surrounding City Centered Corridor properties (see Attachment 1 Exhibit D). The amendments also require changes to the land use policies, allowable density, clustered development, and natural systems goals and policies that describe the St. Vincent's property.

**3. Policies Related to Community Plans**

Some policies in community plans contain standards that are internally inconsistent with the Countywide Plan, inconsistent with state law and/or limit the County's ability to encourage and facilitate multifamily housing and meet the RHNA. Staff recommends that some specific language in the CWP that directs approaches to reconciling development review in a manner that could constrain approval of housing be removed and replaced with a clarified policy that would ensure that the Housing Element can be used as intended. The proposed amendments would clarify that the CWP would govern if there are differences with respect to land use designations, density, and development standards. Below is the language proposed to the Planning Commission to address the relationship between the community plans that staff requests your Board to consider:

*No provision of the Countywide Plan, including its community plans, may be applied by the County in a manner that conflicts with State law, or the policies and programs contained in the Housing Element and/or the ordinances implementing those policies.*

This language would be included in the CWP under How to Read the Countywide Plan p. 1.4-3 and in Land Use Categories p. 1.5-3.



#### **4. Policies Related to Commercial/Mixed Use**

Amendments to the Commercial/Mixed Use Designation would specify that the commercial component of the development is subject to the floor area ratio standard while the residential component is subject to the density standard. This is intended to provide incentives for mixed use developments, promoting both residential and commercial uses. Currently, both uses are tied to Floor Area Ratio (FAR) and could limit the densities on the site.

#### **5. Housing Overlay Designation (HOD)**

The amended HOD and its application, including by-right approval of multifamily housing consistent with the zoning, comprises the primary strategy that staff is proposing to comply with HCD requirements for accommodating and enabling housing development. Some sites in the Housing Element inventory need to be rezoned to accommodate the units assigned to them and meet the densities needed to encourage and facilitate affordable housing and comply with state law.

Changes to the HOD include an affordability description and how the Form Based Code (FBC) combining district applies to Individual HOD sites.

The Housing Overlay Designation (HOD) was originally intended to encourage and facilitate workforce housing, especially affordable to low income households. However, since the adoption of the CWP in 2007, none of the HOD sites have been developed and the program has been considered unsuccessful. Therefore, staff are recommending changes to the HOD and Countywide Plan Land Use designations in order to encourage housing and accommodate increased density that is reflected in the rezoning description below. Attachment 1 Exhibit D shows changes made to Land Use designations in order to accommodate the RHNA.

The HOD and its proposed use as a mechanism for meeting RHNA goals is described in detail in the next section.

#### **❖ *Development Code and Rezoning Description***

Over the course of several workshops in 2021 and 2022, the Planning Commission and your Board identified sites that could accommodate the RHNA at the designated income levels, with prescribed numbers of units to be developed on each site, based on several guiding principles calling for new housing to be distributed throughout the unincorporated county and located on infill sites while minimizing environmental impact. HCD requires that sites identified to accommodate lower income development be zoned to allow densities that can support affordable housing. For sites identified for lower income units, this “default” density would be 20 or 30 units per acre. To accommodate the number of units discussed previously in the site inventory and reviewed by the Board of Supervisors on December 6, 2022, the HOD would be amended to designate a maximum number of units to each Housing Element site, shown in the table in Attachment 2 Exhibit A.

While this approach is a departure from the typical single-unit zoning characteristic of much of unincorporated Marin County, it is consistent with both emerging priorities and needs in Marin and with longstanding environmental values. Throughout the extensive Housing Element outreach process and the needs

assessment analysis, the public expressed support for homes affordable to the local workforce and moderate- and lower-income households. Denser housing typologies provide housing at these affordability levels. The densities proposed in the HOD would also solidify the County's goals of creating more environmentally sustainable communities by creating housing that has a smaller footprint, use less water, and less climate impact. Staff has proposed this strategy to advance Marin County's ability to realize State housing goals and begin to meet our own community's housing needs in a way that maintains articulated values and desires of residents and your Board.

These changes to the HOD would provide flexibility for a developer to conduct a detailed site analysis to propose the most feasible area for development while avoiding environmentally sensitive areas and other constraints. The overlay designation would apply to all Housing Element sites, except for credit sites (i.e., sites with active projects under consideration). The HOD would be used in place of existing land use designation and zoning ordinance. The HOD requires the use of the Form Based Code, a set of objective design standards that results in clustered development and encourages housing types that are compatible with the surrounding form, including single-unit developments. Example building types include house scaled multi-unit buildings, pocket neighborhoods and terraced courtyard buildings.

A project applicant is not obligated to use the HOD, a project could still be approved with the underlying land use and zoning designation. For example, The Cal Park site has an HOD density designation of 30 units per acre limited to 3.7 acres with a maximum unit yield of 110. However, the application for Cal Park could use the underlying zoning district, RSP-4 and plan for 4 units per acre. If the applicant is not using the HOD they would not be afforded the incentives associated with the HOD, including ministerial review.

The HOD Table in the Countywide Plan and the Development Code shows the number of units as well as density for each site. Maps of the HOD sites are in Attachment 5 Exhibit A. A layer would be added in the MarinMap geographic information system (GIS) mapping tool to indicate HOD sites. To further encourage and facilitate housing on HOD sites, staff propose to add a program to the Housing Element which would develop a ministerial review process for lot line adjustments.

❖ ***Form Based Development Code Amendments and Ministerial Review***

Multifamily housing development projects are expected to provide the majority of the units required by the RHNA. Review of these projects will be streamlined by eliminating the current requirements for discretionary entitlements such as Master Plans and Design Reviews and replacing them with a ministerial Housing Regulation Compliance Review (Housing Compliance Review), as required by the Form Based (FB) combining zoning district. Ministerial review is based solely on compliance with objective standards and judgement related to the merits of a project cannot be exercised.

A Housing Compliance Review will entail a series of steps conducted by County staff to evaluate a project against the objective Form Based Code (FBC) design standards. These steps will include reviewing plans and various environmental and

technical studies, such as biological and geotechnical assessments. Projects will also be referred to the Department of Public Works and local fire department for their preliminary review. The Planning Division will reserve the right to provide public information about proposed projects, such as posting information on the County's website or requiring the installation of stakes or story poles outlining the proposed project.

The FBC contains environmental protection standards that will be applied to projects, including prohibitions on developing in wetlands, wetland conservation areas and stream conservation areas, removing protected trees, or damaging habitats for special status species. A biological assessment, coupled with a constraints map, will typically be required to ensure that a project satisfies these environmental protection standards. Staff from the Planning Division, Department of Public Works, and local fire department will inspect the development site to ensure that accurate and complete information is being provided.

Planning Division staff will issue a decision regarding the compliance of a project with the standards of the FBC. This compliance determination will entitle a developer to submit a Building Permit application to the Building and Safety Division. The Building Permit application will contain plans and detailed engineering specifications, which will be reviewed by the Building and Safety Division, the Department of Public Works, and the local fire department for compliance with their standards.

Once a Building Permit has been issued, construction may commence. Inspections by Building and Safety staff, Public Works staff, staff from the local fire department, and staff from utility providers will be required at specified stages of the development process to ensure compliance with standards. If permits from State resource agencies, such as the California Department of Fish and Wildlife, were also required then their staff will conduct inspections as well. Final inspection approval of the Building Permit will not be granted until conditions of the various permits have been fully satisfied. Occupancy permits will be granted after final inspections have been approved.

#### ❖ **Consequences of not having a Certified Housing Element**

Cities and Counties which do not adopt a certified housing element by the statutory deadline are subject to a range of penalties or consequences, including:

- ***Losing Access to State Funding:*** Ineligibility, or lower priority, for funds such as roads and transportation funds
- ***Attorney General Lawsuit:*** The Attorney General may bring suit against the County to compel the County to adopt a housing element in compliance with State law. If the County does not comply with a court order to adopt an adequate housing element within one year, the court will impose a fine ranging from \$10,000 to \$100,000 per month.
- ***Other Legal Suits and Attorney Fees:*** Local governments with noncompliant housing elements are vulnerable to litigation from housing rights' organization, developers, and other interested parties. A successful plaintiff is entitled to attorneys' fees. The local agency would additionally be required to pay its own attorneys. Further, projects approved by the

local agency may be vulnerable to lawsuits challenging approval of public or private projects, alleging that a finding of General Plan consistency cannot be made because the General Plan is inadequate.

- **Loss of Permitting Authority:** Courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction's General Plan and housing element into substantial compliance with State law. The court may suspend the locality's authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring their housing element into compliance.
- **Financial Penalties:** Local governments are subject to court-issued judgements directing jurisdictions to bring a housing element into substantial compliance with state housing element law. If a jurisdiction's housing element continues to be found out of compliance, courts can fine jurisdictions up to \$100,000 per month, and if they are not paid, multiplied by a factor of six.
- **Streamlined Ministerial Approval Process:** All proposed developments that meet certain State defined requirements in localities that have not yet made sufficient progress towards their allocation of the regional housing need are now subject to less rigorous "ministerial" approvals in order to hasten the production of housing and bring a jurisdiction into compliance with its state-determined housing need allocation
- **Builders Remedy:** Since 1990, the Housing Accountability Act (HAA) has provided a "builder's remedy" that allows developers of affordable housing projects to bypass the zoning code and general plan of cities that are out of compliance with the Housing Element Law. To qualify, twenty percent of the units in the project must be affordable to lower income households, or 100% affordable to moderate-income households.

#### **CONCLUSION:**

Throughout the Housing Element outreach process, including the needs assessment and constraint analysis, data and public comments confirmed that people with moderate and lower incomes face housing challenges due to inadequate high-quality affordable rental and ownership opportunities. This was particularly true for households of color, who also have experienced residential segregation. These conditions have wide-ranging impacts for Marin residents, workers, businesses, services, and institutions. The Housing Element also demonstrated that historically, many development patterns in Marin County have promoted segregation and created isolated areas of affluence.

During the Housing Element update many community members also expressed their concerns about the impacts of adding new development, in particular, emergency fire access, water availability, impacts on traffic, schools, and wildlife. The proposed Marin County Housing Element prioritizes the needs of Marin County and plans responsible development for future generations while complying with State law. Meeting our state law requirements is the best way to ensure that the

housing that is developed in Marin meets our local needs and is consistent with the high-quality, well-designed homes we expect.

**EQUITY IMPACT:**

The County believes in equitable communities, where all community members have access to healthy affordable housing. Evidence shows that access to stable, affordable housing in communities of opportunity has broad, positive impacts. It can lead to better health and education outcomes and higher lifetime earnings, especially for children. Under state law, the Housing Element is required to include an assessment of fair housing to address barriers to fair housing choice and identify sites and programs that provide housing opportunity for lower income families and individuals near high quality schools, employment opportunities and public transportation.

State law also requires local governments to identify meaningful goals to address the impacts of systemic issues such as residential segregation, housing cost burden, and unequal educational or employment opportunities to the extent these issues create and/or perpetuate discrimination against protected groups. These requirements have been incorporated into the Housing Element, including the site selection recommendation.

**FISCAL/STAFFING IMPACT:** No impact on the General Fund. Funds for implementation of the Draft Housing Element were allocated in 2021; no additional expenses are associated with this action.

**REVIEWED BY:**

- |  |   |
|--|---|
| <input type="checkbox"/> Department of Finance         | <input checked="" type="checkbox"/> N/A |
| <input type="checkbox"/> County Administrator's Office | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel     | <input type="checkbox"/> N/A            |
| <input type="checkbox"/> Human Resources               | <input checked="" type="checkbox"/> N/A |

Respectfully Submitted,



Leelee Thomas  
Deputy Director



Sarah Jones  
Acting Director

**Attachments:**

1. Resolution adopting the 2023 Draft Housing Element and Countywide Plan (CWP) Amendments
  - Exhibit A: Compliance with Housing Element Statutory Provisions
  - Exhibit B: Findings Responding to Letter from Department of Housing and Community Development Dated October 17, 2022
  - Exhibit C: Housing Element Draft
  - Exhibit D: Related CWP Amendments and Land Use Redesignation Maps
2. Ordinance for Development Code Amendments
  - Exhibit A: Development Code Amendments
3. Ordinance for Form Based combining district and FBC
  - Exhibit A: Development Code Amendments
  - Exhibit B: Form Based Code (FBC)
4. Ordinance for HOD combining district
  - Exhibit A: Development Code Amendments
5. Ordinance for Rezoning (HOD combining district)
  - Exhibit A: HOD Rezoning Maps
6. HCD letter on the adequacy of the Draft Housing Element, October 2022
7. Comments on the merits of the project, received after 1/5/23

The staff report and all attachments are available on-line at:

<https://www.marincounty.org/depts/cd/divisions/planning/housing-and-safety-elements/meetings>

A full reference copy is available for public review at the Board of Supervisors office, 3501 Civic Center Drive, Suite 308 (8:00 am to 5:00 p.m., Monday-Friday) and at the Community Development Agency, Planning Division, 3501 Civic Center Drive, Suite 308 (8:00 am to 4:00 pm, Monday-Thursday, 8:00 am to 12:00 pm Fridays). CD's are available by request from the Community Development Agency. Tel. (415) 473-6269.