



**STAFF REPORT TO THE MARIN COUNTY
PLANNING COMMISSION**
Housing Element and Related Rezoning and Countywide Plan Amendments

Recommendation: Review Housing Element and Housing Related
Countywide Plan Amendments and Rezoning

Hearing Date: 12/12/2022

Agenda Item: 6 Project Planner: Jillian Zeiger
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PROJECT 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 for the 2022-2030 planning period. The Housing Element must be adopted by January 31, 2023.

Changes to the Countywide Plan and rezonings discussed below are necessary for the County to meet the State requirements to reduce barriers to housing development and meet the Regional Housing Need Allocation (RHNA).

The Housing Element has several components, including an extensive assessment of housing needs, an evaluation of constraints to housing development, existing housing resources, goals, programs and policies which will facilitate housing, 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).

Amendments to the Countywide Plan's goals and policies are needed in order to alleviate constraints and encourage development on the proposed housing sites. Additionally, changes to Countywide Plan land use designations and rezoning of proposed housing sites is needed in order to achieve the number of units assigned to unincorporated Marin County.

Today's hearing is an opportunity to receive public comments and to request feedback to staff on the proposed Housing Element, Countywide Plan Amendments and Rezoning considerations.

BACKGROUND:

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recognize their collective responsibility in implementing the statewide housing goals, housing element legislation was originally enacted in 1969, requiring all local governments to prepare and implement housing elements as part of their general plans. State legislation enacted in 1980 required councils of governments (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. The RHNA for the unincorporated area of Marin County is 3,569 units, with 1,734 affordable to lower income households, 512 for moderate income households, and 1,323 above moderate income households.

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.

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 opportunities 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 will be incorporated into the Housing Element, including the site selection recommendation. Ultimately the Countywide Plan amendments and rezoning will assist in the Housing Element goals of developing more affordable housing.

The Housing Element identifies and analyzes existing and projected housing needs and constraints in order to create goals, policies, and programs for the development, preservation and improvement of housing. The Housing Element plans for new housing across 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. Sites in the inventory must be zoned appropriately to allow for affordable housing development, according to state law. If a local government does not meet the housing element requirements, it faces the possibility of litigation, which could result in the loss of land use discretion, housing grant ineligibility, and other penalties.

Four concepts from housing element legislation informed the development of the proposed Countywide Plan amendments and rezonings: Default Density, Reusing Sites from Previous Housing Elements, No Net Loss, and Buffer.

1. Default Density

To be considered viable for the purpose of supporting housing affordable to lower-income households (including low, very low, and extremely low income households), the property

must be zoned to support at least 20 dwelling units per acre (“default density”)¹. The County may want to consider higher densities to accommodate the unincorporated area’s increased RHNA for lower income households, encourage affordable housing, and ensure an efficient use of the limited available sites.

“At least” means the density range allowed under zoning must allow the default density. For example, if a jurisdiction has a default density of 20 units per acre and the zoning allows for a range of 20 to 30 units per acre, the zoning is considered appropriate to accommodate the RHNA for lower income households.

2. Reusing Sites from Previous Housing Elements

In order to include sites used in previous housing element cycles (that were not developed) to meet the current RHNA, the County must take additional actions to ensure and demonstrate viability of those sites. These “recycled” sites include vacant sites identified during two consecutive prior RHNA cycles and non-vacant sites identified during a prior cycle. These sites must allow “by-right” ministerial approvals if they are identified as suitable for lower income housing in the new housing element. “By-right” approval means that if a project provides at least 20 percent affordable units and requires no subdivision, the project is exempt from discretionary review, exempt from the California Environmental Quality Act, not subject to public notice requirements or appeal rights, and only regulatory compliance review based on objective standards² may be required.

3. No Net Loss

The No Net Loss law requires adequate sites to be available at all times throughout the eight year RHNA planning period to meet the County’s remaining unmet housing needs for each income category. The County must add additional sites to its inventory if land use decisions or proposed development results in a shortfall of sufficient sites to accommodate its remaining housing need for each income category. In particular, the County may be required to identify additional sites according to the No Net Loss Law if the County approves a project at a different income level or lower density than shown in the sites inventory. Lower density means fewer units than the capacity assumed in the sites inventory.

4. Site Inventory Buffer

To ensure that sufficient capacity exists in the Housing Element to meet the RHNA throughout the planning period, HCD recommends the County create a buffer in the housing element inventory of at least 15 to 30 percent more units than required, especially for the lower income RHNA. The County can add additional sites to meet the buffer or can also create a buffer by using a minimum density to ensure sites develop consistent with the number of units in the site inventory.

DISCUSSION:

Housing Element

¹ SB 106 extended the sunset date on a 2014 law that recognizes Marin as a suburban county for the purposes of developing affordable housing and establishes the default density at 20 units per acre; the law will sunset in 2028 but no change will be needed in the housing element or zoning until the next housing element is due in 2031.

The Housing Element is available with annotated changes based on HCD comments discussed in the workshop on October 25, 2022.

The Housing Element is available on the County website here:

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

Key Sections of the Housing Element

❖ **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.

Findings from the analysis include:

- **Limited Housing Options:** In unincorporated Marin County, over 80% of housing types are single, detached dwellings.
- **Cost Burdened:** 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.
- **Overcrowded:** Over 13% of renter households and .9% of owner households are overcrowded.

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. Local land use, zoning, permit procedures and review procedures were analyzed to identify governmental constraints. These constraints were taken into consideration to develop policies and programs included in the Housing Plan.

❖ **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 more specific directive. 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. See the Draft Housing Element for a list of draft policies and programs.

❖ **Affirmatively Furthering Fair Housing:**

Assembly Bill 686 passed in 2017 and other legislation requires the inclusion in the Housing Element of an analysis of barriers that restrict access to opportunity and a commitment to specific meaningful actions to affirmatively further fair housing. California 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.

❖ **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. This 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. The Board of Supervisors is considering additional changes on December 6, 2022, an updated list will be provided as an addendum.

Countywide Plan Amendments

In order to achieve the RHNA assigned to the unincorporated County, changes must be made to the Countywide Plan. See Attachment 2 Exhibit A for exact language; descriptions are provided below:

1. Exceptions to existing CWP policies

There are existing CWP policies that only allow development to occur at the lowest end of the density range, including in the Ridge and Upland Greenbelt and Baylands Corridor. While affordable housing may currently be exempt from these requirements, proposed changes would clarify that, while protection of sensitive resources would continue on sites needed to meet the RHNA, housing developments are not limited to the lowest end of the density range.

2. Eliminating existing CWP policies

The proposed CWP amendments would eliminate *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.

Additionally, the amendments would eliminate *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. This policy unreasonably constrains the ability to meet the RHNA and plan for needed housing throughout Marin County.

3. 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/Silveira 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 2 Exhibit B for Map 1-2). 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.

4. 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. The proposed amendments would clarify that the CWP would govern if there are differences with respect to land use designations, density, and development standards.

5. Policies Related to Commercial/Mixed Use

Amendments to the Commercial/Mixed Use 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.

6. Housing Overlay Designation (HOD)

Changes to the HOD include an affordability description and how the Form Based Code (FBC) combining district applies to Individual HOD sites. Please see Exhibit C in Attachment 2 for more detail.

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, changes are needed to the HOD and Countywide Plan Land Use designations must be changed in order to encourage housing and accommodate increased density that is reflected in the rezoning description below. Exhibit 3 shows changes made to Land Use designations in order to accommodate the RHNA.

Rezoning

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.

In order to identify the sites and establish the number of units necessary to accommodate the County's share of the regional housing need for lower-income households, the Housing Element must include an analysis that shows how the proposed zoning district and allowable density will encourage and facilitate the development of housing for lower-income households. The County must factor site constraints and feasibility based on the history of development patterns in identifying the number of units of lower income housing for each RHNA site which could include constraints such as slope and flood zone. Therefore, on some properties only a portion of the site is rezoned to accommodate the required number of units at a higher density to reflect the constraints mentioned above and to allow a specific number of units on the site. The attached rezoning maps (Exhibit _4_) define the boundaries of those sites or portions of those sites that are recommended to be rezoned to facilitate housing development.

RECOMMENDATION

Review the draft Housing Element, other Countywide Plan amendments, and attached Exhibits, and provide feedback and input related to the proposed project. Staff will return to your Commission on January 5, 2023, with draft resolutions recommending that the Board of Supervisors adopt the recommended Housing Element, other Countywide Plan amendments, and rezonings.

The final Environmental Impact Report (EIR) along with the Housing and Safety Elements will be presented at future workshops and at meetings of the Planning Commission on January 5 and the Board of Supervisors on January 24, 2023.

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 will be incorporated into the Housing Element, including the site selection recommendation. Ultimately the Countywide Plan and rezoning will assist in the Housing Element's goals of developing more affordable housing.

ATTACHMENTS:

1. Draft Housing Element – *to conserve resources, the draft Housing Element is provided to your Commission electronically only:*
<https://www.marincounty.org/depts/cd/divisions/housing/housing-element/draft-2023-2031-housing-element>
2. Countywide Plan Amendments
3. Exhibit 3: Countywide Plan Maps (Existing and Proposed)
4. Exhibit 4: Zoning Maps (Existing and Proposed)