



COMMUNITY DEVELOPMENT AGENCY

HOUSING AND FEDERAL GRANTS DIVISION

October 6, 2020

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Marin County Board of Supervisors  
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**SUBJECT:** Housing Element Update Work Program

Building and Safety  
Environmental Health Services  
Planning  
Environmental Review  
Housing  
Sustainability  
Code Enforcement  
GIS  
Federal Grants

[www.marincounty.org/cda](http://www.marincounty.org/cda)

Dear Supervisors,

**RECOMMENDATION:**

Approve work program for the next Housing Element update

**SUMMARY:**

The Community Development Agency is initiating the next Housing Element in order to plan for future housing needs for the planning period of 2022-2030. In order to meet deadlines established by the State, the Board of Supervisors will need to adopt the forthcoming Housing Element no later than December 31, 2022 and submit it to the State for review and certification. All cities and counties in the Bay Area are required to submit a Housing Element subject to this deadline. This report represents a work program that sets out strategies for maximizing public outreach while ensuring a timely submission of the Housing Element for certification by the State (Attachment 1).

**BACKGROUND**

Marin County, like other communities in California, is initiating a planning process under State law to identify how to meet our housing needs at all income levels. This process involves updating the County's Housing Element, which is a required component of the Countywide Plan (the County's general plan). The California Department of Housing and Community Development (HCD) dictates that among the seven mandatory elements of a general plan, one element must address local housing needs. According to State housing element legislation, all local governments must adopt land use plans and regulations that provide opportunities for, and do not unduly constrain, housing development. Because housing availability is a critical issue with statewide implications, and most housing decisions occur at the local level, State law requires housing elements to be updated on a regular cycle (the timeframe for the next Housing Element is 2022-2030). The State also mandates that housing elements, unlike other elements of the general plan, be reviewed and certified by the State.

The State has previously certified six Marin County Housing Elements dating back to 1970. The County adopted the 2015-2021 Housing Element in December 2015, which required the County to plan for a minimum of 185 units of housing, at a variety of income levels and locations within unincorporated Marin. To ensure flexibility, the County included a sites list which could accommodate 378 units of housing. The Housing Element also includes 48 programs, over 87% of which have been completed or partially implemented. As required by State law, the County

submits Annual Progress Reports (APR) on Housing Element implementation progress to the State. Timely submittal of APRs makes the County eligible for funding and impacts the applicability of some housing streamlined legislation. As part of the previous Housing Element approvals, the County also certified a Supplemental Environmental Impact Report (SEIR) to comply with State environmental review requirements under the California Environmental Quality Act (CEQA). The list of potential housing sites studied in the SEIR, along with those in the current Housing Element, provide the County a place to begin analysis for possible inclusion in the next housing element.

## **HOUSING NEED**

While Marin continues to have one of the highest median incomes in the State and has been identified as one of the healthiest counties, many working families and seniors struggle to meet their basic housing, food, and childcare needs. The high cost of living in Marin and continued rising costs of basic necessities contributes to the stress put on our lower income households, especially communities of color.

For example, special needs populations, such as lower income families with children, seniors, persons with disabilities and people who are homeless, face difficult challenges to finding housing appropriate and affordable for their individual needs. According to the Area Plan for Aging<sup>1</sup>, the senior population is projected to increase to 48% of the County's total population by 2035, a 30% increase. With approximately 5% of the County's seniors with incomes currently below the poverty line, the need for affordable housing opportunities for seniors will only become more acute in the years to come. Affordable housing is also necessary to address the housing needs of the persons with disabilities in the unincorporated County as well as the homeless and precariously housed in our community.

According to the 2020 Marin County Analysis of Impediments to Fair Housing Choice (AI), 30.4% of households in Marin have children, with 23% living below two times the Federal poverty level. The AI also showed that 712 students in Marin were experiencing some form of homelessness, which includes sharing housing with others due to loss of housing/economic hardship, living in a hotel or motel, living in a temporary shelter or being unsheltered. Additionally, the 2020-24 Marin County Consolidated Plan demonstrates that about 64% of families in poverty are renters.

The 2020 Marin County AI also illustrates racial disparities in housing, largely tied to the impacts of historic housing policies and practices that prevented equal opportunity in housing accessibility, quality, and financing. Marin County presents the starkest racial inequities in housing tenure throughout the nine Bay Area counties: while over two thirds of non-Hispanic white residents are homeowners, roughly three quarters of both Black/African American and Hispanic/Latinx communities in Marin are renters.

Additionally, using the income categories of the RHNA and the Marin's median income, farm workers, retail salespersons and childcare workers earn a salary that is considered by the State as very low income (below 50% of area median income); many county staff including police, fire, and ambulance dispatchers typically earn a low income salary (below 80% of area median income) and loan officers and social workers typically earn a moderate income salary (below 120% of area median

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<sup>1</sup> <https://www.marinhhs.org/area-agency-aging>

income). These workers are critical to supporting the services, amenities, and local businesses that contribute to Marin's quality of life and diversity, and the health of our local economy. However, these low to moderate wage earners and their families either struggle or are unable to live in the communities where they work, magnifying concerns about both ecological and economic sustainability.

Well-placed and well-designed affordable housing can serve those populations with identified housing needs as well as reflect or reinforce attributes of the community as a whole.

### **REGIONAL HOUSING NEED ALLOCATION**

Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the number of housing units, by affordability level, that each jurisdiction must accommodate in the Housing Element of its General Plan (Government Code §65584). On June 9, 2020, HCD released the Regional Housing Needs Determination (RHND) for the 6th Housing Element cycle to the Association of Bay Area Governments (ABAG). A total of 441,176 housing units were allocated to the Bay Area for the planning period of 2022 to 2030. This number is approximately twice the housing needs determination the Bay Area received in February of 2012 for the last RHNA cycle and reflects changes to state law, the methodology for allocating housing need, and growth over the past eight years. With the overall increase in the Bay Area's RHNA and the new criteria, such as equity, which will be used to allocate those units, it is anticipated that the unincorporated County will also have a significant increase in the number of housing units it will be required to plan for in order to have a certified housing element. As noted above, the unincorporated County's share of the RHNA was 185 units for the last eight-year cycle, which represents an approximately 76% decrease from the prior RHNA and Housing Element (2007-2014). The County's previous allocation for a four-year period was 773 units of housing, the County has a history of planning for larger allocations.

The Association of Bay Area Governments (ABAG) has convened a Housing Methodology Committee (HMC) to advise and make recommendations on the RHNA methodology for allocating the RHNA to all Bay Area jurisdictions consistent with the State's new equity framework and the statutory objectives of RHNA. These options will significantly impact how many very low, low, moderate and above moderate housing units are allocated to each jurisdiction. The estimated timeline for completing this process is attached (Attachment 2).

### **FAIR HOUSING CHOICE**

Under Assembly Bill 686, the Housing Element will now be required to incorporate 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.

As a precursor to incorporating a fair housing assessment into the Housing Element, the County recently conducted an Analysis of Impediments to Fair Housing Choice (AI) which examined barriers to fair housing. The AI reflects both a federal prerequisite for state and local governments receiving block grants for housing and community development projects as well as Marin's commitment to the promotion of fair housing choice, and to affirmatively further fair housing. The County's goal is to increase, expand and maintain its affordable housing inventory and to increase opportunities for



housing choice for low income residents, people of color, people with disabilities and residents who have specifically been impacted by historic government policies and practices that created segregated communities in Marin and who continue to be marginalized today. The AI identified four overarching impediments to fair housing choice in Marin:

- Community opposition to developing new affordable housing
- Cost of developing affordable housing and the lack of available land for development
- Lack of affordable housing sites
- Lack of homeownership, particularly for African Americans, and ongoing concerns of gentrification.

The overarching conclusion of the AI is that whether it is national, regional or local, where you live matters - particularly for people of color, those with disabilities, families and other members of the protected classes. A person's zip code can predict their life expectancy, their ability to attend good schools, opportunities for employment, transportation options and quality housing. This is particularly notable because Marin County is the most racially unequal county in California, according to the Advancement Project California, a Los Angeles-based civil rights organization<sup>2</sup>. Most racially unequal in this case means that whites generally fare better in all categories measured than Blacks, Latinx, Asians and other people of color. For example, 62.6 percent of whites in Marin own their own home, compared with 59.8 percent of Asians, 27.7 percent of Blacks, 26.4 percent of Latinx and 8.5 percent of Native Americans. These findings will inform the assessment of fair housing as required under AB 686.

### **Changes from the previous Housing Element**

In 2017, Governor Brown signed a 15-bill housing package aimed at addressing the state's housing shortage and rising housing costs. The package included bills aimed towards funding affordable housing, streamlining permits, increasing local accountability for housing production, inclusionary zoning, and preserving existing affordable housing.

The 2018 legislative session also brought new requirements to the criteria applied to suitable sites, now codified in [Government Code Section 65583.2](#). One of the principal outcomes of these changes is the potential for increased state housing allocations through the RHNA process with new state criteria that may increase the difficulty in identifying suitable and reusable housing sites to accommodate the projected growth because of the more stringent requirements for site selection.

The 2019 legislative session concluded with a new batch of legislative bills aimed at increasing production by removing barriers to entitlements, including project streamlining, fee reductions, and limiting local control, to name a few. Bills including Senate Bill 35, Senate Bill 330 and changes to the Housing Accountability Act (HAA), have established mandates for cities, towns and counties to streamline the review process for multi-family housing projects. The Board of Supervisors conducted a workshop on recent legislative changes affecting housing at their [hearing of February 4, 2020](#) (Attachment 3).

In the 2019-20 Budget Act, Governor Gavin Newsom allocated \$250 million for all regions, cities, and counties to prioritize planning activities that accelerate housing

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<sup>2</sup> <https://www.racecounts.org/>

production to meet identified needs of every community. With this allocation, HCD established the Local Early Action Planning Grant Program (LEAP) for cities and counties and the Regional Early Action Planning Grants (REAP) for regional governments. LEAP and REAP provides one-time grant funding to cities and counties to update their planning documents and implement process improvements that will facilitate the acceleration of housing production and help local governments prepare for their 6th cycle Regional Housing Need Allocation (RHNA) and Housing Elements, much like the Senate Bill 2 Planning Grants that local governments in Marin have already received.

One particular area of continued scrutiny will be the inventory of housing sites which will be required to meet the County's share of projected residential growth as determined by the RHNA. Many of the legislative changes made to housing element law<sup>3</sup> will affect the County's next Housing Element, especially as it relates to the selection of sites to accommodate our lower-income RHNA. For example, sites in the current housing element which are identified to accommodate lower income housing may not be reused unless additional actions are taken to encourage and facilitate housing on those sites.

Staff will work with the Board Subcommittee on Affordable Housing to identify strategies to address the anticipated increase in RHNA. Depending on the RHNA, these may include:

- By-right zoning<sup>4</sup> on some sites which are designated to accommodate lower income housing, this would mean that the County would rely on the adopted Objective Design Standards to evaluate a project, rather than the typical review process
- Rezoning to increase density on sites zoned for multifamily and mixed-use
- Other incentives to encourage and facilitate lower income housing

Any of these proposed strategies would include public outreach and opportunities for public comment and would be evaluated and adopted by your Board at a public hearing.

## **PUBLIC OUTREACH**

Extensive public outreach is both a critical component of Housing Element legislation and an important goal for the County. Engaging people of color, lower income and special needs community members is especially important since they are most at risk of being affected by the current housing crisis and have historically not been engaged in planning processes in the County. Staff is seeking to improve outreach efforts and is working to involve all members of the community throughout the update process. To accomplish this, the Community Development Agency is considering supplementing its staff resources to help facilitate the outreach process, and to improve the access to and quality of information provided to the public with a focus on empirical data through surveys and focus groups.

Staff is working to provide a variety of opportunities for the community to contribute ideas and is seeking new ways to reach those less likely to participate in the process.

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<sup>3</sup> See Government Code Sections 65583 and 65583.2 for details

<sup>4</sup> 'By right' means that no review is required under the California Environmental Quality Act (CEQA), unless a subdivision is required, and the project can only be reviewed using 'objective' design standards. (§ 65583.2(i).)

Operating under the current pandemic will change the outreach process, requiring new ways of informing and engaging the public to ensure all voices are heard despite the digital divide experienced by many Marin communities. In accordance with Housing Element law, methods of public outreach include:

- Updating the Housing Element website to improve access to the information needed to become familiar with housing issues in Marin
- Encouraging community members to participate in a Marin County Housing Survey, and to sign up for e-mail updates on the updated website at [www.MarinCounty.org/HousingElement](http://www.MarinCounty.org/HousingElement)
- Engaging with local Design Review Boards, Community Service Districts and other community stakeholder groups to provide information on the Housing Element update and request feedback on conducting outreach
- Scheduling a series of on-line community focus groups to solicit public input on how best to satisfy our housing needs for the next Housing Element cycle (the public outreach will occur prior to the completion of the Draft Housing Element and before the Planning Commission begins its hearings on the Housing Element)

## **HOUSING ELEMENT PROGRAM IMPLEMENTATION**

The two programs below are included in the current Housing Element and scheduled for implementation during this cycle.

**1.c Evaluate the Housing Overlay Designation.** Analyze the Housing Overlay Designation (HOD) policy in the Countywide plan for its effectiveness in encouraging the construction of housing for lower income workforce and special needs populations. Amend the Countywide Plan if it is determined that changes are necessary to make the program more effective.

- a. Amend Countywide Plan Policy CD-2.3 to remove the requirement that HOD sites shall not comply with the mixed-use criteria.

The Housing Overlay Designation (HOD) was established in 2007 as a policy and program of the Countywide Plan (CWP) (CD-2.3 excerpted below). Designed and promoted as a critical tool supporting the County's efforts to develop new affordable workforce housing, however, the program has not yet resulted in the development of any affordable workforce housing through infill development on commercial sites. This program has been partially implemented through a focus group formed by the Community Development Agency in 2017 to solicit input regarding the apparent shortcomings of the program as well as alternative policies that may effectively achieve the underlying goal of increased housing production. The overall conclusion of the working group was that the lengthy, costly and uncertain entitlement processes is a critical barrier to the creation of affordable housing in Marin, including on the HOD sites. Their recommendations were to reduce this barrier by establishing specific criteria that would be used to evaluate affordable housing projects through a ministerial review process.

**1.k Clarify applicability of State Density Bonus.** Evaluate policies in the Countywide Plan and Development Code for housing opportunity sites to ensure consistency with Government Code § 65915-65918. Amend the Countywide Plan and Development Code as appropriate.



Some housing sites identified in the CWP set a maximum number of allowed units inclusive of a density bonus. This method of determining development potential should be evaluated to ensure conformance with State law requiring density bonuses to be considered in addition to the maximum number of housing units established by general plans and zoning.

Because the above programs have not been fully executed as part of the current Housing Element, the proposed work program includes completing their implementation in conjunction with the approval of the upcoming Housing Element update. Staff are proposing that the implementation and any required environmental review be done as part of the proposed work program.

#### **TIMELINE**

The Housing Element update for the planning period of 2022-2030 is due to the State by January 2023. Changes in housing element legislation now include incentives for counties and cities to adopt a housing element on or prior to this deadline. To meet this deadline and combine it with broad public outreach and required environmental review, staff is proposing the schedule as outlined in the attached Work Program (Attachment 1).

#### **FISCAL/STAFFING IMPACT:**

Some funds are available in the Administrative Encumbrance set aside by the Board in 2010 for the prior Housing Element update. The Housing Element update is expected to cost \$500,000 over the next three years. This includes costs of consultants, legal costs and environmental review. In the previous housing element these costs were approximately \$375,000. The Community Development will work with the County Administrator to identify funding as part of the FY2020-21 and FY 2021-22 Proposed Budget.

#### **REVIEWED BY:**

- ☐ Department of Finance
- ☒ County Administrator's Office
- ☒ County Counsel
- ☐ Human Resources

- ☒ N/A
- ☐ N/A
- ☐ N/A
- ☒ N/A

#### **SIGNATURE:**



Leelee Thomas  
Planning Manager

Attachment 1: Housing Element Work Program and Schedule

Attachment 2: RHNA methodology timeline

Attachment 3: Summary of relevant housing element legislation changes

## 2024-2032 Housing Element Work Program and Schedule

Housing Element Update Task	Subtask	Date	Status
Collaboration with Cities & Towns	Pursue multi-jurisdictional approach for Fair Housing (AB 686) and Objective Design Standards (SB 2 grant)	On-going	In progress
HCD releases draft RHND (Regional Housing Needs Determination) for Bay Area		6/9/2020	Complete
Board of Supervisors Hearing	Review and approve Work Program	10/6/20	Scheduled
Initiate public outreach	Update website, materials, schedule Stakeholders meetings, launch survey, Schedule community meetings	Fall 2020	
ABAG releases draft RHNA (Regional Housing Needs Allocation) for local jurisdictions		Fall 2020	
Update Housing Element background data	Update data, Barriers and Constraints, Sites analysis	Fall 2020 – Spring 2021	
ABAG releases final subregion shares		December 2020	
ABAG releases draft RHNA methodology to HCD for review		Winter 2021	
Board Subcommittee meeting	Review findings from community outreach	Winter 2021	
Initiate Draft Housing Element	Incorporate community feedback and draft document	Winter - Spring 2021	
Board Subcommittee meeting	Review housing site scenarios for meeting RHNA	Winter 2021	
Complete Draft Housing Element	Incorporate Subcommittee and community feedback	Winter 2021	
ABAG releases final RHNA methodology draft allocation		Spring 2021	
Board of Supervisors Workshop	Review findings from community outreach Conduct workshop on site selection Contract for CEQA consultant	Spring 2021	
Environmental Review	CEQA review of Housing Element and Program Implementation	Spring 2021- Spring 2022	
ABAG releases final RHNA allocation		End of 2021	
RHNA appeals period		Summer 2021	
Board Subcommittee meeting	Review and feedback on Planning Commission materials	Summer 2022	
Planning Commission Hearings	Review of Draft Housing Element, Draft EIR, etc.	Summer 2022	
Board of Supervisors Hearings	Adoption of the Housing Element	Fall 2022	<b>Due 12/2022</b>
Submittal to the State for certification		January 2023	<b>Due 01/15/2023</b>



ABAG 2023-2031 RHNA and Plan Bay Area 2050 Key Milestones	Proposed Deadline
Housing Methodology Committee kick-off	October 2019
Subregions form <sup>1</sup>	February 2020
Plan Bay Area 2050 Regional Growth Forecast	April 2020
HCD Regional Housing Need Determination <sup>2</sup>	Summer 2020
Plan Bay Area 2050 Draft Blueprint	July 2020
Proposed RHNA methodology, <sup>3</sup> draft subregion shares	Fall 2020
Plan Bay Area 2050 Final Blueprint	December 2020
Final subregion shares <sup>4</sup>	December 2020
Draft RHNA methodology to HCD for review <sup>5</sup>	Winter 2021
Final RHNA methodology, <sup>6</sup> draft allocation <sup>7</sup>	Spring 2021
RHNA appeals <sup>8</sup>	Summer 2021
Final Plan Bay Area 2050	September 2021
Final RHNA allocation <sup>9</sup>	End of 2021
Housing Element due date <sup>10</sup>	January 2023

*Dates are tentative and subject to change.*

To learn more, visit the [ABAG RHNA website](#) or [Plan Bay Area 2050 website](#).

## Glossary of Acronyms

ABAG – Association of Bay Area Governments

HCD – California Department of Housing and Community Development

RHNA – Regional Housing Needs Allocation

<sup>1</sup> GC §65584.03(a).

<sup>2</sup> GC §65584.01(b)(1).

<sup>3</sup> GC §65584.04. ABAG/Subregion must conduct at least one public hearing prior to releasing draft methodology.

<sup>4</sup> GC §65584.03(c).

<sup>5</sup> GC §65584.04(h).

<sup>6</sup> GC §65584.04(i). HCD has up to 90 days to review final methodology.

<sup>7</sup> GC §65584.05(a).

<sup>8</sup> GC §65584.05.

<sup>9</sup> GC §65584.05(g).

<sup>10</sup> GC §65588(e)(3)(A). Housing Element Due Date is 18 months after adoption of the RTP/SCS.

## Summary of State Legislation

Bill	Summary
2017	
SB 35	<ul style="list-style-type: none"> <li>Memorialized and strengthened the State's ongoing intent to hold jurisdictions accountable for housing production at all income levels through public reporting on progress towards compliance with Housing Elements, or be subject to a streamlined housing development approval process</li> </ul>
AB 72	<ul style="list-style-type: none"> <li>Significantly enhanced the State's ability to review a local agency's housing element for compliance with State law.</li> </ul>
2019	
AB 101	<ul style="list-style-type: none"> <li>Requires fines if housing element is out of compliance.</li> <li>By-right approval for homeless shelters.</li> <li>Authorizes funding to address homelessness, accelerate housing production, create ADUs, fund infill infrastructure, produce low-income housing, and finance housing for special needs populations.</li> </ul>
SB 330	<ul style="list-style-type: none"> <li>Faster approvals for housing and zoning changes.</li> <li>Prohibits more than 5 hearings on any housing development project.</li> <li>Statewide ban on (A) downzoning, (B) moratoriums on housing development, (C) non-objective design standards, and (D) limit on number of permits issued.</li> <li>Requires relocation assistance and right of first refusal to displaced tenants.</li> </ul>
AB 1763	<ul style="list-style-type: none"> <li>80% or more density bonus for affordable housing.</li> <li>100% affordable projects within one-half mile of a major transit stop allowed unlimited density, four incentives and concessions, and up to three additional stories</li> </ul>
AB 68, AB 881 and SB 13	<ul style="list-style-type: none"> <li>Prohibits required replacement parking if a space is removed for an ADU.</li> <li>Allows ADUs up to 850 square feet or 1,000 square feet (if more than one bedroom) and up to 16 feet in height</li> <li>Prohibits owner-occupancy requirement.</li> <li>Requires ministerial approval within 60 days of application.</li> <li>Prohibits impact fees on ADUs under 750 square feet.</li> <li>Prohibits minimum lot size for ADU</li> <li>Prohibits requirement for replacement parking garage is converted or demolished for ADU</li> </ul>

Bill	Summary
	<ul style="list-style-type: none"> <li>▪ Allows one ADU plus one junior ADU</li> </ul>
AB 686	<ul style="list-style-type: none"> <li>▪ Adds an analysis to Affirmatively Further Fair Housing (AFFH) into the Housing Element for plans that are due beginning in 2021</li> <li>▪ Includes in the AFFH analysis a required examination of issues such as segregation and resident displacement, as well as the required identification of fair housing goals</li> <li>▪ Requires cities and counties to administer their programs and activities related to housing and community development in a way that affirmatively furthers fair housing</li> </ul>
AB 1771 and SB 828	<ul style="list-style-type: none"> <li>▪ Altered the RHNA allocation process to de-emphasize local inputs into the process in order to ensure all jurisdictions are accountable in doing their fair share to address the region's housing needs.</li> <li>▪ The housing allocation now accounts for existing unmet need whereas, prior years have been based solely on projected population growth.</li> <li>▪ In the ABAG region, this could potentially result in a significant increase of needed housing units.</li> </ul>