



COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

M E M O R A N D U M

TO: Marin County Planning Commission

FROM: Michelle Levenson, Senior Planner

DATE: March 28, 2023

RE: Planning Commission Hearing of March 30, 2023, Agenda Item No. 4
Workshop on the 2023 Marin County Development Code Amendments

The purpose of this memorandum is to provide additional public correspondence received following the publishing of the staff report on March 8, 2023.

FW: Sustainable TamAlmonte's letter to the PC re Development Code Amendments pertaining to ADUs

PlanningCommission <PlanningCommission@marincounty.org>

Thu 3/23/2023 8:38 AM

To: Levenson, Michelle <MLEvenson@marincounty.org>; Tejirian, Jeremy <JTejirian@marincounty.org>; Jones, Sarah <sbjones@marincounty.org>; Andrea Montalbano <moopsy1@gmail.com>; Christina Desser (cdesser@mac.com) <cdesser@mac.com>; Don Dickenson (ddickenson@aol.com) <ddickenson@aol.com>; Margot Biehle (mbiehle@comcast.net) <mbiehle@comcast.net>; Peggy Curran (pcurran@tril.com) <pcurran@tril.com>; Rebecca Lind (sunsides58@gmail.com) <sunsides58@gmail.com>

📎 1 attachments (1 MB)

Sustainable TamAlmonte letter to PC re Development Code Amendments pertaining to ADUs 3-21-23.pdf;



.....

ANA HILDA MOSHER

SENIOR SECRETARY/PLANNING COMMISSION SECRETARY

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STAY CONNECTED:



"Please consider the environment before printing this email or attachments"

From: Sharon Rushton <sharonr@tamalmonite.org>

Sent: Wednesday, March 22, 2023 7:28 PM

To: PlanningCommission <PlanningCommission@marincounty.org>; Commissions <Commissions@marincounty.org>

Cc: Mosher, Ana Hilda <AMosher@marincounty.org>; Damazyn, Michele <MDamazyn@marincounty.org>

Subject: Sustainable TamAlmonte's letter to the PC re Development Code Amendments pertaining to ADUs

****Please confirm receipt of this email and the attached letter.**

Dear Marin County Planning Commission,

Attached is a letter, dated March 21, 2023, from Sustainable TamAlmonte to you regarding Marin County Development Code Amendments pertaining to Accessory Dwelling Units (ADUs).

Thank you in advance for your conscientious consideration.

Very truly yours,

Sharon Rushton



Sharon Rushton

President | **Sustainable TamAlmonte**

sharonr@tamalmonite.org

tamalmonite.org

SUSTAINABLE TAMALMONTE

215 Julia Ave Mill Valley, CA 94941

March 21, 2023

Marin County Planning Commission
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903
planningcommission@marincounty.org

Re: Marin County Development Code Amendments pertaining to Accessory Dwelling Units (ADUs)



Paradise lost: Before-and-after photos show a town devoured by a raging wildfire – SFGate

Dear Marin County Planning Commission,

We request that you recommend the same protections against dangerous Accessory Dwelling Units (ADUs) that your board courageously recommended on December 14, 2020, but which, unfortunately, were overturned by the Board of Supervisors on January 26, 2021, due to a lack of vital information.

I. BACKGROUND

On December 14, 2020, the Planning Commission recommended safeguards to the Marin County Development Code that protected environmentally sensitive areas and prevented further deterioration of inadequate emergency access and evacuation routes in high fire risk areas caused by unsafe Accessory Dwelling Units (ADUs).

More specifically, the safeguards prohibited ministerial (automatic), “by right” approval of all categories of ADUs at properties located in environmentally sensitive areas and at properties on roadways with less than 20-foot-wide paved surface, which are also located in the Wildland Urban Interface (WUI) or in a Very High Fire Hazard Severity Zone (VHFHSZ). However, a homeowner could have still applied for a Category 4 Accessory Dwelling Unit permit at the high fire risk locations and sought a variance or waiver of the prohibition, which could have been granted if the local Fire Protection District determined that adequate emergency access and evacuation routes would be provided.

****Please see Appendix I** of this letter for the exact verbiage of the ADU regulations that were recommended by the Planning Commission on December 14, 2020.

Unfortunately, on January 26, 2021, the Board of Supervisors, with incomplete information, overturned your protections. We believe they did this for two reasons:

1) The Board of Supervisors were unaware that they could legally designate where ADUs may and may not be permitted.

Staff and County legal counsel did not inform the Supervisors about the research that Sustainable TamAlmonte had provided Staff and the Planning Commission during the Commission’s hearings.

Previously, Sustainable TamAlmonte had presented Staff and your board with a list of 5 other jurisdictions that prohibited all categories of Accessory Dwelling Units (ADUs) in hazardous areas, copies of those jurisdictions' ADU ordinances, and the legal basis for why two of those other jurisdictions' legal counsel determined that they could indeed protect public safety from dangerous ADUs.

Sustainable TamAlmonte’s prior letter to the Planning Commission explained that other jurisdictions’ legal counsels found ambiguities in the language and intent of the State ADU legislation. Therefore, they followed **Gov. Code § 65852.2 (a)**, rather than Gov. Code § 65852.2 (e).

Gov. Code Section 65852.2 (a) states that a local jurisdiction’s ADU ordinance **shall** designate where ADUs may and may not be permitted, based on the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety.

None of this vital legal information was relayed to the Supervisors.

2) The Board of Supervisors still thought it was possible to meet the County's RHNA number.

Please remember that achieving a "**compliant Housing Element**" is separate and distinct from "**meeting the Regional Housing Needs Assessment (RHNA) numbers**", which means the number of housing units, expressed in the RHNA, are actually built.

We believe, based on testimony, that in early 2021 the Supervisors still thought it was possible to meet the Regional Housing Needs Assessment (RHNA) numbers and that construction of ADUs may play an important role in achieving this. However, it is now recognized that 3,569 units will never be built within 8 years and therefore, the RHNA number will not be met. If the County couldn't meet its RHNA numbers last cycle, which totaled 185 housing units, then it surely will not meet its RHNA numbers this cycle, which total 3,569 units. Moreover, very few ADUs were identified in the Housing Element inventory and used to achieve a compliant Housing Element.

II. ATTACHED LETTER – DATED SEPTEMBER 30 2021 - FROM SUSTAINABLE TAMALMONTE ET AL. TO THE MARIN COUNTY BOARD OF SUPERVISORS

For more detailed information about this issue, please scroll down to read the attached letter, dated September 30, 2021, from Sustainable TamAlmonte Et al. to the Marin County Board of Supervisors. You will find the previous letter after **Appendix I** of this letter.

Sustainable TamAlmonte's September 30th letter demonstrates that Marin County's adopted Accessory Dwelling Unit (ADU) regulations endanger communities in the Wildland Urban Interface, High Fire Hazard Zones, Very High Fire Hazard Zones, Environmentally Sensitive Areas and Constrained Areas with inadequate and unsafe access and evacuation routes in the event of a fire or other emergency. It also shows that the new ADU regulations would likely result in significant adverse environmental impacts on streams and wetlands. Furthermore, the letter gives recommendations on how to protect public health and safety, preserve the environment, and allow safe ADUs, while abiding by State law.

Sustainable TamAlmonte's September 30th letter was endorsed by sixteen highly respected Marin organizations:

- 1. Almonte District Improvement Club;**
- 2. Almonte Sanitary District;**
- 3. De Silva Island Homeowners Association;**
- 4. Golden Gate Village Resident Council;**
- 5. Los Ranchitos Improvement Association;**
- 6. Marin Against Density;**
- 7. Marin City Community Services District;**
- 8. Responsible Growth in Marin;**
- 9. Seminary Neighborhood Association;**
- 10. Strawberry Community Association;**
- 11. Sustainable Homestead;**
- 12. Sustainable Ross Valley;**
- 13. Tamalpais Design Review Board;**

- 14. Tam Valley Improvement Club;
- 15. Watershed Alliance of Marin;
- 16. Women Helping All People.

Please note that we believe that the Supervisors did not take action on our September 30th letter because at the time we were unable to follow up and schedule individual meetings with each Supervisor in order to further explain this complicated topic.

III. CONCLUSION

We request that you recommend the same protections against dangerous Accessory Dwelling Units (ADUs) that your board courageously recommended to be added to the Marin County Development Code on December 14, 2020

More specifically, the safeguards prohibited ministerial (automatic), "by right" approval of all categories of ADUs at properties located in environmentally sensitive areas and at properties on roadways with less than 20-feet-wide paved surface, which are also located in the Wildland Urban Interface (WUI) or in a Very High Fire Hazard Severity Zone (VHFHSZ). However, a homeowner could have still applied for a Category 4 Accessory Dwelling Unit permit at the high fire risk locations and sought a variance or waiver of the prohibition, which could have been granted if the local Fire Protection District determined that adequate emergency access and evacuation routes would be provided.

Thank you in advance for your conscientious consideration.

Very truly yours,

/s/

Sharon Rushton, President
Sustainable TamAlmonte

APPENDIX I

Marin County Planning Commission's Recommendation For Accessory Dwelling Unit Regulations

Marin County Development Code – Page III-104

22.32.120 - Residential Accessory Dwelling Units

Standards for Specific Land Uses 22.32.120

There are four categories of Accessory Dwelling Units, each with different standards that apply as indicated below. In all of the categories, only one Accessory Dwelling Unit is allowed on a lot restricted to single family residential development. An Accessory Dwelling Unit may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling unit and Accessory Dwelling Units can only be rented for terms longer than 30 consecutive days.

A. Category 1. Accessory Dwelling Units in this category shall comply with the criteria listed below.

1. Single family Development:

a) The Accessory Dwelling Unit is contained entirely within the legal building area of an existing single-family dwelling.

b) The Accessory Dwelling Unit is contained entirely within the legal building area of an existing outbuilding: except that the project may include an addition of not more than 150 square feet of floor area to provide access to the unit, provided the access addition meets minimum rear and side setbacks of four feet.

c) The Accessory Dwelling Unit is contained entirely within proposed new construction building area of an outbuilding that does not exceed a floor area of 800 square feet, a height of 16 feet above grade, and has minimum rear and side yard setbacks of four feet.

d) If an Accessory Dwelling Unit is to be located on a property in a wildland urban interface zone or a very high fire hazard severity zone, then the property must have direct vehicle access to a street network with a continuous minimum paved width of at least 20 feet from the property to an arterial street or highway.

Multi-family Development:

a) Two detached Accessory Dwelling Units are allowed to be built on a lot that has an existing multi-family dwelling, but are detached from that multi-family dwelling and are subject to a height limit of 16 feet above grade and minimum side and rear setbacks of four feet.

b) Multiple Accessory Dwelling Units are allowed to be built within those portions of the existing legal building area of a multi-family dwelling that are not conditioned to be habitable, such as boiler rooms, storage rooms, passageways, attics, basements, and garages.

c) At least one Accessory Dwelling Unit is allowed to be built within an existing multi-family dwelling, with the maximum allowed in multi-family dwellings of five units or more being 25 percent of the total existing legal units.

d) If an Accessory Dwelling Unit is to be located on a property in a wildland urban interface zone or a very high fire hazard severity zone, then the property must have direct vehicle access to a street network with a continuous minimum paved width of at least 20 feet from the property to an arterial street or highway.

B. Category 2. Accessory Dwelling Units in this category shall comply with the criteria listed below and shall be subject to Accessory Dwelling Unit approval.

1. The Accessory Dwelling Unit does not exceed a floor area of 800 square feet, a height of 16 feet above grade, has a minimum front yard setback of 25 feet and has minimum side and rear yard setbacks of four feet.

2. The Accessory Dwelling Unit shall be located outside of any environmentally sensitive areas.

3. If an Accessory Dwelling Unit is to be located on a property in a wildland urban interface zone or a very high fire hazard severity zone, then it must have direct vehicle access to a street network with a continuous minimum paved width of at least 20 feet from the property to an arterial street or highway.

C. Category 3. Accessory Dwelling Units in this category shall comply with the criteria listed below and shall be subject to Accessory Dwelling Unit Permit approval.

1. An attached Accessory Dwelling Unit contained entirely within an addition to an existing single-family residence shall not exceed 50 percent of the floor area of the existing residence. except that a one-bedroom unit that is up to 850 square feet shall be allowed and a two or more bedroom unit that is up to 1,000 square feet shall be allowed.

2. A detached Accessory Dwelling Unit shall not exceed a floor area of 1,200 square feet. A detached one-bedroom unit that is up to 850 square feet shall be allowed and a detached two or more bedroom unit that is up to 1,000 square feet shall be allowed.

3. An Accessory Dwelling Unit in a conventional zoning district shall comply with all development standards for that district and shall be located within any applicable building envelopes. Notwithstanding any floor area restrictions, a one-bedroom unit that is up to 850 square feet shall be allowed and a two or more bedroom unit that is up to 1,000 square feet shall be allowed.

4. An Accessory Dwelling Unit in a Planned zoning district shall comply with all the development standards for the R1:B3 zoning district, except that a numerical development restriction established by a Master Plan shall govern where applicable, and the unit shall be located within any applicable building envelopes. Notwithstanding any floor area restrictions, a one-bedroom unit that is up to 850 square feet shall be allowed and a two or more bedroom unit that is up to 1,000 square feet shall be allowed.

5. The Accessory Dwelling Unit shall be located outside of any environmentally sensitive areas.

4. If an Accessory Dwelling Unit is to be located on a property in a wildland urban interface zone or a very high fire hazard severity zone, then the property must have direct vehicle access to a street network with a continuous minimum paved width of at least 20 feet from the property to an arterial street or highway.

D. **Category 4.** Accessory Dwelling Units in this category are those units that do not fall within categories 1-3 above, and shall comply with the criteria below and shall be subject to Accessory Dwelling Unit Permit approval.

1. An attached Accessory Dwelling Unit contained entirely within an addition to an existing single-family residence shall not exceed 50 percent of the floor area of the existing residence.

2. A detached Accessory Dwelling Unit shall not exceed a floor area of 1,200 square feet.

3. The Accessory Dwelling Unit shall be located outside of any environmentally sensitive areas.

4. If an Accessory Dwelling Unit is to be located on a property in a wildland urban interface zone or a very high fire hazard severity zone, then the property must have direct vehicle access to a street network with a continuous minimum paved width of at least 20 feet from the property to an arterial street or highway. However, this standard shall not apply when the Marin County Fire Department or the responsible local fire protection district determines that adequate emergency access and evacuation routes will be provided.

5. The development of the Accessory Dwelling Unit shall comply with all applicable zoning requirements, including Master Plan criteria and discretionary review.

FW: We endorse Sustainable TamAlmonte's letter (dated March 21, 2023) to the planning commission.

PlanningCommission <PlanningCommission@marincounty.org>

Thu 3/23/2023 10:31 AM

To: Levenson, Michelle <MLEvenson@marincounty.org>



ANA HILDA MOSHER

SENIOR SECRETARY/PLANNING COMMISSION SECRETARY

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STAY CONNECTED:



"Please consider the environment before printing this email or attachments"

From: Toni Shroyer <tonishroyer@hotmail.com>

Sent: Thursday, March 23, 2023 10:20 AM

To: PlanningCommission <PlanningCommission@marincounty.org>

Subject: We endorse Sustainable TamAlmonte's letter (dated March 21, 2023) to the planning commission.

You don't often get email from tonishroyer@hotmail.com. [Learn why this is important](#)

We endorse Sustainable TamAlmonte's letter (dated March 21, 2023) to the planning commission.

Thank you,

Toni and Jim Shroyer

Novato, CA
415-640-2754

Toni Shroyer Realtor, SRES (Senior Real Estate Specialist)

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FW: Sustainable TamAlmonte's letter to the Planning Commission re Development Code Amendments pertaining to A

PlanningCommission <PlanningCommission@marincounty.org>

Thu 3/23/2023 10:31 AM

To: Levenson, Michelle <MLEvenson@marincounty.org>

📎 1 attachments (1 MB)

Sustainable TamAlmonte letter to PC re Development Code Amendments pertaining to ADUs 3-21-23.pdf;



ANA HILDA MOSHER

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"Please consider the environment before printing this email or attachments"

From: Steve Levine <stevenmlevine@comcast.net>

Sent: Thursday, March 23, 2023 8:38 AM

To: PlanningCommission <PlanningCommission@marincounty.org>

Subject: Sustainable TamAlmonte's letter to the Planning Commission re Development Code Amendments pertaining to A

You don't often get email from stevenmlevine@comcast.net. [Learn why this is important](#)

We fully endorse Sustainable TamAlmonte's letter to you regarding the Development Code Amendments pertaining to ADUs.

Steven Levine and Gunilla Bjork
635 Glenwood Ave
Mill Valley CA 94941

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

From: Sharon Rushton <sharonr@tamalmonite.org>

To: undisclosed-recipients: ;

Date: 03/22/2023 9:15 PM

Subject: ACTION ALERT! Please endorse Sustainable TamAlmonite's letter to the Planning Commission re Development Code Amendments pertaining to ADUs

**ACTION ALERT! Please
endorse Sustainable
TamAlmonite's letter to the
Marin County Planning
Commission in order to
protect communities with
unsafe evacuation and access
routes from dangerous
Accessory Dwelling Units
(ADUs)**



Paradise lost: Before-and-after photos show a town devoured by a raging wildfire – SFGate

Hi Sustainable TamAlmonte Friends,

Attached is a letter, dated March 21, 2023, from Sustainable TamAlmonte to the Marin County Planning Commission regarding Marin County Development Code Amendments pertaining to Accessory Dwelling Units (ADUs). The Planning Commission will be reviewing these amendments on Thursday, March 30, 2023 and then again on April 10, 2023.

Sustainable TamAlmonte's March 21st letter asks the Planning Commission to recommend the same protections against dangerous Accessory Dwelling Units (ADUs) that they courageously recommended on December 14, 2020, but which, unfortunately, were overturned by the Board of Supervisors on January 26, 2021, due to a lack of vital information.

Attached to the March 21st letter is a second letter, dated September 30, 2021, from Sustainable TamAlmonte to the Marin County Board of Supervisors. This second letter demonstrates that Marin County's previously adopted Accessory Dwelling Unit (ADU) regulations endanger communities in the Wildland Urban Interface, High Fire Hazard Zones, Very High Fire Hazard Zones, Environmentally Sensitive Areas and Constrained Areas with inadequate and unsafe access and evacuation routes in the event of a fire or other emergency. It also shows that the ADU regulations would likely result in significant adverse environmental impacts on streams and wetlands. Furthermore, the letter gives recommendations on how to protect public health and safety, preserve the environment, and allow safe ADUs, while abiding by State law.

Sustainable TamAlmonte's second letter, dated January 26, 2021, was endorsed by sixteen

highly respected Marin organizations:

1. Almonte District Improvement Club;
2. Almonte Sanitary District;
3. De Silva Island Homeowners Association;
4. Golden Gate Village Resident Council;
5. Los Ranchitos Improvement Association;
6. Marin Against Density;
7. Marin City Community Services District;
8. Responsible Growth in Marin;
9. Seminary Neighborhood Association;
10. Strawberry Community Association;
11. Sustainable Homestead;
12. Sustainable Ross Valley;
13. Tamalpais Design Review Board;
14. Tam Valley Improvement Club;
15. Watershed Alliance of Marin;
16. Women Helping All People.

Please endorse Sustainable TamAlmonte's letter (dated March 21, 2023) to the Planning Commission by sending an email/letter to the Planning Commission:

planningcommission@marincounty.org

Thank you in advance for your advocacy. **Together we can make a difference!**

Cheers,

Sharon

--



Sharon Rushton

President | **Sustainable TamAlmonte**

sharonr@tamalmonite.org

tamalmonite.org

FW: I endorse Sustainable Almonte's letter of March 21st re ADAs

PlanningCommission <PlanningCommission@marincounty.org>

Mon 3/27/2023 9:05 AM

To: Levenson, Michelle <MLEvenson@marincounty.org>



.....

ANA HILDA MOSHER

SENIOR SECRETARY/PLANNING COMMISSION SECRETARY

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STAY CONNECTED:



"Please consider the environment before printing this email or attachments"

From: Susan hayes <suehayesmv@yahoo.com>

Sent: Thursday, March 23, 2023 3:15 PM

To: PlanningCommission <PlanningCommission@marincounty.org>

Subject: I endorse Sustainable Almonte's letter of March 21st re ADAs

You don't often get email from suehayesmv@yahoo.com. [Learn why this is important](#)

I endorse the following:

Sustainable TamAlmonte's March 21st letter asking the Planning Commission to recommend the same protections against dangerous Accessory Dwelling Units (ADUs) that they courageously recommended on December 14, 2020, but which, unfortunately, were overturned by the Board of Supervisors on January 26, 2021, due to a lack of vital information. Attached to the March 21st letter is a second letter, dated September 30, 2021, from Sustainable TamAlmonte to the Marin County Board of Supervisors. This second letter demonstrates that Marin County's previously adopted Accessory Dwelling Unit (ADU) regulations endanger communities in the Wildland Urban Interface, High Fire Hazard Zones,

Very High Fire Hazard Zones, Environmentally Sensitive Areas and Constrained Areas with inadequate and unsafe access and evacuation routes in the event of a fire or other emergency. It also shows that the ADU regulations would likely result in significant adverse environmental impacts on streams and wetlands. Furthermore, the letter gives recommendations on how to protect public health and safety, preserve the environment, and allow safe ADUs, while abiding by State law.

Sincerely

Susan Hayes
Mill Valley
Homeowner