

SEAN R. MARCINIAK
PARTNER
DIRECT DIAL (925) 746-8471
DIRECT FAX (925) 746-8498
E-MAIL smarciniak@hansonbridgett.com



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President Dennis Rodoni and the
Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

Re: Appeal of 31 Wharf Road Project, Bolinas

Dear President Rodoni and Honorable Members of the Marin County Board of Supervisors:

We write regarding Roland Crotts' appeal of the Marin County Planning Commission's decision to approve the development of a mixed-use, affordable residential development at 31 Wharf Road in downtown Bolinas. Our client Bolinas Community Land Trust ("BCLT") is the owner of this land and the applicant. The approved development that is subject to the neighbor's appeal specifically consists of eight affordable units available for rent to low and very low income households (the "Project"). The Project incorporates a thoughtful design and situates a vital community use at an underutilized, undeveloped infill location.

As the County well knows, California, and the Bay Area in particular, are currently in the grips of a housing crisis. The Marin County Planning Commission, recognizing the importance of affordable housing in the County, carefully considered and approved a use permit, coastal permit, and design review entitlement that would allow for construction of the Project. Such decisions, as you know, are not easy. While affordable housing is critical to the functioning of the community, it often inspires a deluge of NIMBY opposition, often based on misinformation and stigmas about the occupants of affordable housing projects.

While opposition to this Project has been strident, we do not believe this opposition is widespread. In fact, BCLT's waitlist of occupants includes many firefighters, first responders, seniors, families, and service workers with varying backgrounds and income levels. Perhaps reflecting the will of the larger of community, the County has also been supportive of the Project. The Planning Commission's approval aside, the County Board of Supervisors on November 5, 2019 approved a \$400,000 grant from the Marin County Affordable Housing Fund that included predevelopment costs for the Project.

Turning to the legal issues at bar, a neighbor of the Project, Roland Crotts, has filed an appeal, asking the Board to overturn the Planning Commission's decision and instead find that the Project be either denied outright, or continued pending another round of review. As Project opponents know, delay or conditions which alter the proposed features of the Project here can significantly harm the Project, as it complicates the funding of its construction and create issues of infeasibility.

The Board, respectfully, should take neither of Mr. Crotts' requested actions. As outlined below, denying or otherwise rendering infeasible this Project would be a violation of the Housing

Hanson Bridgett LLP
1676 N. California Blvd., Suite 620, Walnut Creek, CA 94596 hansonbridgett.com

Accountability Act, subjecting the County to legal action and the payment of significant attorney fees. Mr. Crotts' appeal raises no legal basis upon which the County can permissibly deny or delay or the Project, and the rejection of Mr. Crotts' appeal would both vindicate the policies of the Marin Countywide Plan and ensure compliance with state constitutional laws and statutes, including state anti-discrimination laws.

I. As the Planning Commission noted in its approval of the Project, the County does not have the discretion to deny this affordable housing proposal without penalties

Since the 1980s, the Housing Accountability Act has attempted to prevent cities and counties from denying affordable housing projects. Against the backdrop of the housing crisis, the California Legislature has repeatedly amended the Housing Accountability Act during the past five years to expand and strengthen the provisions. While these statewide actions have raised concerns about the loss of local government control, they have been instrumental in making homes available to the less fortunate. In approving the Project, the County Planning Commission understood this context and the macro issues at play.

The introductory provisions of the Housing Accountability Act specifically echo and underscore the severity of California's housing crisis:

California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives [...] The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. (Government Code section 65589.5(a)(2)(A); (K), *emph. added*).

The core mandate of the Act is similarly clear: "[I]t is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article [...]." (Government Code section 65589.5(b)).

The proposed development at 31 Wharf Road is exactly the type of the development envisioned by the Housing Accountability Act. It is also a modest one, consisting of a two-story building over basement with eight units of affordable housing available for rent to low and very low income households. The Project also sits within an infill location in downtown Bolinas; presents no sensitive environmental issues, as the administrative record well documents; and makes use of an underutilized location that is already zoned for urban development.

As such, the County has very limited discretion to deny or make infeasible the Project; it may only do so if it is able to make one the following specific written findings:

- (1) The County's housing element in compliance and the regions regional housing needs allocation ("RHNA") has been met or exceeded for all income categories proposed for the project.

- (2) The Project has a specific adverse impact on public health or safety, and there is no feasible method to mitigate or avoid the impact. A “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation is not, in itself, a “specific adverse impact.”
- (3) Denial is required to comply with specific state or federal law, and there is no feasible method to comply
- (4) The Project is proposed on land zoned for agriculture or will not be served by adequate water or sewer facilities.
- (5) The Project is inconsistent with both zoning and general plan use designation, and the project is not proposed on a site identified in the housing element, and there are sufficient sites to accommodate the RHNA allocation. (Government Code section 65589.5(d)).

Additionally, the County may not condition approval of the Project on a reduction in dwelling units, or on any other condition that will have the effect of a reduction in dwelling units, without an explicit written finding that the Project’s current density has a specific adverse impact on public health or safety, and there is no other feasible method to mitigate or avoid the identified impact. (Government Code sections 65589.5(j); 65589.5(h)(7)). Again, such a finding requires a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Government Code sections 65589.5(j)).

As outlined below, the Planning Commission has not, and indeed could not have, made any of these findings related to the Project. Therefore, any denial of the Project, delay in review, or imposition of a condition causing a reduction in the number of units in the Project would be a violation of the Housing Accountability Act.

A. Marin County as a whole, and Unincorporated Marin County specifically, has not met its RHNA allocation goal for low income or very low income housing

As indicated in the 2019 Bay Area Building Permit Activity Report prepared by the Association of Bay Area Government ("ABAG"), Marin County as a whole, and unincorporated Marin County in particular, have not met their respective RHNA allocation for low income or very low income units. Marin County has permitted 128 of 618 needed units for very low income households (21%), while unincorporated Marin County in particular has permitted 19 of 55 needed units for very low income households (35%). Marin County has permitted 181 of 367 needed units for low income households (49%), while unincorporated Marin County in particular has permitted 18 of 32 needed units for low income households (56%).

Marin County’s RHNA allocation has not been met, let alone exceeded, for the income categories the Project will serve. The Project will significantly help Marin County reach its current RHNA housing allocation goal for very low income and low income households, as well as any further 2031 Housing Allocation goals anticipated to be released by 2023.

B. The Project has no specific adverse impact on public health or safety

As is well-documented in the administrative record of proceedings, including those documents supporting the Planning Commission's approval of the Project, the proposed development is consistent with Marin Countywide Plan fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during review of the Building Permit application. (Resolution No. PC21-003 at Section I, 6 G.) The Project will also be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application. (Resolution No. PC21-003 at Section I, 6 F.).

As the Staff Report for the Project further notes, the Marin County Department of Public Works and the Bolinas Community Public Utility District "have both reviewed the proposed project and have not identified '...any specific adverse impact...based on objective, identified, written public health or safety standards...' that would result from construction of the project." (Staff Report to the Marin County Planning Commission, p. 6). These agencies have unique expertise to evaluate these issues, and there is not an iota of contradicting, credible evidence in the administrative record from any party, including the appellant.

C. Far from violating state or federal law, the Project will help the County better comply with state law

There is nothing in the record suggesting that approval of the Project would violate any State or Federal law. To the contrary, the County Planning Commission's approval certifies that "the development would comply with State and Federal law." (Resolution No. PC21-003 at Section I, 4.).

In fact, failing to allow the Project to move forward threatens risks violating state law. As discussed above, Marin County has not yet met its RHNA allocation for affordable housing. Furthermore, as explained in later sections, denying the Project risks violating California's Housing Accountability Act and anti-discrimination laws.

D. The Project site is not zoned for agriculture, and the Bolinas Community Public Utility District has certified the property has adequate water and sewer services.

The Project site is not zoned for agriculture. The southern portion of the site, where development will occur, is zoned as C-VCR, Coastal Village Commercial Residential, under the Marin County Interim Zoning Code. Such parcels allow for the construction of residential dwellings, and have the purpose of "foster[ing] opportunities for village commercial growth" and "maintain[ing] a balance between resident and non-resident commercial uses." (Marin County Interim Zoning Code 22.57.120I). None of the permitted principle uses of parcels zoned C-VCR is agricultural in nature.

Regarding water and wastewater service, the Bolinas Community Public Utility District, the body clearly best situated to evaluate the feasibility of water and sewer service for the property, has already confirmed, via a June 11, 2020 letter presented to the Community Development Agency, that "the property at 31 Wharf Road in Bolinas (APN# 193-061-03) is served by the BCPUD's water and sewer systems." (Staff Report to the Marin County Planning Commission, Attachment 4).

E. The Project is consistent with zoning and the applicable plan

The Project site is “split-zoned.” The northern portion of the site, which will remain undeveloped, is designated C-SF5, Coastal Single Family, under the Countywide Plan, and a designation of C-RA-B2, Coastal, Residential Agriculture, under the Marin County Interim Zoning Code. The Southern portion of the site, where the actual housing will be developed, is designated as C-NC, Coastal Neighborhood Commercial, under the Countywide Plan, and C-VCR, Coastal Village Commercial Residential, under the Marin County Interim Zoning Code. This zoning district allows, by permit, multiple dwellings.¹ (Marin County Interim Zoning Code 22.57.120I).

The Project’s proposed eight units are within the allowable density, both under the County Wide Plan (one to 20 units per acre; or eight units for the proposed site) and the Marin County Interim Zoning Code (one unit per 2000 sf; or 8.5 units for the proposed site). See Marin Countywide Plan Map 7.11 Bolinas Land Use Policy Map; see Marin County Interim Zoning Code Section 22.57.126I.

As an eight-unit development comprised exclusively of housing for low and very low income households, the Project qualifies for certain concessions or waivers with regard to development standards under California’s Density Bonus Law. (Government Code section 65915 (b)(1)). The Project did not seek concessions under this provision, but did receive waivers of certain development standards. Specifically, the Planning Commission approved waivers from development standards related to (1) the maximum height requirement of 25 feet for primary structures, (2) the side yard setback requirement of five feet for the residential components of the project, and (3) open space requirements contained in the County’s Multi-Family Residential Design Guidelines. The Project as approved has a maximum height of 33 feet and minimum side setbacks of zero feet for the residential components of the project on the east side of the site. The Project proposed private deck space for each unit, but the Project shall be subject to a waiver to the extent that the deck space does not satisfy open space requirements.

However, per the Housing Accountability Act, receipt of such Density Bonus waivers of development standards cannot form a valid basis for a city or county to determine that a development project is inconsistent, not in compliance, or not in conformity with an applicable plan or policy. (Government Code section 65589.5 (j)(3)).

Accordingly, the Planning Commission has certified that the project is consistent with the Marin Countywide Plan’s C-NC land use designation for the site, and consistent with all applicable Marin County Interim Zoning Code provisions for the site. (Resolution No. PC21-003 at Section I, 4.).

F. Failure to abide by the Housing Accountability Act will expose the County to legal liabilities, including the potential award of significant attorney fees

As demonstrated above, neither the County Planning Commission nor the Board has a permissible basis to deny or otherwise render the Project infeasible. Any County action which

¹ A “multiple dwelling” is a building or portion thereof used and/or designed as a residence for three or more families living independently of each other. (Marin County Interim Zoning Code 22.02.260I).

does so would be a violation of the Housing Accountability Act, and adoption of Mr. Crotts' related requests would expose the County to liability.

If a local government violates the Housing Accountability Act by either (1) denying or making infeasible an affordable housing project or (2) conditioning a project's approval on a lower number of units, or any condition (such as reduced height or increased setbacks) that would cause a lower number of units in the absence of valid findings as required by the Act, the Act empowers interested parties to take legal action to enforce its provisions. Any number of persons or entities would have standing to contest such a decision, including the project applicant, a person eligible to apply for residency in the proposed housing project, or a housing organization may bring action against a local government to challenge the denial or other action. (Government Code section 65589.5(k)(1);(2)). Upon such a plaintiff prevailing, the court must not only issue an order compelling compliance with the Housing Accountability Act within 60 days, but may also specifically direct the local government to approve the housing project if it determines that the local government acted in bad faith in denying or otherwise burdening the project. (Government Code section 65589.5(k)(1)(A)).

Furthermore, upon a plaintiff's victory, the court **must** award reasonable attorney fees and costs of the suit to the prevailing plaintiff. (Government Code section 65589.5(k)(1)(A)). Mr. Crotts' appeal is not only objectionable on its merits; it asks the County to take a position that could put hundreds of thousands of dollars of public monies at risk.

II. Mr. Crotts' appeal contains no new information or grounds upon which the County can deny or delay the Project, and should be rejected

The Planning Commission made a lawful decision, supported by substantial evidence, in approving the Project, and took an important affirmative step towards fulfilling the County's obligations under the Housing Accountability Act and RHNA. The appeal by Mr. Crotts, a neighboring property owner, is baseless, and we respectfully request that the Board affirm the Planning Commission's decision.

Mr. Crotts' appeal does not implicate any specific impact upon health or safety, or any of the other bases under which the City could permissibly deny this affordable housing project. Instead, as discussed in detail below, Mr. Crotts' appeal consists of a litany of personal grievances with the landowner, his personal opposition to the Project, and a repackaging of community concerns which have already been raised and addressed by the County in its approval of the Project.

A. Mr. Crotts' claimed easement is not relevant

First, Mr. Crotts complains that "the project encroached over Appellant's driveway and parking. ingress and egress have not been addressed, in light of Appellant's easement rights, with which the project conflicts." To be clear, the Project does not encroach onto the boundary of Mr. Crotts' neighboring property. Mr. Crotts seems to be (1) claiming he has adversely taken an easement interest in BCLT's property (2) suggesting the County should take his claim as fact, and (3) suggesting that the County can lawfully deny or delay BCLT's ability to develop its property so as to avoid any potential effect on Mr. Crotts' claimed easement. The County has no role to play in Mr. Crotts' claimed easement and, to the extent the appellant wants to claim an easement right in BCLT's property, it is a dispute between Mr. Crotts and BCLT that has no bearing on the Project's approval. Case law is clear on this point. (See *Moylan v. Dykes* (1986)

181 Cal.App.3d 561, 573 [third parties have no standing to involve themselves with terms of an easement between two other parties, and it is “none of [their] business”].). If Mr. Crofts believes that BCLT has deprived him of a legitimate property interest, neither the County Planning Commission nor the County Board of Supervisors is the proper venue for his grievance.

In short, Mr. Crofts' allegation that he enjoys an easement on BCLT's property through his hostile and adverse use, related to his parking of vehicles on his property, has no proven validity and, even if this claim did have merit, it is irrelevant to the Board's consideration of our client's affordable housing project. It is a distraction only, unworthy of further attention.

B. Mr. Crofts' complaint that the Project will have a “looming effect” is contradicted by the evidence and findings on the record, and regardless is not a proper basis for the County to deny or delay the Project

Mr. Crofts next suggests the “proximity of the proposed development to Appellant’s boundary as well as the improvements” will affect his property, and thus the two-and-half pages of specific findings that the Project is consistent with Marin County Design Review Codes are “unsupported by substantial evidence.” Mr. Crofts claims that the “height, mass, and bulk” create a “looming effect such that privacy and the quiet use and enjoyment of [his] property are destroyed,” and “as such, the findings with reference to, in particular, mass and bulk [...] are unsupported.”

In fact, the County’s findings squarely address this concern: “The design, scale and massing of the project would be consistent with development in the downtown Bolinas area which consists of a variety of structures that contribute to the unique character of the downtown area. As designed the project would not impair or interfere with the use or enjoyment of other properties in the vicinity, including public lands and rights-of-way.” (Resolution No. PC21-003 at Section I, 9 C.). The County’s evaluation of the scale and massing of the Project in the context of surrounding structures is the exact purpose of the Design Review process, which is intended to ensure that “exterior appearance of proposed structures, along with their associated landscaping, parking, signs, etc. is compatible and harmonious with the design, scale, and context of surrounding properties.” (Marin County Code 22.42.010).

Mr. Crofts is entitled to his opinion on the Project, but his personal opinion that the structure is “looming” does not render the County Planning Commissions findings, based on observed consistency with surrounding development in the Downtown Bolinas Area, unsupported by evidence.

Furthermore, the Housing Accountability Act contains no basis for a local government to deny an affordable housing project based on an abstract “looming effect” a neighbor may feel. The height of the Project does not violate any specific, written public health or safety standards, policies, or conditions, and therefore is not a proper basis upon which the County may deny or otherwise make infeasible the Project. Aesthetic concerns are a far cry from issues implicating public safety, and state law recognizes this distinction and protects affordable housing proposals from adverse decisions based on subjective opinions such as those the appellate is raising.

C. Mr. Crotts' invocation of the Housing Accountability Act to deny the Project is devoid of merit

Mr. Crotts attempts to argue that the County should deny the Project under the Housing Accountability Act by reciting a portion of the written findings listed under Government Code section 65589.5(d). As a reminder, it is the same list of findings that the Planning Commission explicitly found *do not* apply to this Project. (Resolution No. PC21-003 at Section I, 4.).

First, Mr. Crotts claims the administrative record demonstrates that the Project “will result in a specific adverse impact upon the public health and safety.” This is simply untrue. As the Planning Commission Staff Report notes, the Department of Public Works and the Bolinas Community Public Utility District reviewed the Project and did not identify “any specific adverse impact...based on objective, identified, written public health or safety standards” that would result. (Staff Report to the Marin County Planning Commission, p. 6). Mr. Crotts does not specify any of the alleged “multitude of evidence” he says would dispute the determinations made by the Department of Public Work or Bolinas Community Public Utility District.

Next, Mr. Crotts, echoing protests raised by other individuals throughout the public comment process, raises the specter that the Project will not be adequately served by water and sewer infrastructure. However, these fears have no basis in reality and are contradicted by substantial evidence. The Bolinas Community Public Utility District, the body clearly best situated to evaluate the feasibility of water and sewer service for the property, has already confirmed, via a June 11th letter presented to the Community Development Agency, that “the property at 31 Wharf Road in Bolinas (APN# 193-061-03) is served by the BCPUD’s water and sewer systems.” (Staff Report to the Marin County Planning Commission, Attachment 4). The utility district further stated, in a subsequent March 30, 2021 letter, that “BCLT owns the connections needed to serve the project.” (*Id.*)

Lastly, Mr. Crotts suggests that the Project is not consistent with the Marin Countywide Plan. Mr. Crotts does not cite any particular provision of the Countywide Plan with which the Project is non-compliant, and neglects to address why the Planning Commission’s finding that the Project is consistent with the Countywide plan is incorrect. (Resolution No. PC21-003 at Section I, 4.).

D. Mr. Crotts' fear that affordable housing will “significantly change the character of the downtown Bolinas community” is not a valid basis to deny or delay the Project

The essence of Mr. Crotts’ appeal is reflected in its final paragraphs: he fears the Project will “negatively affect not only Appellant, but significantly change the character of the downtown Bolinas community.”

Mr. Crotts is not the first, nor will he likely be the last, affordable housing opponent to express a fear that an affordable housing development will irreparably “significantly change the character” of his community, or that a project is “out of character with the neighborhood.” Indeed, many commenters in the record objected to the project based on subjective opinions of this nature. (See, e.g., Staff Report, Attachment 10.) However, such vague and unfounded fears are simply not valid reasons, under either the Housing Accountability Act or the Marin County Code, for the County to deny or delay this Project.

Indulging such vague claims is irresponsible, if not dangerous. In many cases throughout the state, comments and objections about character are euphemisms for community bias against persons from lower socioeconomic and minority backgrounds. The California Legislature enacted the Housing Accountability Act, with its emphasis of "objective, identified written public health or safety standards" to guard against this danger.

III. Rejecting Mr. Crotts' appeal is consistent with the Marin Countywide Plan's commitment to affordable housing and anti-discrimination laws.

According to the United States Census Bureau, approximately 70 percent of Marin County identifies as Caucasian, whereas the remaining 30 percent of the population identify as Hispanic or Latino, Black, Asian, Native American, Pacific Islander, biracial, or some other race.² In Bolinas specifically, census data indicates that approximately 90 percent of residents identify as Caucasian, whereas the remaining 10 percent identify as Hispanic or Latino, Black, Asian, biracial, or some other race.³

By contrast, the population of those living in poverty in the County is not similarly composed. The census data indicates that of the County's estimated 18,575 people living below the poverty line, approximately 45 percent identify as Caucasian, with the remaining 55 percent identifying as non-Caucasian.⁴ In other words, people of color are significantly overrepresented among the County's low income population.

It is the moral obligation of every community to welcome affordable housing units and the people who would live in them, and in fact this responsibility is codified in state law. With regard to this Project and other affordable housing proposals in Bolinas, members of the Bolinas community have complained, both at public hearings and on social media, about unwelcome changes in character and an influx of "non-local" people. This sentiment is understandable. People do not like change. However, while some of these sentiments might be wholly innocent, any governmental agency action that indulges in this mentality has the potential to create a disparate impact on protected classes, given the demographics of persons in need of affordable housing in Marin County.

Marin County has never tolerated such disparate impact risks. As the County is aware, the Marin Countywide Plan places considerable emphasis on providing affordable housing. Indeed, countywide guiding principles and goals include: providing "housing affordable to the full range of our members of the workforce and diverse community;" cultivating "ethnic, cultural, and socioeconomic diversity;" and ensuring that "Marin's members of the workforce, the elderly, and special needs groups will have increased opportunities to live in well-designed, socially and economically diverse affordable housing strategically located in mixed-use sites near employment or public transportation." (Marin Countywide Plan, p. 1.3-2, 1.3-12; *see also* p. 3.4-12 [goal to "support a more diverse population and allow more equitable distribution of

² See U.S. Census Bureau's estimated 2019 data set at: <https://data.census.gov/cedsci/table?q=Marin%20County%20Income%20and%20Poverty&tid=ACSST1Y2019.S1701>

³ See U.S. Census Bureau's estimated 2019 data set at: <https://data.census.gov/cedsci/table?q=bolinas%20california&tid=ACSDP5Y2019.DP05>

⁴ See U.S. Census estimated data set identified in footnote 2 (8,525 persons identifying as Caucasian and below poverty line; 5,595 persons identifying as Hispanic or Latino and below poverty line; 1,470 persons identifying as Asian and below poverty line; and 2,985 persons identifying as other race and below poverty line).

households of all income levels across the region"].) In addition, the stated purposes of the Housing Element are to supply "housing affordable to the full range of our diverse community and workforce" and, separately, "to achieve an adequate supply of decent, safe, and affordable housing for Marin's workforce, residents, and special needs populations, with a particular focus on the unincorporated areas of the County." (Marin Countywide Plan, Housing Element, p. I-1.)

Other Countywide Plan policies supporting affordable housing include CD-2.11 and 2.a., which promote diverse affordable housing strategies and using all available methods to create affordable housing. (Marin Countywide Plan, p. 3.4-13.) Entire sections of the Countywide Plan highlight the affordable housing needs of particular Marin County communities, such as seniors, large families, single-parent and female-headed households, people living with disabilities, and agricultural workers.

Further, state law provides that local agencies may not prohibit or discriminate against a residential development based on (a) the very low-, low-, moderate-, or middle-income of status of the intended occupants; or (b) the lawful occupation, age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of the intended occupants." (Government Code section 65008, 12955). In addition, if a proposed multifamily residential housing development is consistent with the zoning ordinance and general plan on the date the application is deemed complete, the local agency cannot use the fact that the project is a multifamily housing development as a basis for denial. (*Id.* at section 65008(b)(1)(D)).

Here, the Project will enable Bolinas to support members of the Marin workforce, the elderly, and other groups in an unincorporated area of Marin County. Indeed, BCLT's waitlist of potential affordable housing occupants includes firefighters, first responders, seniors, families, water district employees, business owners, and service workers with varying backgrounds and income levels. The Project is unique in that it will be a mixed-use site located in a downtown area near employment and public transportation, and that location contributes to the diversity of options available in the Bolinas community.

Denying the appeal would be consistent with past County actions. The Board on November 5, 2019 approved a \$400,000 grant from the Marin County Affordable Housing Fund that included predevelopment costs for the Project. In addition, approving this Project would be consistent with recent approvals of multi-family housing developments under 15 units, such as the 33/37 Albion Monolith project in San Rafael. In short, upholding the County Planning Commission approval would represent a logical continuation of past support for affordable housing and inclusivity in general, and would clearly be consistent with the Marin Plan and state law.

* * *

The Project will deliver much needed affordable housing to a region which is sorely lacking in supply. The County Planning Commission, understanding this need, approved the Project. We respectfully request the Board must now affirm this decision and reject Mr. Crotts' appeal.

To take any other course of action would violate the Housing Accountability Act, risk violating California anti-discrimination laws, run counter to the policies expressed in the Marin Countywide Plan, and vindicate the efforts of anti-affordable housing interests attempting to cloak their personal interests and objections in the guise of "community character." To the

extent that Project opponents raise similar concerns, we ask the Board to interrogate the animating bases of these concerns. In these times, we all have a duty to ensure that protected classes are indeed protected.

Ultimately, the question is simply whether the Project will cause a specific health and safety impact based on objective criteria. The answer is "no," and all the pertinent agencies with expertise align on this response. The white noise created in the appellant's letter and various comments submitted by other project opponents are not based on evidence but subjective feelings, and indulging these unlocated fears not only subjects the County to liability — it is the wrong thing to do.

Sincerely,



Sean R. Marciniak
Partner



Niran Somasundaram
Attorney



Alan Linch
Attorney

cc: Clients
Brian Washington, Marin County Counsel (c/o Rachel Porter)
Michelle Levenson, Marin County Planner