



## MAXIMUM RESIDENTIAL DENSITY AND SUBDIVISION POTENTIAL

The Marin County Planning Division regulates real estate development based on a variety of policies and regulations, and it is important to understand the range of effects these may have on determining residential density and subdivision potential. The information necessary for these determinations is highly technical, and sometimes a determination cannot be made until after the application is complete and environmental studies have been undertaken to evaluate constraints. Also, the maximum residential density and subdivision potential is not afforded by right, and is normally subject to the discretion of County decision makers depending on the specific merits of a particular project.

Provided below is a summary of the policies and regulations that may apply to a particular property with respect to determining residential density requirements and subdivision potential.

### Countywide Plan

The Countywide Plan is the General Plan for the unincorporated areas of Marin County. The Countywide Plan (CWP) Built Environment Element establishes specific land use designations for each property in the County. These designations clarify allowable land uses in certain areas, as well as specifying acceptable densities and floor area ratios for these properties. The land use designations are mapped in the Planning Areas section of the CWP's Built Environment element, beginning after page 3.12-28.

There are a number of policies and programs in the Countywide Plan that restrict the density and subdivision potential identified in the applicable land use designation, as summarized below.

- A. Policy CD-1.3 on page 3.4-6 states: "Calculate potential residential density and commercial floor area ratio (FAR) at the lowest end of the applicable range on sites with sensitive habitat, on sites within the Ridge and Upland Greenbelt or the Baylands Corridor, or on sites lacking public water or sewer systems." Exceptions to this requirement may apply on a case by case basis for affordable housing units, as long as they are provided with adequate water and sewer services.
  1. Sensitive habitats are defined in Marin County Code Title 22 (Development Code) as Wetland Conservation Areas, Stream Conservation Areas, and Environmentally Sensitive Habitat Areas in Marin's Coastal Zone. Wetland and Stream Conservation Areas are covered in the CWP's Natural Systems and Agriculture Element Biological Resources section. Wetland Conservation Area policies begin with policy Bio-3.1 on page 2.4-16 and Stream Conservation Area policies begin later in the same section with policy Bio-4.1 on page 2.4-22. Environmentally Sensitive Habitat Areas are covered in the County's Local Coastal Program.
  2. Ridge and Upland Greenbelt Areas are covered in the CWP Built Environment Element's Policy DES-4.1 on page 3.5-11 and shown after page 3.5-14 on Map 3-4.

3. The Baylands Corridor is covered in the CWP Built Environment Element's Policy CD-1.1 on page 3.4-6 shown after page 1.1-2 on Map 1-2.
  4. The locations of public water and sewer lines are available from the special districts in the County that provide water and sewer services. Please note that hooking up to public water or sewer may mean that the property needs to be annexed into a special district and may also mean that it needs to be annexed into an adjacent city or town.
- B. Built Environment Element Program CD-5.e on page 3.4-23 states: "Calculate density at the lowest end of the Countywide Plan density range for new development proposed in areas without public water or sewer service." Exceptions to this requirement may apply on a case by case basis for affordable housing units, as long as they are provided with adequate water and sewer services.
  - C. Built Environment Element Policy CD-2.3 on page 3.4-10 establishes a Housing Overlay Designation for specific sites in the County that have been identified as suitable for housing densities above what would otherwise be allowed, especially if they include a high percentage of units as affordable housing. CWP Figure 3-3 on page 3.4-11 and Program CD-2.d on page 3.4-13 contain additional details about the Housing Overlay Designation.
  - D. Built Environment Element Program CD-6.a on page 3.4-26 states: "Encourage annexation of lands proposed for intensified development in urban service areas or within established urban growth boundaries by calculating density at the lowest end of the Countywide Plan designation range." Exceptions to this policy may apply to affordable housing or as specified in an applicable Master Plan or Community Plan.
  - E. Transportation Element Program TR-1.e on page 3.9-13 calls for upholding vehicle level of service standards and recognizes that certain congested intersections are grandfathered even though they do not meet current level of service standards. Program TR-e.1 states: "New development shall be restricted to the lowest end of the applicable residential density/commercial floor area ratio range where the level of service standards will be exceeded at any intersection or road segment or worsened on any grandfathered segment." However, the program does allow increases in congestion for a variety of different kinds of projects, such as mixed use and affordable housing development, depending on their location.
  - F. Specific sites are assigned particular density ranges, including the Saint Vincent's and Silveira property (SV-2.5 on page 3.12-10), and the Point San Pedro Quarry property (PA-3.2 on page 3.12-16).
  - G. Housing Element Policy 1.2 on page V-2 indicates that specific housing sites shall be identified as part of an inventory to meet State requirements. CWP Housing Element Program 1.a on page V-2 states: "The County shall not approve development on sites identified in the Housing Element with fewer units than are shown in the Site Inventory Analysis, unless physical or environmental constraints preclude development at the minimum density and the findings in Government Code section 65863 can be made." These housing sites are identified in Appendix F of the Housing Element.

## Community Plans

Community Plans are regarded as components of the Countywide Plan that establish policies for specific unincorporated communities throughout Marin County. These policies are normally general in nature, but some also modify the residential density and subdivision potential for particular properties. It is important to carefully review any Community Plan that applies to a particular site to determine whether the plan's policies effect future projects.

## Development Code

Marin County Code Title 22, the Development Code, governs real estate development and subdivision in the interior portion of the County outside of the Coastal Zone. The Development Code establishes density and subdivision potential through two primary mechanisms: (1) zoning that specifies density standards in planned zoning districts or minimum lot sizes in conventional zoning districts, and (2) the subdivision standards in Development Code Article VI. The Development Code regulations that affect density and subdivision potential are summarized below.

- A. There are two types of fundamental zoning districts in Marin County: planned zoning districts and conventional zoning districts. In planned zoning districts, the zoning itself will indicate the allowable density (e.g. RSP-1 means Residential, Single Family Planned, with a maximum density of one unit per acre). In contrast, in conventional districts there are various development standards tables in Article II that establish the minimum lot sizes for the different zones. On properties in zoning districts that allow multiple primary residences on a single lot, these planned or conventional district standards are often the main criteria that govern density. On properties that allow only a single primary residence per lot, a subdivision will be required to build multiple primary residences on the property.
- B. Subdivisions in the non-coastal, interior of the County are governed by the regulations in Article VI of the Development Code, which work in concert with the zoning and development standards for each district. The subdivision standards contained in Chapter 22.82 of the Development Code may modify the maximum subdivision potential of a property depending on specific site constraints.
  - Section 22.82.025 and the associated definition of *Net Lot Area* in Article VIII affect subdivision potential based on environmental constraints. Specifically, any areas within a Wetland Conservation Area or a Stream Conservation Area are subtracted from the original lot area to arrive at the net lot area used for subdivision calculations. For example, if a 10-acre property is zoned for one residence per acre, but is constrained by a two-acre wetland, then the maximum subdivision potential would be eight lots.
  - Section 22.82.050 increases the minimum lot area required for new lots in conventionally zoned properties based on the average lot slope. Table 6-1 shows a graduated scale beginning at seven percent lot slope and rising to 40 percent or greater lot slope, with the concomitant minimum lot areas indicated. Creating lots with less than the minimum lot area is not allowed.
- C. Notes to Tables 2-2, 2-5, 2-8, and 2-11 in Article II indicate that maximum densities are generally calculated at the lowest end of the density range in the Ridge and Upland

Greenbelt, in the Baylands Corridor, and on properties that lack public water or sewer systems. There are some exceptions to these restrictions, such as for affordable housing development.

- D. The Agricultural District Development Standard indicated in section 22.08.040 states: “More than one single-family dwelling may be allowed for the residence of the owner or a lessee of the land, and/or for the owner or a lessee who is engaged in agricultural use of the same property, provided that such single-family dwelling is consistent with the permitted density and is incidental to the agricultural use of the land.” This provision only applies to agriculturally zoned properties.
- E. Development Code section 22.32.150 requires that new housing be developed along with increases in non-residential floor area in the C1, CP, AP, and H1 zoning districts. Small increases in non-residential floor area may be exempt from this requirement.
- F. The Affordable Housing (AH) combining District allows affordable housing development at a density of 20 units per acre on sites that are otherwise covered by a lower density zone, as indicated in section 22.14.090.
- G. Under some circumstances, density bonuses are offered as an incentive to create more affordable housing, as set forth in Chapter 22.24 of the Development Code. Section 22.24.030 covers density bonuses covered by State law, which can exceed the density normally allowed by up to 35 percent. In addition, Section 22.24.030.5.g covers County density bonuses, which can exceed the State requirements.

The Countywide Plan and Community Plan policies will govern when there is any inconsistency between their policies and the zoning or subdivision regulations in the Development Code. Therefore, it is necessary to fully research all aspects of the policy and regulatory framework as well as evaluating site-specific constraints before determining the density and subdivision potential for a particular property.