



**STAFF REPORT TO THE MARIN COUNTY  
PLANNING COMMISSION**


Final Environmental Impact Report for the Housing and Safety Element Update to the Marin Countywide Plan

**Recommendation:** Conduct a public hearing and take action recommending that the Board of Supervisors certify the Final Environmental Impact Report (Final EIR)

**Hearing Date:** 1/5/2023

**Agenda Item:** 4.

**Project Contact:** Rachel Reid  
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**Signature:** 

**PROJECT SUMMARY**

Project Overview

The proposed Project is comprised of updates to the Housing Element and Safety Element of the 2007 Marin Countywide Plan (2007 CWP) in compliance with the requirements for General Plans in State Planning and Zoning Law; associated amendments to other elements in the CWP as necessary to ensure consistency; and amendments to the Marin County Code to provide for effective implementation of the project (collectively the “Project”), and is described in more detail in *Chapter 3, Project Description*, of the Draft EIR, now incorporated into the Final EIR. Both element updates will be adopted as amendments to and incorporated into the 2007 CWP.

The Project proposes goals, policies, and programs that will provide County staff and discretionary bodies with a foundation for decisions related to long-range planning for housing development and safety related to climate change and resiliency planning.

Marin County has prepared an update to the Housing Element (Housing Element Update) for the planning period 2023 through 2031. As part of the Housing Element Update, the

Project proposes locations for housing that would facilitate up to 5,231 new housing units to be developed, which meets the County's Regional Housing Needs Allocation (RHNA) as well as a reasonably foreseeable number of density bonus units and a buffer number of additional units recommended by the California Department of Housing and Community Development. The Project also proposes rezoning of sites at these locations as necessary to accommodate and enable the development of these new housing units.

The County has also prepared an update to the Safety Element (Safety Element Update) to address climate change resilience. SB 379 requires all counties and cities to review and update their general plan safety elements with climate change adaptation measures. The Safety Element Update consists of the following three parts: 1) A vulnerability assessment that identifies the risks climate change poses to the local jurisdictions; 2) Identification of adaptation and resiliency goals, policies, and objectives; and 3) Feasible implementation measures. The Safety Element Update also addresses other legislative mandates to reduce fire and flood risk and plan for emergency evacuation.

### Type and Purpose of EIR

This Final EIR has been prepared as a program EIR for the Housing and Safety Element Update to the 2007 CWP. A program EIR is a type of EIR authorized by Section 15168 (Program EIR) of the State of California Environmental Quality Act (CEQA) Guidelines for use in documenting the environmental impacts of community general plans, specific plans, precise plans, and other planning "programs."

This EIR describes the reasonably foreseeable countywide impacts of the Project. Further, this EIR describes the cumulative, aggregate effects of the Project along with other reasonably foreseeable projects, and describes impacts at a level of detail consistent with the level of detail of the proposed Project.

In accordance with the definition of a "program EIR," the EIR evaluates the potential environmental impacts of the collective, overall development potential and not the future site-specific impacts of any future individual development project, since no such projects are proposed at this time.

The adoption of the proposed Housing and Safety Element Update would not result in the immediate construction of any new development or approval of any new site-specific projects. All future development projects proposed within the County planning area that require discretionary approval by the County would require site-specific applications subject to the County's development review and approval processes, including environmental documentation to comply with CEQA where applicable, and other environmental requirements (e.g., County, State). Non-discretionary (ministerial) projects must be consistent with State and County requirements and would also be subject to review by County and other agency staff for compliance with codes and standards. Public projects would be required to be consistent with CWP policies and also to comply with CEQA; compliance with the County Development Code would not be mandatory.

Subsequent activities undertaken by the County and applications for future development projects to implement the Housing and Safety Element Update will be examined for consistency with this program EIR to determine the appropriate level of environmental review required under CEQA. As with all projects proposed in the unincorporated areas of the County, projects will be reviewed to determine whether they are subject to CEQA compliance at such time as the County receives a permit application for the project and the details of the individual project are defined.

The County has prepared this program EIR to allow for streamlining future CEQA compliance by providing program-level information and data about the housing sites, and by identifying potentially significant environmental impacts and associated mitigation measures that may be used in analyzing future site-specific development projects. It is anticipated that proposals found to be consistent with this program EIR will be able to rely on its analysis as appropriate. Future development proposals with specific additional impacts not analyzed in the program EIR may “tier” off the analysis by focusing only on those additional impacts.

### Draft EIR Process

As part of a larger consultant agreement to prepare the Housing and Safety Element Update, on May 18, 2021, the County independently selected and contracted with the consulting firm, MIG, to prepare the EIR for the Project. County staff released a Notice of Preparation (NOP) on December 8, 2021, to notify agencies and interested members of the public that an EIR was being prepared for the Project.

County staff held a public scoping meeting on the Project on January 11, 2022. During both the scoping period and at the scoping meeting, interested parties were invited to submit their comments on issues that should be included in the scope of the EIR analysis. A compilation of comments received during the 45-day scoping period and at the January 11 meeting are included in *Chapter 2, Summary*, of the Draft EIR.

On October 7, 2022, the Housing & Safety Element Update to the Marin Countywide Plan Draft Environmental Impact Report (“Draft EIR”) (State Clearinghouse No. 2021120123) and a Notice of Completion of the Draft EIR and Notice of Public Hearing to be held on November 16, 2022 were transmitted to the State Clearinghouse, distributed to the County’s environmental mailing list including the email subscriber list, and published in a newspaper of general circulation, the Marin Independent Journal, to begin a 45-day public review and comment period, which concluded at 4:00 p.m. on November 21, 2022. Postcards providing notice of the updated public hearing date were subsequently published on the project webpage on November 3, 2022, and published in the Marin Independent Journal thereafter.

On November 16, 2022, during the public review and comment period, the Board of Supervisors and Planning Commission jointly held a public hearing to receive comments on the Draft EIR. The primary issues raised in both written comments and oral testimony included concerns about the use of a program EIR, Project alternative selection, wildfire

evacuation, water supply, and cumulative impacts. At the close of this hearing, the Board of Supervisors and Planning Commission instructed staff and the EIR consultant to prepare the Final EIR based upon the written responses to all comments received during the public review and comment period that would conclude on November 21, 2022.

### Final EIR Process

On December 20, 2022, the Marin County Housing and Safety Element Update Final EIR and Notice of Availability of the Final EIR and Notice of Public Hearings by the Planning Commission to be held on January 5, 2023 and by the Board of Supervisors on January 24, 2023 was transmitted to the State Clearinghouse, members of the Planning Commission, Board of Supervisors, agencies, commenters on the Draft EIR including agencies that commented on the Draft EIR, and other interested groups and individuals, as well as being published in the Marin Independent Journal for circulation. A notice of the public hearing date and time was subsequently published on the project webpage on December 20, 2022, and published in the Marin Independent Journal.

The Final EIR consists of the October 7, 2022 Housing & Safety Element Update to the Marin Countywide Plan Draft Environmental Impact Report Final EIR volume, the December 20, 2022 Housing & Safety Element Update to the Marin Countywide Plan Draft Environmental Impact Report Final EIR volume, and the responses to late comments (together, the “Final EIR”). The Final EIR provides written responses to all of the written comments, public testimony, and comments and concerns of the Board of Supervisors and Planning Commission on the Draft EIR.

The Final EIR also includes insignificant modifications to the Draft EIR to make minor corrections and provide additional information that clarifies and amplifies content in the Draft EIR. None of the revisions to the Draft EIR would result in a new significant impact, a substantial increase in the severity of a previously identified significant impact, or a feasible mitigation measure or alternative considerably different from those already considered in the Draft EIR. Therefore, recirculation of the Draft EIR, pursuant to State CEQA Guidelines Section 15088.5, is not required.

The Draft and Final EIR documents are available on the following webpage:

<https://housingelements Marin.org/marin-county-environmental-review>

## **SUMMARY OF FINDINGS IN THE FINAL EIR**

### Identified Impacts

The Final EIR identified a total of 18 project impacts as significant or potentially significant, including 14 project impacts that were also determined to be cumulative impacts. Table 2-2 in *Chapter 2, Summary*, of the Draft EIR, now incorporated into the Final EIR, contains the list of compiled impacts and mitigation measures. Feasible mitigation measures are available to eliminate or reduce four of the potentially significant project impacts to a less-

than-significant level. These impacts were in the topical areas of Biological Resources and Cultural/Historic Resources.

The Final EIR finds that the project would result in 15 impacts that are significant and unavoidable with regard to the following topical areas: Aesthetics (effects on scenic vistas; existing visual character and quality), Air Quality (local air plan conflict; exceedance in criteria air pollutants/toxic air contaminant emissions), Cultural/Tribal Cultural and Historic Resources (effects on historic resources), Greenhouse Gas Emissions and Energy (GHG emission quantity and inconsistency with adopted plans), Noise and Vibration (traffic noise levels), Transportation (impacts related to vehicle miles traveled), and Utilities and Service Systems (water supply; wastewater treatment capacity). The Final EIR identifies a total of 14 cumulative impacts, which are all significant and unavoidable.

### Summary of Major Conclusions

The Final EIR reached the following major conclusions:

- Future potential development facilitated by the Project would result in 15 significant unavoidable impacts. This EIR identified mitigation measures for each impact, if mitigation was available. In some instances, the mitigation would not be sufficient to reduce the impact to a less-than-significant level and in other cases it is not definitive whether the mitigation would be sufficient due to the uncertainty of future conditions that could exist at the time a development proposal is submitted.
- The Board must adopt a Housing Element that meets the RHNA in order to comply with State law, and the Proposed Project as well as the identified Project Alternatives will result in significant and unavoidable impacts. Therefore, as part of an approval action, decision-makers will need to adopt a Statement of Overriding Considerations, determining that the benefits outweigh the significant unavoidable impacts of the Project.
- The Project is currently inconsistent with the interrelated MTC/ABAG Plan Bay Area 2050, the CARB 2017 Scoping Plan, and the Marin County 2030 Climate Action Plan (CAP) based on the vehicle miles traveled (VMT) that would result from the State-mandated RHNA for unincorporated Marin County.
- Some potential housing sites proposed by the Project include land designated as Farmland of Local Importance or Grazing Land. Uses not permitted or conditionally permitted by the County Code would require a change in land use designation, which would be a conversion of farmland to non-agricultural use, which would be a significant impact. However, several adopted CWP policies that protect agricultural uses would ensure that any potential impacts related to the conversion or change in farmland to non-agricultural are addressed, reducing the impact to less-than-significant. For example, Policy AG-1.1 would limit residential development to that which is reasonably related to agriculture, and Policy AG-1.4

would apply non-agricultural zoning only in areas where conflict with agricultural uses will be minimized.

- Water suppliers in the county experience supply deficits during extended drought periods, and the total number of housing units proposed under the Project would increase demands in some areas of the county that already are experiencing supply deficits.
- Some areas of the county have limited wastewater disposal capacity, in some instances due to limited septic expansion opportunities. Housing units proposed under the Project in those areas would exacerbate constrained systems.

### Alternatives

To provide a basis for further understanding of the environmental effects of a proposed project and possible approaches to reducing its identified significant impacts, CEQA requires an EIR to also "...describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."

Pursuant to CEQA, the Final EIR identifies and evaluates the following three alternatives to the Project:

- **Alternative 1: No Project – Existing Countywide Plan.** State CEQA Guidelines Section 15126.6(e) requires an EIR to analyze the specific alternative of "No Project." The purpose of describing and analyzing the No Project alternative is to allow decision-makers to compare the impacts of approving a proposed project with the impacts of not approving it. The No Project Alternative shall discuss the existing conditions at the time the EIR Notice of Preparation is published, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

Additionally, State CEQA Guidelines Section 15126.6(e)(3)(a) states that when the project is the revision of an existing land use or regulatory plan, the "No Project" alternative will be the continuation of the existing plan. Typically, this is a situation where new projects would be proposed under the existing plan. Thus, the impacts of the proposed project would be compared to the impacts that would occur under the existing plan. The Final EIR found that the No Project Alternative does not meet any of the Housing and Safety Element Update project objectives, including objectives related to legal requirements for Housing Elements, and therefore is not considered a feasible project alternative.

- **Alternative 2: Reduced VMT Alternative.** The Reduced Vehicle Miles Traveled (VMT) Alternative would locate most of the proposed housing sites, except those screened out by the Governor's Office of Planning and Research "Technical

Advisory on Evaluating Transportation Impacts in CEQA” (December 2018), to within an approximate two-mile radius of the U.S. 101 corridor, including 0.5 miles on either side of Sir Francis Drake Boulevard to Fairfax. The intent of this alternative is to reduce the significant unavoidable VMT impact, and the resulting significant unavoidable air quality and GHG impacts, by lowering the average per capita VMT. This alternative would place more housing sites nearer to the urban core of Marin County and closer to transit and employment, and remove some potential housing sites that are in the more rural areas of the unincorporated county. Compared to other parts of the county, the urban core of Marin County would (1) tend to have lower VMT per capita, and (2) have substantially better VMT mitigation options available because of proximity to mass transit and other transportation demand management (TDM) solutions. This alternative would result in lower VMT per capita than the proposed Project; however, it would still result in significant unavoidable VMT, air quality, and GHG impacts.

- **Alternative 3: Reduced Utility Impact Alternative (Water & Wastewater).** The Reduced Utility Impact Alternative would relocate housing sites from service districts that do not have the capacity to serve new development to areas closer to the City-Centered/Baylands Corridor where water and wastewater service providers have greater capacity. This alternative would also relocate housing sites that would require significant infrastructure improvements in order to avoid the impacts of infrastructure construction. This alternative focuses on reducing impacts on the environment due to construction of new infrastructure for public utility districts providing water or wastewater treatment to unincorporated areas of Marin County. This alternative would have significant and unavoidable impacts that are similar to the proposed Project.

The State CEQA Guidelines require that an EIR’s analysis of alternatives identify the “Environmentally Superior Alternative” among all of those considered. Based on a comparison of impacts discussed in *Chapter 22, Alternatives*, the Final EIR finds that Alternative 2, Reduced VMT Alternative, would allow the County to obtain most of the Housing Element Update objectives and all of the Safety Element Update objectives while reducing some but not all environmental impacts and would therefore be the “environmentally superior alternative.” Alternative 2 is the environmentally superior alternative because it reduces more impacts (VMT, Air Quality, and GHG) and substantially meets the County’s stated objectives for the Project.

However, Alternative 2 would not fully meet the objective of providing housing throughout unincorporated county communities because it would reduce the number of units in the Project Sites Inventory by 479 by eliminating the larger housing sites in the more rural communities of the county. The total number of housing units under this alternative would still meet the County’s RHNA, and smaller sites that can be screened out from the CEQA VMT analysis would still be part of the alternative. Although this alternative would reduce the Project’s per capita VMT and the resulting air quality and GHG emissions by 10 to 15 percent, the VMT, air quality, and GHG impacts would remain significant and unavoidable.

## **CONCLUSION**

This EIR is an informational document that is intended to inform the County, other public agency decision-makers, and the public of the significant environmental effects of adopting the Housing Element, Safety Element, and associated implementation measures, and the alternatives analyzed. Following certification of the Final EIR, the decision-makers will conduct a separate hearing to consider action on the merits of these programs for approval or disapproval. As part of these next steps, the decision-makers will consider the information in this Final EIR along with other information presented during the approval process when determining whether to adopt or modify the proposed policy documents and implementation actions or an alternative (in whole or part) to the proposal. Pursuant to State CEQA Guidelines Section 15002(h), the information in this Final EIR does *not* control the County's ultimate decision on approval of any component of the proposal.

The Housing and Safety Element Update to the Marin Countywide Plan Final EIR has undergone rigorous preparation and processing in full compliance with CEQA, the State CEQA Guidelines, and the County Environmental Review Procedures. The Housing and Safety Element Update to the Marin Countywide Plan Final EIR is now adequate and complete to be acceptable for certification as the environmental review for the Project. The Final EIR provides adequate information and analysis to make an informed decision on the environmental effects and take action on the project, project alternatives, or combination of alternatives addressed in the Final EIR.

## **COMMENTS RECEIVED**

Comments received prior to the packet distribution date for the Planning Commission hearing on the Final EIR are attached to this letter (Attachment #2). Any additional comments received after that time will be forwarded to the Commission on, or prior to, the hearing date.

## **RECOMMENDATION**

Staff recommends that the Planning Commission review and consider the Final EIR, and then move to approve the attached Draft Resolution recommending that the Board of Supervisors certify the Final EIR for the Housing and Safety Element Update to the Marin Countywide Plan as adequate and complete in compliance with CEQA, the State CEQA Guidelines, and the County Environmental Review Procedures, and as adequate and complete for consideration in making a decision on the merits of the Project.

Attachments:

1. Draft Planning Commission Resolution
2. Late comment letters received between November 22 through December 20, 2022
3. Final EIR Volume
4. Mitigation Monitoring & Reporting Program for the Final EIR