



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

**DEVELOPMENT CODE AMENDMENTS RELATED TO THE HOUSING ELEMENT
AND SAFETY ELEMENT UPDATES**

**Recommendation: Recommend Adoption to Board of
Supervisors**

Hearing Date: December 12, 2022

Agenda Item: 5

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PROJECT SUMMARY

The proposed Development Code amendments are related to the following: 1) the Bayfront Conservation combining district standards, 2) implementation of State housing laws including Senate Bill (SB) 9 and SB 35, 3) the creation of a new Form Based combining district, 4) the adoption and integration of a Form Based Code with objective development standards into the County's zoning framework, and 5) the creation of a new Housing Compliance Review and a new Urban Lot split application for the ministerial review of certain housing projects.

Your Commission previously reviewed the proposed amendments related to housing and the Form Based Code during a joint hearing with the Board of Supervisors on September 27, 2022 and previously reviewed the amendments related to the Bayfront Conservation combining district during a joint hearing with the Board on October 11, 2022. An overview of the main components of the amendments is provided below.

Bayfront Conservation Combining District

The proposed Development Code amendments would modify the Bayfront Conservation combining district standards to address sea level rise, as directed in the draft Safety Element. Draft Safety Element Program EHS-6.3.b. states: "Amend the Bayfront Conservation combining district (BFC), Marin County Code Title 22, to incorporate sea level rise adaptation measures that promote public safety consistent with the goals of the BFC."

There are no BFC districts in the Marin County Coastal zone, and these amendments would only apply to the shoreline areas of the Bay.

The BFC is located along portions of the bay shoreline of unincorporated Marin County. Following the County's jurisdiction, it is broken into sections of shoreline rather than covering the continuous stretch of bay shoreline as shown in attachment 2, the BFC and Sea Level Rise Map. The inland boundary is defined by habitat type and viewsheds, rather than by the extent of sea level rise. Except where the shoreline is steep, such as in Tiburon, the BFC area is subject to inundation from sea level rise. Amending the BFC to require certain project proposals to account for sea level rise was first identified as a goal in the Land Use Planning Adaptation Guidance, prepared by County staff in 2019.

Sea level rise vulnerability is addressed in the BFC amendment in several ways:

- Identifying specific sea level rise scenarios to use for design and siting of new habitable buildings;
- Requiring the elevation of the lowest habitable floor of new buildings;
- Requiring that nature-based measures be assessed for shoreline protection projects and employed where feasible; and
- Recording a deed restriction for property owners to acknowledge the risk and release the County from liability for impacts to their property related to sea level rise.

These changes would mark the first time that sea level rise adaptation measures have been incorporated into Marin County's Development Code and are intended to be an important step towards planning more resilient communities.

Senate Bill 35 and Senate Bill 9

On May 10, 2022, the Board adopted three interim Ordinances to implement SB 35 and SB 9, which mandate that local government streamline the review of certain housing projects. Senate Bill 35 mandates a ministerial planning process for multifamily housing projects that meet certain criteria. Senate Bill 9 is divided into two related parts, one which mandates a ministerial planning process for residential development and another which mandates a ministerial planning process for urban lot splits. All projects eligible for consideration under SB 9 must meet strict criteria for both subdivision and development. Both SB 35 and SB 9 affect only urbanized areas, and therefore neither SB 35 nor SB 9 is applicable in the Coastal Zone in Marin County or in much of the rest of West Marin.

The interim Ordinances (3765, 3766, 3767) that the Board adopted on May 10th are intended to be temporary in nature. The proposed amendments to the Development Code would permanently codify the requirements in those interim Ordinances in the Development Code. Since the Development Code is structured as a reference document, different sections of the requirements have been placed in different sections of the Development Code. These include a section on SB 9 lot splits, which has been put into a new Development Code section on Urban Lot Splits (section 22.80.064), a new section on the standards that apply to housing development under SB 9 (section 22.32.184), and a new Housing Compliance Review permit to establish the process to review SB 9 and SB 35 applications (section 22.64.010).

It is important to note that there are no substantive changes to the requirements previously established by the Board for SB 9 and SB 35 applications being proposed; the provisions of the interim Ordinances have simply been rearranged and carried forward into the Development Code.

Form Based Combining District and Form Based Code

The proposed Development Code amendments establish a new Form Based (FB) residential zoning district in section 22.14.100 intended to facilitate applying the Marin County Form Based Code. The new FB zoning district would be a conventional multifamily district that must be used for SB 35 projects and can be combined with districts when a project proposal of five units or more meets any of the site criteria listed below:

1. Sites of residential or mixed use projects subject to Senate Bill 35 or any other State legislation that mandates ministerial review of housing development projects.
2. Sites of residential or mixed use projects within the Countywide Plan's Housing Overlay Designation area.
3. Sites in the urbanized area where the development of multiple primary dwellings is allowable and where property owners, at their sole discretion, choose to combine it with an underlying multifamily residential or commercial zoning district.

The FB combining district cannot be applied to floating home marinas or mobile home parks. A map depicting the areas anticipated to be potentially subject to the FB combining district is enclosed as attachment 3.

Combining the FB district with another underlying zoning district would enable applicants to rely on the objective standards of the Form Based Code (FBC) when designing their multifamily housing projects. This would also afford them the opportunity to apply for a streamlined ministerial review of their application, which would be based solely on the project's compliance with the FBC.

The FBC contains chapters covering various topics but is fundamentally based on the transect model of community design. This model holds that communities are best designed when they follow a continuum of rural to urban land development patterns, with each transect segment built to an internally consistent level of development that relates to adjacent segments that are more rural and more urban, depending on their position with respect to the community edges and downtown core. The draft Marin County FBC extends from a lower density edge neighborhood to a higher density main street core area but does not include the types of high density housing that are common in the downtown areas of big cities. The proposed FBC zones are intended to promote what are called "missing middle" housing densities, i.e. those housing types that are in the middle of the density range between remote rural areas and highly centralized downtown areas.

Each chapter of the FBC covers a specific topic, including the transect zones, general design standards, specific building types, specific frontage types, architectural design styles, and standards for large sites. An applicant's first step would be to choose the appropriate transect zone for the site and the number of housing units they intend to build. Once the transect zone is chosen, other design elements that are consistent with that zone would be determined. Those combined standards would constitute the regulatory framework for the site planning and architectural design for housing projects under the FB combining district.

The new FB combining district would not alter the allowable uses or density on a particular site but it would require that a minimum density be achieved, establish ministerial criteria for housing development projects and streamline their review. The review of housing development projects under the FB zoning district and FBC would be done under the new Housing Development Review permit.

Housing Compliance Review

The proposed Housing Compliance Review application would entail a ministerial review of project information prior to an applicant being able to obtain construction permits. Various different forms of this review have been set forth in the proposed amendments (section 22.64.010) to address the review of SB 35 applications, SB 9 applications, and housing development projects under the FBC.

Planning Division staff would review the development plans to ensure consistency with the relevant codes or the FBC, following a ministerial process that would not include environmental review or any appeals. Once the County issues a decision approving a project, the applicant would then be entitled to apply for building permits for construction.

RECOMMENDATION

Review the proposed Development Code Amendments and Form Based Code and direct staff to return on January 5, 2023 with Resolutions recommending adoption to the Board of Supervisors.

Attachments:

1. Proposed Development Code Amendments
2. BFC and Sea Level Rise Map
3. Map of Sites Potentially Subject to the Form Based Combining District
4. Proposed Marin County Form Based Code