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July 21, 2015

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Affordable Housing (AH) Combining District

Dear Board Members:

RECOMMENDATION: On behalf of the Planning Commission, staff recommends that your Board review and consider adopting amendments to Marin County Development Code Chapter 22.14 regarding the Affordable Housing (AH) Combining District.

SUMMARY: At the December 9, 2014 public hearing, your Board adopted the 2015-2023 Housing Element by Resolution No. 2014-109 (Attachment 3). In conjunction with this action, the Board directed staff to initiate the rezoning process to change the assigned density from 30 units per acre to 20 units per acre. The three sites that are currently within the Affordable Housing (AH) Combining District include portions of the sites located at St. Vincent's Drive (north San Rafael), Seminary Drive (Strawberry) and 441 Drake Avenue (Marin City).

Following the Board's direction, staff proposed this rezoning to the Planning Commission at a May 28, 2015 public hearing. The Commission deliberated on the proposal, continued the hearing to consider additional input from staff and signified their intent to reject the proposal in favor of maintaining the AH District as originally adopted, including the current 30 unit per acre density. The Commission expressed concern that lowering the density of the AH District may create a disincentive to the development of affordable housing. In the Commission's view, this unintended consequence would not be responsive to the significant need in Marin, especially for senior housing, and therefore inconsistent with the intent of the AH District. In addition, there were questions of whether the proposed amendments would result in allowing market rate housing to be developed at higher densities than allowed for affordable housing, which would be inconsistent with State law (Government Code Section 65008). The hearing was continued to June 22, 2015, at which time the Commission voted to maintain the AH District on the three sites as initially adopted in 2013 (Ord. 3603) and recommended minor text amendments to Development Code Chapter 22.14 for clarity. The Commission's recommendation is presented in Attachment 2.

BACKGROUND

The Affordable Housing Combining District (AH District) was adopted by your Board in 2013 as part of the County's previous Housing Element (Program 1.c of 2007-2014 Housing Element). The purpose of the AH District is two-fold: (1) to comply with State Housing Element law; and (2) to create greater certainty that affordable housing on a portion of the named sites may be permitted at higher densities so long as the maximum number of units allowed for the entire property is not exceeded. The AH District does not represent an increase in the number of potential housing units currently allowed on these sites by the County's zoning and/or general plan, but rather encourages attached housing and the efficient use of land and infrastructure, similar to the clustering standard that applies in Planned Zoning districts (see Marin County Code Section 22.16.030.F.1).

The density of 30 units per acre that was originally assigned to the AH District satisfied a State law requirement for "metropolitan" counties. According to State Housing Element law, jurisdictions categorized as "metropolitan" are required to demonstrate a minimum density of 30 units per acre for development sites they choose to include in a Housing Element sites inventory for potential lower income housing. Jurisdictions categorized as "suburban" have a minimum density requirement of 20 units per acre. Marin County has been historically classified as a "metropolitan" jurisdiction due to its inclusion in the San Francisco-Oakland-Fremont Metropolitan Statistical Area (MSA) and therefore the 30 unit per acre minimum density requirement has applied. See Attachment 6 for a listing of metropolitan and suburban counties that existed prior to passage of AB 1537.

In 2011, your Board began requesting State legislators to reconsider the metropolitan classification, pointing out that the development patterns of Marin were consistent with a "suburban" classification. A suburban classification for the County would also create consistency with the suburban classification that applies to the smaller cities and towns in Marin. This effort resulted in the successful passage of Assembly Bill 1537 on September 30, 2014, thereby changing Marin's classification from metropolitan to suburban and lowering its minimum density requirement from 30 to 20 units per acre for the current Housing Element planning period of 2015 to 2023. This statute does not require any changes to existing zoning or to the Housing Element Sites Inventory adopted by your Board on December 9, 2014. However, it does provide the County with flexibility to include sites in the current Housing Element to accommodate lower income housing opportunities at a density of 20 units per acre, rather than the 30 units per acre density previously required. The statute in no way prevents the County from approving housing projects at densities higher than 20 units per acre.

During the 2015 to 2023 Housing Element planning period, the statute requires the County to report to the State Assembly Committee on Housing and Community Development, the Senate Committee on Transportation and Housing, and the Department of Housing and Community Development regarding its progress in

developing low- and very low income housing. The County is required to provide this report twice during the planning period, the first report by the end of 2019 and the second report by the end of 2023. The statute remains in effect only until December 31, 2023, after which it will automatically be repealed unless a new statute is enacted before December 31, 2023 that deletes or extends that date.

In response to the passage of AB 1537, on December 9, 2014 your Board directed staff to initiate the rezoning process to lower the AH District density from 30 to 20 units per acre. At their hearing of May 28, 2015, the Planning Commission was presented with a proposal to amend the AH District to reflect your Board's direction. However, as discussed above, the Commissioners voted to recommend against lowering the default density from 30 units per acre to 20 units per acre.

In general, the potential maximum number of units allowed on each property in unincorporated Marin County is determined by the maximum units allowed by the applicable Countywide Plan land use designation, a community plan, zoning ordinance and/or development entitlements (for example, a Master Plan). The application of the AH District on any given property does not allow development to exceed these limitations. Rather the AH District provides a means of reserving land where affordable housing is encouraged while using the land more efficiently by clustering allowed development. The actual number of units and the location for any proposed affordable housing development would be established after a specific development application is submitted by the property owner or developer. In staff's opinion, the AH District with a density of 30 units per acre or 20 units per acre would not regulate affordable housing in a more restrictive manner than market rate housing.

AH DISTRICT SITES

The AH district currently applies to the three sites identified in the table below and in Figure III-9 of the 2015-2023 Housing Element (refer to Attachment 4). Based on the Planning Commission recommendation, a similar table identifying these sites would be added to Development Code Section 22.14.090. In the recently certified Housing Element, all three sites are identified as AH District sites, however the Golden Gate Seminary site is not included in the Housing Element Sites Inventory. Therefore, the Seminary site was not relied upon to satisfy the State-mandated Regional Housing Need Allocation (RHNA) for 2014 to 2022. However, the Seminary site is identified in the text of the Housing Element as having a portion of the site designated for the AH District.

Existing applicability of AH District:

Site Name	Assessor Parcel Number(s)	Total Acres	Countywide Plan land use designation	Zoning	Housing Element Inventory Units	AH District applicability
St. Vincent's/Silveira	155-011-08 155-011-28 155-011-29 155-011-30 155-121-16	55*	PD-Agriculture and Environmental Resource	A2:AH	100 Lower 50 Moderate 71 Market (221 Total)	Limited to 3.5 acres at 30 duac (up to 100 units)
Marin City Community Development Corporation	052-140-36	4.06	MF-2	RMP-4.2:AH	15 Lower	Limited to 0.5 acres at 30 duac (up to 15 units)
Golden Gate Seminary	043-261-25 043-261-26	73.61	MF-2	RMP-2.47:AH	Not included in HE Inventory	Limited to 2 acres at 30 duac (up to 60 units)

*Total acreage on St. Vincent's/Silveira site is approximately 1,100 acres; however per Countywide Plan Policy SV-2.4, development must be clustered on no more than 5% of the site (i.e. 55 acres).

ENVIRONMENTAL REVIEW

The County's Environmental Coordinator has determined that the proposed changes to Development Code Chapter 22.14 regarding the AH District are within the scope of the *2013 Marin County Housing Element Supplement to the 2007 Countywide Plan EIR* ("2013 SEIR"). Pursuant to Public Resources Code Section 2166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15168, no additional environmental review is required.

2015-2023 HOUSING ELEMENT

As of March 20, 2015, the State Department of Housing and Community Development (HCD) has found the Board-adopted 2015-2023 Housing Element to be in compliance with State housing element law (Article 10.6 of the Government Code) and has certified the Housing Element for this planning period. However, in their March 20 letter (Attachment 5), HCD noted concerns about changes made to the Housing Element that were adopted by the Board of Supervisors on December 9, 2014. One concern expressed by HCD pertains to the County's decision to remove several sites from the Housing Element inventory and downzone others. HCD is concerned about the County's reliance on the limited sites inventory to adequately meet the County's Regional Housing Needs Allocation (RHNA) for 2014 through 2022, a dependency that they describe as "tenuous." Therefore, staff does not recommend further changes to the County's Housing Element beyond the narrow issue of adjusting the default density for the AH District.

REVIEWED BY:

Auditor Controller
 County Counsel
 Human Resources

N/A
 N/A
 N/A

Respectfully Submitted,


Leelee Thomas
Principal Planner


Brian Crawford
Director

Attachments:

1. Draft Board of Supervisors Ordinance adopting amendments to MCC Chapter 22.14

Exhibit A: Proposed amendments to Development Code Chapter 22.14

2. Planning Commission Resolution 15-012 (including Exhibit A)
3. Board of Supervisors Resolution No. 2014-109
4. Excerpt: Page III-28 of 2015-2023 Housing Element
5. Housing Element certification letter from the State Department of Housing and Community Development, 3/20/15
6. Default Densities by Jurisdiction, 6/20/12
7. Administrative Record (comments received)

The Board letter with attachments is available online at:

<http://www.marincounty.org/depts/bs/meeting-archive>

A full reference copy is available for public review at the Board of Supervisors office, 3501 Civic Center Drive, Suite 329 (8:00 am to 5:00 pm, Monday through Friday) and at the Community Development Agency, Planning Division, 3501 Civic Center Drive, Suite 308 (8:00 am to 4:00 pm, Monday through Thursday, closed Fridays).