



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

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December 7, 2021

Marin County Board of Supervisors and
Planning Commission
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Housing Element Update

Dear Supervisors and Commissioners,

RECOMMENDATION:

Review and provide feedback on guiding principles for sites selection and strategies for addressing the State-mandated Regional Housing Need Allocation for housing production for the 2022-2030 planning period.

SUMMARY:

The Community Development Agency is in the process of updating the Housing and Safety Elements, which are integral parts of the Countywide Plan (CWP). The Housing Element update will establish a strategy for meeting housing needs for the 2022-2030 planning period. The Safety Element is also being updated to incorporate policies focused on responding to potential adverse impacts associated with climate change, as well as specific new State law requirements related to flood and fire hazards. To meet deadlines established by the State, the Board of Supervisors will need to adopt the forthcoming Housing Element no later than December 31, 2022 and submit it to the State for review and certification. While the Safety Element does not need to be adopted within a specific time frame, it is being prepared at the same time as the Housing Element and will be presented to the Board and Commission early next year.

This report and related presentation will focus on the Housing Element requirements. Specifically, we will discuss 1) the Guiding Principles that will direct the selection of housing opportunity sites; and 2) strategies for achieving the Regional Housing Need Allocation (RHNA) for Marin County.

BACKGROUND:

Marin County has initiated a planning process required under State law to identify how to meet housing needs at all income levels. The California Department of Housing and Community Development (HCD) dictates that the CWP must include land use plans and regulations that provide opportunities for, and do not unduly constrain, housing development.

Housing Need

For housing to be considered affordable, households are expected to pay no more than 30 percent of their income on housing. In unincorporated Marin, 43% of renter households and 35% of owner households spend in excess of 30% of their income towards housing costs (Table 1 – see Attachment 2).

An estimated 38 percent of unincorporated Marin County households fall into the extremely low-, very low-, and low-income categories, earning less than 80 percent of the County median income¹. Renters make up the greater proportion of these income categories. Estimates from 2017 (most recently available comprehensive data) report that 57 percent of all renters in unincorporated Marin County were in the extremely low-, very low-, and low-income categories (Table 2 – see Attachment 2).²

In Marin County, the median income in 2021 for a family of four is \$149,600, which is a 45 percent increase from the median income in 2013. A household income of less than \$54,800 is considered extremely low-income.³ As of 2017, more than 15,600 households countywide, or 15 percent of total households, were extremely low income. In the unincorporated County, an estimated 3,623 households were classified as extremely low income.⁴ The State income limits for 2021 were published in April 2021 and are shown in Table 3 (see Attachment 2).

While Marin County continues to have one of the highest median incomes in the State, many County residents, including working families and seniors, face difficulties in meeting their basic housing, food, and childcare needs. The high cost of living in Marin County and continued rising costs of basic necessities contribute to the stress put on lower-income households.

Special needs populations—such as lower income families with children, seniors, persons with disabilities and people who are homeless—face challenges in finding housing appropriate and affordable for their individual needs as follows:

- According to the 2020 Marin County Analysis of Impediments to Fair Housing Choice (AI), 30.4% of households in Marin have children, with 23% of those households living below the Federal poverty level.
- The AI also showed that 712 students in Marin County were experiencing short-term or longer forms of homelessness.
- According to the American Community Survey, the County's senior population increased by 43% between 2010 and 2019, while the County's senior population with incomes below the poverty line increased by 59% during this same timeframe.

The 2020 Marin County Analysis of Impediments (AI) also illustrates racial disparities in housing, largely tied to the impacts of historic housing policies and practices that prevented equal opportunity in housing accessibility, quality, and financing. While over two thirds of non-Hispanic white residents are homeowners, roughly three quarters of both Black/African American and Hispanic/Latinx communities in Marin County are renters. Additionally, the 2020-2024 Marin County Consolidated Plan demonstrates that about 64% of families in poverty are renters.

¹ The "Median Income" is based on the FY2021 median family income for Marin County, CA of \$149,600 for a four-person household. HCD adjusts each county's area median income to at least equal the state non-metropolitan county median income, as published by HUD.

² Association of Bay Area Governments Metropolitan Transportation Commission, Housing Needs Data Report: Unincorporated Marin, April 2, 2021.

³ California Department of Housing and Community Development, effective April 26, 2021

⁴ See footnote 24

Using the income categories of the RHNA and Marin County's median income, many integral workers in the community earn incomes that are considered moderate and below, including:

- Farm workers, retail salespersons, and childcare workers earn a salary that is considered by the State as very low income (below 50% of area median income);
- Many County staff including social workers and ambulance dispatchers typically earn a low-income salary (below 80% of area median income).
- Teachers, firefighters, and police typically earn a moderate-income salary (below 120% of area median income).

Many of these low- to moderate-income wage earners and their families either struggle to pay housing costs or are unable to live in the communities where they work.

Housing Costs

In December 2020, the typical home value in unincorporated Marin County was estimated at \$1,955,760 according to Zillow. The largest proportion of homes were valued between \$1 million and \$1.5 million. By comparison, the typical home value in the Bay Area is \$1,077,230, with the largest share of units valued between \$500,000 to \$750,000.⁵ After securing a 20% down payment, a household would need to earn a monthly income of about \$6,620 to afford a home at the median value.

As shown in Table 4, rents in the unincorporated communities are \$2,500 per month or higher. Assuming an affordability rate of no more than 30 percent of household income (for renters), a household would need to earn an annual income of \$100,000 to \$136,000 to rent in these communities.

Table 4: Median Rent, Unincorporated Communities

Community	Zip Code	Median Rent
Blackpoint-Greenpoint	94945	\$2,501
Southern Coastal West Marin	94965	\$3,182
Marinwood/Lucas Valley	94903	\$2,750
Santa Venetia/Los Ranchitos	94903	\$2,750
Kentfield/Greenbrae	94904	\$2,754
Strawberry	94941	\$3,409
Tam Valley	94941	\$3,409
Marin City	94965	\$3,182
<i>Source: RentCafe, October 2021</i>		

Regional Housing Needs Allocation (RHNA)

The Regional Housing Need Allocation (RHNA) is the State-mandated process to identify the number of housing units, by affordability level, that each jurisdiction

⁵ Housing Needs Data Report: Unincorporated Marin. ABAG/MTC Staff and Baird+Driskell Community Planning, April 2, 2021.

must accommodate in its General Plan Housing Element⁶. The County's responsibility is to plan for sufficient sites that are capable of being developed during the planning period. On June 9, 2020, HCD released the Regional Housing Needs Determination (RHND) for the 6th Housing Element cycle to the Association of Bay Area Governments (ABAG). The RHND establishes a total of 441,176 housing units to the Bay Area for the planning period of 2022 to 2030. This number is approximately twice the housing needs determination the Bay Area received in 2012 for the last RHNA cycle and reflects changes to State law, the methodology for allocating housing need, and growth over the past eight years.

For the last RHNA cycle, the unincorporated County's share of the RHNA was 185 units, which was significantly lower than the prior 2007-2014 RHNA of 773 units. For the next planning period (2022 to 2030), ABAG assigned a RHNA to all Bay Area jurisdictions consistent with the State's new equity framework and the statutory objectives of RHNA. The RHNA for unincorporated Marin County for the 2022-2030 Housing Element is 3,569 units. The breakdown of the income levels required is shown in Table 5.

Table 5: Housing Need by Income Category, Unincorporated Marin County

Extremely Low (0-30% AMI)	Very Low (30-50% AMI)	Low (51-80% AMI)	Moderate (81-120% AMI)	Above Moderate (121%+ AMI)	Total RHNA
550	550	634	512	1,323	3,569
<p><i>Source: Association of Bay Area Governments; Final Regional Housing Needs Allocation (RHNA) Methodology and Draft Allocations:</i> https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf</p>					

On June 6, 2021, the Board of Supervisors directed staff to file an appeal of the RHNA allocation for this housing cycle citing the failure: to consider information submitted as part of the local jurisdiction survey, to factor in the amount of land in the unincorporated county that is vulnerable to natural hazards, and to conform to the core principals provided in Government Code Section 65584 which emphasize housing near job centers, infill development, and environmental resource protection. On October 22, 2021, that appeal was heard and initially rejected. On November 12, 2021 ABAG met to ratify a written final determination on the denial of the appeal.

DISCUSSION:

Site Selection

Changes in state housing legislation have altered the landscape for residential development. In the last five years, approximately 70 pieces of housing related legislation have been signed into law. Among other things, these laws streamline residential development, permit increased densities when affordable units are

⁶ (Government Code §65584)

included, reduce discretionary review, and hold local governments accountable for producing a fair share of new housing development. Based on these changes, the County is facing a new paradigm and will need to approach residential development differently in order to have a certified housing element. A key component of the Housing Element Update is the identification of opportunity sites⁷, which are suitable for residential development, including vacant sites and sites having the potential for redevelopment that can be developed for housing within the planning period⁸. Environmental conditions (e.g., steep slopes, biological habitat, agricultural lands) and hazards (e.g., wildland fires, sea level rise, flooding) on vacant lands will likely constrain development opportunities and may require significant modifications to existing land use policies and development standards in order for the County to meet its RHNA requirements.

In addition, Assembly Bill 686, now requires that the County identify sites throughout the community, in a manner that is consistent with its duty to affirmatively further fair housing (AFFH). In the context of AFFH, the site identification requirement involves not only an analysis of site capacity to accommodate the RHNA, but also whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns. Site selection must also serve to provide access to concentrated areas of wealth and to serve to transform racially and ethnically concentrated areas of poverty into areas of opportunity.

On December 17, 2019, your Board approved a contract for the Objective Design and Development Standards for multifamily housing. The standards utilize existing zoning codes as a basis to produce objective standards and guidelines. These standards are used to provide design direction for projects that require a ministerial approval process, such as SB35 and “by-right” zoning projects. This toolkit is being customized for unincorporated Marin County through chapters that outline architectural standards, physical features, building patterns, etc.

The following discussion identifies various strategies staff expect to employ in order to meet the RHNA, and includes proposed guiding principles that would apply to the site selection process intended to implement the state’s RHNA mandate and meet local housing needs.

Strategies for Meeting the RHNA

The County will need to employ several strategies to achieve the RHNA. To assist in this process, staff asks for the Board and Commission’s input on the following strategies:

- Optimizing development within current zoning parameters (e.g., vacant and underutilized lands, Accessory Dwelling Units)
- Rezoning selected properties that currently allow residential uses to increase residential density
- Rezoning selected commercial areas to accommodate additional mixed-use, higher-density housing

⁷ Opportunity sites are included in the sites inventory list of the Housing Element, which meet the minimum standards established by HCD. These sites are evaluated for their development potential.

⁸ Government Code Section 65583(a)(3) and Section 65583.2

- Increasing residential densities on sites containing religious institutions
- Utilizing surplus publicly owned lands for residential development
- Preserve capacity by establishing minimum densities in multifamily zones
- Evaluating the possibility of conversion to affordable housing, under some condition, units that are substantially rehabilitated, converted from market rate to affordable, converted from nonresidential to residential, or where unit affordability or spaces a mobilehome park is preserved may be counted towards the adequate sites requirement⁹
- Allowing residential development “by right¹⁰” consistent with state law.

In addition, staff will also evaluate recent state legislation such as SB9 (e.g., by-right allowance for increasing densities in some residential zoning districts) to see whether they can be used as a strategy to achieve the RHNA for above moderate-income units.

State Law Considerations

When evaluating the appropriateness of sites for residential development at all income levels, physical features must be considered, such as susceptibility to flooding, slope instability or erosion, and other environmental considerations, in addition to location, including proximity to transit, job centers, and public or community services. The site selection process must also address State regulatory standards that apply when considering how a site can be counted toward the RHNA.

- 1) **Lot Size:** To be considered appropriate to accommodate lower-income units, a site must be between 0.5 and 10 acres in size. Lots that are larger than 10 acres or smaller than 0.5 acres may be considered but will require evidence that they are viable.
- 2) **Default Density:** To be considered viable for the purpose of supporting housing affordable to lower-income households (low-, very-low-, and extremely-low-income households), the property must be zoned to support at least 20 dwelling units per acre¹¹. However, this law will sunset during the housing element planning period and the County may want to consider higher densities to accommodate the increased RHNA.
- 3) **Trends:** Estimated development potential on vacant lands and for accessory dwelling units (ADUs) will be based on the density of actual residential developments and past production (construction) trends, as well as evidence of the affordability of ADUs.
- 4) **Recycling Prior Sites:** Vacant sites identified during two consecutive prior RHNA cycles and non-vacant sites identified during a prior cycle must be described as to why they are currently viable if they have not yet been

⁹ Government Code Section 65583.1 subdivision (c)

¹⁰ “By-Right” means review of an application is streamlined so that projects that contain 20 percent affordable units and do not require a subdivision are subject only to an objective design review process. Objective Design and Development Standards are being developed to comply with this requirement.

¹¹ SB 106 extended the sunset date on a 2014 law that recognizes Marin as a suburban county for the purposes of developing affordable housing and establishes the default density at 20 units per acre, the law will sunset in 2028 with lasting effects until 2032.

developed. They must allow “by-right” approvals if they are identified as suitable for lower income housing in the new housing element.

- 5) **Development on Non-vacant Sites:** If a non-vacant site is identified for redevelopment (from an existing use to a residential use), the County must provide a detailed analysis demonstrating the site’s suitability for and the likelihood of residential development. If more than half of the required lower income sites are proposed on non-vacant land, then the existing uses are presumed to impede residential development unless there is substantial evidence that a site is likely to develop for housing in the next eight years. Property owner interest in transitioning the site to a residential or mixed-use development is one example of such substantial evidence.
- 6) **No net loss:** The purpose of the No Net Loss Law¹² is to ensure that development opportunities remain available throughout the planning period to accommodate a jurisdiction’s Regional Housing Need Allocation (RHNA), especially for lower- and moderate- income households. Under this law, the County may not require or permit the reduction of residential density below that shown in the County’s Housing Element in determining housing element compliance, unless there are written findings showing that reduction is consistent with the Countywide plan, including the Housing Element, and that the remaining sites identified in the Housing Element are adequate to accommodate the jurisdiction’s share of the regional housing need. If a site designated for lower income develops at a lower density than specified in the Housing Element, the County could be required to add additional sites, unless the sites list has additional sites for lower income units. Therefore, it is recommend that additional sites be included above the RHNA to provide a “buffer”.

Guiding Principles for Site Selection

We are seeking feedback from the Board and Commission on a set of guiding principles in the site selection process. The County faces a significant challenge in accommodating the RHNA this cycle, due to both the substantial increase in units and to the heightened regulations and specificity required of the sites, especially those identified to accommodate the lower income RHNA. This task is further exacerbated by the challenges the County is facing due to climate change, such as drought and wildfires. The County also has a renewed focus and commitment to equity, especially as it relates to actions intended to address the historic patterns of segregation in housing and land use. This aligns with the new State requirement to affirmatively further fair housing, meaning that all aspects of the Housing Element including outreach, programs and policies and site selection, must use a fair housing and equity lens.

Staff recommends your Board and Commission provide direction in meeting site selection requirements, by evaluating and recommending guiding principles to be used in the site selection process. In addition to these principles, staff will continue the rigorous community engagement process related to site selection, as described below. The principles include:

- **Ensure Countywide distribution** - Taking into account the constraints imposed by environmental conditions and the availability of infrastructure

¹² Government Code Section 65863

and services, housing sites should be distributed throughout the County.

- Respond to housing needs of each community in unincorporated Marin County.
 - Provide housing opportunities at locations near services (e.g., City Center Corridor, and villages in the Coastal and Inland Rural Corridors).
 - Ensure housing sites have infrastructure capable of supporting development.
 - To achieve the number of potential units required, housing units will need to be approved in all Supervisorial districts.
- **Address racial equity and historic patterns of segregation** - Affordable housing sites should be focused in areas of opportunity and should affirmatively further fair housing by promoting inclusive communities, furthering housing choice, and addressing racial and economic disparities.
 - Locate affordable housing in areas with access to resources such as good schools, transportation, and that are environmentally healthy (e.g.: good air quality)
 - Focus affordable family housing developments outside areas of minority concentration¹³, as defined by the federal U.S. Department of Housing and Urban Development (HUD)¹⁴
 - **Encourage Infill and redevelopment opportunities** - Taking into consideration the housing element site requirements, sites should focus on infill and limit development on greenfield areas.
 - Identify sites within existing communities, close to services, jobs, transportation, and amenities
 - Consider rezoning infill sites to accommodate affordable housing
 - Accommodate housing on underutilized and marginal commercial properties and publicly-owned sites.
 - Facilitate production of accessory dwelling units (ADUs).
 - **Consider environmental hazards** and locate housing sites in areas that could be mitigated to address the threat to life and property from these hazards.
 - Identify sites where technologies, materials, and building methods could mitigate environmental hazards.
 - Coordinate with Safety Element to prioritize sites that are in areas of less significant impact as a result of climate change.
 - Plan for sites that include adequate routes for hazard evacuation.
 - **Leverage surplus lands** – Consider making the most of development opportunities on sites owned by the County, religious institutions, schools, and the State when identifying housing sites.
 - Evaluate County-owned property which could be considered for housing.

¹³ Areas where non-White residents are disproportionately located, as defined by Fair Housing Site and Neighborhood Standards.

¹⁴ In 2019, the County of Marin entered into a [Voluntary Compliance Agreement](#) (VCA) with HUD, which requires the County to prioritize family housing outside areas of minority concentration.

- Work with the State to identify and support opportunities for increased housing on State-owned land.
- Allow for housing development on parking areas and underutilized lands owned by religious and educational institutions (consistent with State law).

PUBLIC OUTREACH:

Extensive public outreach is an important goal for the County and is a critical component of Housing Element legislation. Engaging people of color, lower-income and special needs community members is especially important since they are most at risk of being affected by the current housing crisis and have historically had less of a voice in planning processes in the County. To satisfy these goals and requirements, staff has engaged the community in a variety of ways and plans to conduct additional outreach in the future, as summarized in Attachment 3.

TIMELINE AND NEXT STEPS:

The Housing Element for the 2022-2030 planning period is due to the State by January 2023. Leading up to adoption, staff will present further analysis of Safety Element issues and policies and how they impact housing opportunity sites. Staff will present and refine a list of potential sites and associated development potential. Additional analyses will consider additional regulatory and policy constraints, environmental resources, infrastructure capacity, wildfire, circulation, and development feasibility, in addition to the guiding principles discussed herein.

Additional information related to the Housing and Safety Element updates will be presented at future Community Workshop and at meetings of the Board of Supervisors and the Planning Commission in 2022.

Attachment 1 shows the schedule of activities necessary to meet this deadline and identifies the planned public outreach and required environmental review.

EQUITY IMPACT:

Under Assembly Bill 686, the Housing Element is required to include an assessment of fair housing to address barriers to fair housing choice and identify sites and programs that provide housing opportunity for lower income families and individuals near high quality schools, employment opportunities and public transportation. As a precursor to incorporating a fair housing assessment into the Housing Element, the County recently conducted an Analysis of Impediments to Fair Housing Choice (AI) which examined barriers to fair housing. The AI reflects both a federal prerequisite for state and local governments receiving block grants for housing and community development projects as well as Marin’s commitment to the promotion of fair housing choice, and to affirmatively further fair housing.

FISCAL/STAFFING IMPACT

No Impact on the general fund, funds to accomplish these tasks have been previously identified and are available in CDA’s budgets.

REVIEWED BY:

- | | |
|---|---|
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Administrator’s Office | <input type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

SIGNATURE:



Leelee Thomas
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Attachments

- 1: Housing and Safety Elements Schedule
- 2: Data Tables
- 3: Public Outreach Summary