



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

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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:

1. Receive report on community outreach and feedback received related to candidate housing sites and site scenarios.
2. Review and provide feedback on staff recommendation for candidate housing sites and alternative scenarios that address 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 should adopt the forthcoming Housing Element no later than December 31, 2022, and submit it to the State for review and certification.

This report and related presentation will focus on the Housing Element sites requirements. Specifically, we will discuss 1) State requirements for sites selected to be included in the housing element and site scenarios that build on the Guiding Principles that were considered at the December 7, 2021, Joint Session of Board Supervisors and Planning Commissioners; 2) a summary of public outreach and results of public engagement, including public preferences for sites and scenarios, and 3) staff recommendations on site list and next steps.

BACKGROUND:

Marin County has initiated a planning process consistent with State law to identify how to meet housing needs for households at all income levels. State housing legislation dictates that the CWP must include land use plans and regulations that provide opportunities for, and do not unduly constrain, housing development. Detailed information regarding housing needs and housing costs can be found in Attachment 1.

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 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 sites¹, 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 period². Environmental conditions (e.g., steep slopes, biological habitat, agricultural lands) and hazards (e.g., wildland fires, sea level rise, flooding) 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.

The housing element also has a new requirement to focus on addressing fair housing and patterns of segregation. 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 high resource areas, such as high quality jobs, schools and public transportation, and to serve to transform racially and ethnically concentrated areas of poverty into areas of opportunity.

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, which includes 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 for lower-income units (but will require evidence that they are viable) and may also be considered for moderate and above-moderate income units.
- 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

¹ Opportunity sites are included in the sites inventory list of the Housing Element, which meet the minimum standards established by the California Department of Housing and Community Development (HCD). These sites are evaluated for their development potential.

² Government Code Section 65583(a)(3) and Section 65583.2

least 20 dwelling units per acre³. 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 developed. They must allow “by-right” approvals if they are identified as suitable for lower income housing in the new housing element. By-right approval means that if a project provides at least 20 percent affordable units and requires no subdivision, the project is exempt from review under the California Environmental Quality Act, and only design review based on objective standards may be required.
- 5) **Development on Non-vacant Sites:** If a non-vacant site, which is a site with any improvement (e.g. buildings or other permanent structures, paved parking lot, income producing improvements such as crops, high voltage power lines, oil-wells, etc.) 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 Law⁴ 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, if the County approves a project with a different affordability level or residential density below that shown in the County’s Housing Element, the County must make written findings showing that the reduction is consistent with the Countywide plan, including the Housing Element, and that either the remaining sites identified in the Housing Element are adequate to accommodate the jurisdiction's share of the regional housing need by income level, or other sites in the County are zoned appropriately to accommodate that income level. If neither of these findings can be made, the County must identify and make available additional sites within 180 days, typically through rezoning.. If a site designated for lower or moderate income units develops at a lower density or with fewer lower or moderate income units 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 recommended that additional sites be included above the RHNA for very low and lot income categories

³ 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.

⁴ Government Code Section 65863

to provide a “buffer”. The state recommends a buffer of between 15 and 30%.

Guiding Principles for Site Selection

At the Joint Session of the Board of Supervisors and Planning Commission on December 7, 2021 your Board and Planning Commission provided feedback on the Guiding Principles and recommended an additional Principal, included in Attachment 2.

DISCUSSION:

Staff worked with MIG, Inc., the consultant retained by the County to work on the Housing and Safety Element updates, to identify a list of candidate housing sites, factoring in state laws around site suitability and local knowledge. Over 150 sites were selected as adequate with development potential of over 6,332 units, yielding more than the RHNA allocation of 3,569 units. This was done to provide the public and decision makers with choice and flexibility in selecting sites that aligned with a range of goals, priorities and principles. Each of the four housing sites scenarios described below builds upon a specific Guiding Principle, as presented and considered at the December 7, 2021, joint session with the Board of Supervisors and Planning Commission. Each scenario includes housing site strategies related to surplus school, County, and State lands; religious institutions; vacant lands; and commercial and residential sites not currently used to their full potential. Although each scenario emphasizes the importance of a specific principle, e.g., Countywide Distribution, all aspects of the guiding principles are embedded in all four scenarios. The initial sites analysis described above yielded more sites than needed, therefore depending on the guiding principle favored in the scenario, some of the sites have fewer or no units. These scenarios were used in the Balancing Act tool discussed below as a way for the public to provide feedback on what was important to them as well as evaluate tradeoffs needed to meet the RHNA. These scenarios are included in Attachment 3.

1. Ensure Countywide Distribution Scenario

The Countywide Distribution Scenario distributes housing sites throughout the County. It responds to housing demand throughout the County, locates housing near services (e.g., City Center Corridor and villages in the Coastal and Inland Rural Corridors), and distributes housing throughout all five Supervisorial districts.

2. Address Racial Equity and Historic Patterns of Segregation Scenario

The Equity Scenario emphasizes racial equity and addresses historic patterns of segregation by promoting inclusive communities, furthering housing choice, and examining racial and economic disparities. It locates affordable housing in areas with access to resources such as good schools, transportation infrastructure, and healthy living conditions such as good air quality. It focuses housing development outside areas of current minority concentration, as defined by the federal U.S. Department of Housing and Urban Development (HUD).

3. Encourage Infill and Redevelopment Opportunities Scenario

The Infill scenario focuses housing on infill sites within already developed areas and limits new development on larger undeveloped areas. It locates housing within existing communities and close to services, jobs, transportation, and amenities. It considers the rezoning of infill sites to accommodate affordable housing, suggests housing on underutilized and marginal commercial properties and publicly owned sites at higher densities and facilitates production of accessory dwelling units (ADUs).

4. Consider Environmental Hazards Scenario

The Environmental Hazards Scenario locates housing in areas with limited environmental hazards or in areas where impacts could be mitigated to address threats to life and property from these hazards. It identifies sites where technology, materials, and building methods could mitigate environmental hazards; prioritizes sites in areas having few impacts associated with climate change; and identifies sites with adequate routes for hazard evacuation.

PUBLIC OUTREACH:

Outreach for the Housing Element began in the fall through workshops and focus groups. Over 250 individuals attended these events to discuss housing needs, with a focus on members of the protected classes and low-income populations. Additionally, a resident survey of housing needs was disseminated online and in paper format, with over 800 responses received in English and Spanish. This outreach is summarized in Attachment 4.

Extensive public outreach is a guiding principle for site selection and is a critical component of Housing Element legislation. The outreach for sites began with a Countywide Workshop hosted on January 20, 2022, that summarized the four site scenarios and a presentation of all candidate sites. In February, staff and consultants presented a roadshow on sites to over 15 groups including Design Review Boards, Neighborhood Groups, and local organizations about the candidate sites and received public comment for the Board and Commission to consider. As outlined in Attachment 4, these meetings were conducted in communities throughout unincorporated Marin.

Online outreach and feedback opportunities were launched to the public in January, including Balancing Act and additional interactive maps where the public could see and provide feedback on all candidate sites:

- **Full Site List:** A full sites list (PDF and excel) and map of all candidate housing sites in Google maps was released for public comment and made available on the County's website.
- **Balancing Act:** Balancing Act is a tool that allows the public to select and tailor one or several preferred scenarios to create their own housing plan using key sites that reflect the scenarios. The tool provides a comprehensive look at the sites under consideration, and allows the public to balance priorities, tradeoffs and concerns by lowering units on sites and increasing units on others. County staff provided public online "office hours" to answer questions about how to use Balancing Act at four separate times throughout the month of February.
- **Atlas:** In February, a website that includes existing conditions and a map of all candidate sites was launched for the public. This site allows public

comment on all sites and includes map layers such as natural resources, physical and community infrastructure, community profile, and hazards.

- **Site Suggestion Map:** An interactive map that allows the public to comment on sites and suggest candidate sites was launched in January.

For those who are unable to access these resources, staff provided an email address and phone number to submit comments and questions and offered to meet in person if requested. The feedback received on sites will be included in the presentation on March 1, 2022.

SITE SELECTION:

Staff continue to hold meetings and gather community feedback from the public. At the meeting on March 1, staff will summarize the public feedback received and present alternatives for the Board and Commission's consideration that incorporate State law considerations, the guiding principles and feedback on the scenarios discussed above. Staff recommends your Board and Commission provide direction on which preferred alternative(s) to consider and provide direction on the site selection process. On March 15th, staff will return with a proposed site list based on your direction and community feedback.

TIMELINE AND NEXT STEPS:

The Housing Element for the 2022-2030 planning period is due to the State by January 2023. Staff will refine a list of potential sites and associated development potential based on the Board and Commission's comments on the site alternatives presented. Additional analyses will consider additional regulatory and policy constraints, environmental resources, including biological resources, infrastructure capacity, wildfire, circulation, and development feasibility.

More 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 Spring 2022.

Attachment 5 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. Assembly Bill 686 also requires local governments to identify meaningful goals to address the impacts of systemic issues such as residential segregation, housing cost burden, and unequal educational or employment opportunities to the extent these issues create and/or perpetuate discrimination against protected groups. These requirements will be incorporated into the Housing Element, including the site selection recommendation.

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:

- Department of Finance
- County Administrator's Office
- County Counsel
- Human Resources

- N/A
- N/A
- N/A
- N/A

SIGNATURE:

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Deputy Director Housing and Federal Grants



Thomas K. Lai
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Attachments

- 1: Housing Needs and Housing Costs Data
- 2: Summary of Guiding Principles for Site Selection
- 3: Balancing Act Scenarios
- 4: Sites Community Outreach Summary
- 5: Schedule