



COMMUNITY DEVELOPMENT AGENCY  
**HOUSING AND FEDERAL GRANTS DIVISION**

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March 15, 2022

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

**SUBJECT:** Housing Element Update (Sites Meeting #2)

Dear Supervisors and Commissioners,

**RECOMMENDATION:**

1. Review staff's recommendation for candidate housing sites that address the State-mandated Regional Housing Need Allocation (RHNA) for the 2022-2030 planning period; and
2. Provide direction to staff on the candidate housing sites for consideration at the April 12, 2022 Board and Commissioners' workshop.

**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 to meet housing needs and the RHNA. Specifically, we will discuss 1) a summary of direction received at the March 1 joint workshop, 2) a recommendation of one candidate sites list (Attachments 1 and 2), 3) site selection process and criteria to be included in the Housing Element, and 4) next steps.

**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 recommended candidate housing sites, factoring in state laws around site suitability and local knowledge.

**I. Universe of sites (all candidate housing sites):** The initial step in the site identification process was to study over 150 possible candidate housing sites within the County (Attachment 3). These sites were identified as collectively containing a 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 choices and flexibility in selecting sites that aligned with a range of goals, priorities and principles.

**II. Four site scenarios based on the Guiding Principles:** The next step in narrowing down candidate housing sites list was the development of four housing sites scenarios using the Guiding Principles for Site Selection, which were presented and considered at the December 7, 2021, joint session with the Board of Supervisors and Planning Commission. These Guiding Principles translated into and created the following four housing sites scenarios:

1. *Ensure Countywide Distribution,*
2. *Address Racial Equity and Historic Patterns of Segregation,*
3. *Encourage Infill and Redevelopment Opportunities, and*
4. *Consider Environmental Hazards.*

Each scenario includes housing site strategies for 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, all aspects of the guiding principles were embedded in the four scenarios. Some of the scenarios have sites with fewer or no units, depending on what guiding principle was favored. This was possible because the universe of sites was much larger than the RHNA allocation. County staff explained these scenarios when they presented in communities around the County, also known as the “Sites Roadshow.” In addition, these scenarios were available on the website and used in the Balancing Act tool 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.

**III. Two alternatives:** Based on the feedback received from the public, staff further narrowed down the sites list to present two alternatives for consideration by the Board, Planning Commission, and the public on March 1, 2022:

- *Ensuring that units were distributed Countywide, which attempts to equally distribute housing within comparably populated areas using Supervisorial Districts as a proxy.*
- *Avoiding natural hazards and focusing an infill strategy by avoiding areas with two or more environmental hazards, such as fire and flooding, and promoting infill development.*

**IV. Recommended sites list:** The proposed sites list for discussion at the March 15, 2022 meeting (Attachments 1 and 2), incorporates feedback received from the Board and Planning Commission Workshop on March 1 and additional refinements based on a number of goals that were highlighted as important considerations:

- Strive for site distribution throughout the County, taking into consideration the RHNA of cities and towns (Attachment 4);
- Consider the vision of the Countywide Plan (CWP) and its policies that focus on in-fill development and smart growth planning.
- Ensure that housing sites designated for lower and moderate income are viable and likely to produce needed housing during the planning period; and
- Incorporate means of affirmatively furthering fair housing in site selection to insure lower and moderate-income households have access to affordable housing, excellent schools, and healthy community amenities.

The CWP incorporates sound environmental and planning principles that have guided land use patterns in Marin County for almost 50 years. The Plan recognizes the 606 square miles of land and water composing Marin County as a cohesive environmental unit made up of regions called corridors, which are designated to focus development and to protect environmental resources<sup>1</sup>. As noted in the CWP, investment in housing has historically focused on the construction of low density and expensive single-family houses, with limited connection to older neighborhoods and downtowns. This type of development has consumed relatively large amounts of land to house a small number of residents, is affordable only to those with high incomes, and generates a significant proportion of vehicle trips countywide<sup>2</sup>. The CWP outlines smart growth goals including encouraging development in existing communities, and development of medium to higher density housing along current and future transit corridors, mixed-used development, and development in downtown areas. Overall, the CWP identifies the potential for approximately 15,200 new homes countywide, both in single-family and multifamily developments. The CWP also identifies “The greatest potential for housing development is in the Richardson Bay, Las Gallinas, and Novato planning areas.”<sup>3</sup>

In addition to taking into account the CWP’s goals and approach to land development, Board members, Commissioners and the public requested eliminating or reducing proposed housing on many of the sites under consideration. However, if all these recommendations were applied to the candidate sites list, the County would not be able to meet RHNA goals to achieve a certified housing element. The proposed sites list attempts to balance priorities while ensuring compliance with State law and the goals of encouraging and facilitating housing for households with lower and moderate incomes.

**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.

**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 sites<sup>4</sup>, which are suitable for residential development, including vacant sites and

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<sup>1</sup> CWP 3.4-1 (p.248)

<sup>2</sup> CWP 3.2-1 (p.244)

<sup>3</sup> CWP 3.4-5 (p. 254)

<sup>4</sup> 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

sites having the potential for redevelopment that can be developed for housing within the planning period<sup>5</sup>. 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 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 least 20 dwelling units per acre. Although this law will sunset in 2028, near the end of the 2023-2031 housing element planning period, the County may continue to use this density as the default density throughout the current housing element period. Nonetheless, the County may want to consider higher densities to accommodate the increased RHNA, which will require that fewer sites be designated for rezoning. Staff has included densities of 30 dwelling units per acre for some sites.
- 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

Community Development (HCD). These sites are evaluated for their development potential.

<sup>5</sup> Government Code Section 65583(a)(3) and Section 65583.2

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 lots, income producing improvements such as crops, high voltage power lines, 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 Law<sup>6</sup> is to ensure that development opportunities remain available throughout the planning period to accommodate a jurisdiction’s 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 than 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 lower and moderate-income categories to provide a “buffer”. The state recommends a buffer of between 15 and 30%.

**TIMELINE AND NEXT STEPS:**

Staff will make any additional adjustments to the candidate sites based on feedback received on March 15, for consideration at the April 12, 2022 workshop. Staff will also provide draft Housing Element programs and policies for consideration at the workshop. Following confirmation regarding the candidate sites chosen for further study, staff will initiate preparation of an Environmental Impact Report to evaluate the impacts from the sites and proposed Housing Element policies and programs on biological and cultural resources, hazards, hydrology and water quality, public services, recreation, transportation, tribal cultural resources, and wildfire hazards. A final decision will not be made on sites until after the environmental review is complete.

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<sup>6</sup> Government Code Section 65863

More information related to the Housing and Safety Element updates, including a review of draft policies and programs, 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 the State’s 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:**

There is no general fund impact, because funding to complete the Housing and Safety Elements 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*

Leelee Thomas  
Deputy Director



Thomas K. Lai  
Director

**Attachments**

1. List of recommended sites for the 2022-2030 planning period
2. Map of recommended sites for the 2022-2030 planning period
3. Universal list of sites
4. Map of RHNA for all Marin incorporated jurisdictions
5. Schedule