



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 – Comments from the State on the Draft

Dear Supervisors and Commissioners,

**RECOMMENDATION:**

Review the State Housing and Community Development Department (HCD) response to the draft of the 2023-2031 Housing Element.

**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 at all income levels for the 2022-2030 planning period. The Safety Element is 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. The Housing Element must be submitted to the State for review and certification no later than January 31, 2023. After extensive outreach to the public and discussion with the Board of Supervisors and Planning Commission, the Draft Housing Element was submitted to HCD for a 90-day review period on July 19, 2022. Staff received the comment letter from HCD on October 17, 2022, included as Attachment 1. The comments will not impact our schedule for adoption.

**BACKGROUND:**

The California State Legislature has found the availability of housing to be of statewide importance. To ensure that counties and cities recognize their collective responsibility in implementing the statewide housing goals, housing element legislation was originally enacted in 1969, requiring all local governments to prepare and implement housing elements as part of their general and countywide plans. State legislation enacted in 1980 required councils of governments (the Association of Bay Area Governments (ABAG) for Bay Area counties) to determine the existing and projected housing needs at all income levels for each city and county in the region, which is then to be addressed in each local jurisdiction's housing element. This process became known as the Regional Housing Need Allocation (RHNA), which determines the fair share of housing needs for each county, city and town in California. Every eight years, all California jurisdictions are

required to revise and update their individual Housing Elements consistent with State law. Marin County is updating its Housing Element along the same timetable as other Bay Area jurisdictions.

The Housing Element identifies and analyzes existing and projected housing needs and constraints to housing development. It also creates goals, policies, and programs for the development, preservation and improvement of housing. The Housing Element plans for new housing for all income levels to meet the RHNA and the local housing needs of the community. As part of the plan, the site inventory identifies sites in the unincorporated County where new housing may be built. If a local government does not meet the housing element requirements, they face the possibility of litigation from the Attorney General or other interested parties, which could result in the loss of land use discretion, housing grant ineligibility, and other penalties.

**DISCUSSION:**

Overall, the comments received were not as significant as most review letters sent to jurisdictions on the sixth cycle of housing elements. Given how challenging it has been for most jurisdictions to adequately address the focus on affirmatively furthering fair housing (AFFH) and rigorous community engagement, it is notable that the County received no comments on public outreach and only minor data requirements on our fair housing section. The Draft Housing Element is organized into 5 sections and 4 Appendices, and the comments from HCD are presented in this order (which does not always follow the order of the letter) below.

❖ Section 2: Needs Assessment

The needs assessment looks at our local needs, including fair housing and special needs populations. Based on the comments from HCD, it requires minor revisions, primarily to add more analysis and additional local data. For example, additional analysis of the areas of concentrated poverty and concentrated areas of affluence is needed to provide more clarity on how these areas developed, what County policies contributed to them and what the County is doing to address them and provide more equitable living patterns. Programs may need to be added or modified based on the outcome of the additional analysis.

❖ Section 3: Constraints

The constraints section evaluates both governmental and non-governmental barriers to housing development at all income levels. The comments here are also minor and HCD is requesting additional information to clarify certain areas. For example, the analysis should specifically address the Master Plan/Design Review process and impacts on development.

❖ Section 4: Resources

The resources section addresses the framework for development in the County and how we will meet our share of the RHNA at all income levels. The comments here require additional analysis.

Comments on the sites inventory were fewer than anticipated but some modifications to the site list may be required.

- *Realistic Capacity:* More information and analysis are needed on residential capacity assumptions. For example, because many of our sites are mixed-use, staff should analyze all development activity in nonresidential zones allowing 100 percent nonresidential uses, to demonstrate realistic capacity on selected sites in those areas.
- *Suitability of Nonvacant Sites:* The element must demonstrate the potential for development on nonvacant sites with additional analysis that could include vacancies, property owner interest, and conditions of existing structures, and recent trends. Publicly owned sites should also be analyzed more specifically, for example, by addressing capacity assumptions and development timeline.
- *Large Sites:* While the element describes large sites, staff must provide additional information on how affordability will be facilitated.
- *Accessory Dwelling Units (ADUs):* The element should provide additional information to support affordability assumptions.
- *Zoning for a Variety of Housing Types:* The element must allow transitional and supportive housing and group homes (six or fewer and seven or more persons) are allowed in all residential zones and amend programs, if necessary, so that they are not excluded from any residential zone.
- *Requests Regarding Lesser Densities:* The element should analyze why none of the identified sites in the prior planning period were developed and address these constraints.

❖ Section 5: Housing Plan

The Housing Plan is the set of programs and policies that the County will undertake during the planning period, and reflects the major themes identified through the County's community outreach process, and the needs and constraints analysis. Comments on policies and programs include requirements to add more specific timing and deliverables.

- *Concurrent rezoning:* If the County does not complete rezoning on the expected timeline (January 31, 2023), the element must add or revise program(s) to rezone sites with appropriate zoning and development standards pursuant to Government Code section 65583, subdivision (c)(1), and meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i).
- *Program 11 (Water Availability):* The program should include specific commitment and discrete timing toward housing outcomes in the planning period.
- *Program 23 (Preservation of At-Risk Housing):* The program must commit to assist with funding and support funding applications.

Staff will work with our consultants to provide a recommendation on how to address each of the issues identified. The Inventory of Sites will be evaluated based on the comments from HCD and information from the Draft Environmental

Impact Report (DEIR) and staff will return for a workshop with the Board on December 6 to discuss sites. Staff requests that the Board and Commission review the comments and provide feedback to staff on approaches to address the comments.

**TIMELINE AND NEXT STEPS:**

A Draft Environmental Impact Report (DEIR) was released on October 7, 2022, which evaluates the impacts from the sites and proposed Housing Element policies and programs on the full scope of environmental resource topics covered under the California Environmental Quality Act (CEQA), including, but not limited to: 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 Final EIR has been considered and certified by the Board of Supervisors. The public draft EIR is now available for a 45-day review and the comment period ends Monday, November 21, 2022. This Draft EIR review period will also include a public hearing to receive comments on the adequacy of the Draft EIR on November 15, 2022. Release of the Final EIR, and separate hearings before the Planning Commission and then the Board of Supervisors to consider the Final EIR for certification, will occur in early 2023.

More information related to the Housing and Safety Element updates, including the Final Housing Element, will be presented at future workshops and at meetings of the Board of Supervisors and the Planning Commission in Winter 2022/23. Attachment 2 shows the schedule of activities necessary to meet the State's deadline and identifies the planned public outreach and required environmental review.

**EQUITY IMPACT:**

The County believes in equitable communities, where all community members have access to healthy affordable housing. Evidence shows that access to stable, affordable housing in communities of opportunity has broad, positive impacts. It can lead to better health and education outcomes and higher lifetime earnings, especially for children. Under state law, 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. State law 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; funding to complete the Housing and Safety Elements is 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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**ATTACHMENTS:**

1. HCD Comment Letter
2. Schedule