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Protecting Marin Since 1934

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Subject: Town of Corte Madera Draft Housing & Safety Elements

Dear Mr. Wolff:

Thank you for the opportunity to review and submit comments on the Town of Corte Madera Draft Housing & Safety Elements. The Marin Conservation League (MCL) acknowledges that development and adoption of these elements is critical and important in this pivotal time of balancing the need for housing and the growing consequences of climate change. MCL would like to thank Town staff for completing and releasing these draft elements in tandem, as a number of the goals, policies and programs in each element have a direct or indirect linkage.

MCL has reviewed these draft elements for alignment with its adopted policy positions on, among others, housing, flooding/sea level rise, and wildfire management. Further, these draft elements have also been reviewed for alignment with MCL's longstanding mission, which is, *"To preserve, protect and enhance the natural assets of Marin in a changing environment."* With this, MCL respectfully submits the following comments.

Draft Housing Element

MCL is an environmental organization, and housing is not its principal focus. Nonetheless, MCL follows its current policy position on housing, which is to: a) support a balance of commercial development and workforce employment with needed housing; b) avoid sprawl; c) correspond to the service capacity of Marin's infrastructure; and d) protect specific areas of environmental importance. As a result of the State's housing crisis, in the past five years there have been dramatic changes in mandated housing laws to promote housing development. These new laws prescribe public review processes that promote streamlining and "by-right" (ministerial) permitting processes. To fully understand these new housing laws, in January 2022, MCL hosted "MCL After Hours – The Impacts of the New State Housing Laws." This event was intended to educate interested attendees on the recent State housing laws and how they affect the review and development of housing at a local level in Marin County. Consequently, with the many changes in the housing laws, MCL is in the process of updating its housing policy position. The following comments combine MCL's current position on housing with consideration of the recent changes in State housing law:

1. Introduction (Chapter 1). This chapter includes a summary of the public outreach that was conducted, which influenced the selection of housing opportunity sites and new policies and programs for the Housing Element. MCL acknowledges that Corte Madera is

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a near built-out community with few opportunities to meet its Regional Housing Needs Allocation (RHNA) obligation. MCL is pleased to see that as a result of this outreach, the site selection and policy development focuses on the following:

- Utilizing commercial sites that can accommodate mixed-use and higher density housing;
- Assessing underutilized sites with aging and or functionally obsolete buildings and uses;
- Focusing on housing opportunity sites near public transit;
- Advancing sustainability goals;
- Encouraging the development of Accessory Dwelling units (ADU); and
- Improving housing options for seniors.

These focused areas generally align with MCL’s policy positions on housing, greenhouse gas emissions, and flooding/sea level rise.

2. Housing Sites (Chapter 3). MCL offers the following comments on this chapter:

- a. For this next 8-year Housing Element cycle, Corte Madera’s RHNA obligation is planning for the development of 725 new housing units. Of this total, 336 new housing units (46%) must be planned for very low- and low-income households. As reported in Chapter 2 (Housing Needs Analysis), Corte Madera is relatively “jobs rich” as: 1) there are more jobs than employed residents; and 2) most jobs are held by lower wage groups that do not reside in the community. Much of Marin’s lower wage workforce is required to travel far for affordable housing. Planning for housing opportunities to accommodate this critical part of the County’s workforce will promote a more sustainable balance of jobs and housing within Corte Madera and within the County, which will help reduce greenhouse gas emissions that impact climate change.
- b. The Sites Inventory presented in Table 10 focuses on the site and area selections summarized in Chapter 1 (discussed above). Repurposing developed commercial and underutilized sites provides a great opportunity as there are changing trends and lower demands for office and retail uses. However, given the existing, active uses of some of these sites, it is questionable if they can or will be approved for and redeveloped with housing within the next 8-year Housing Element cycle.
- c. There is no mention of opportunity sites that are being “carried over” from the current and past Housing Elements. If there are sites being “carried over” they should be identified and added to Table 10. It is our understanding that the State housing laws require that sites “carried over” from the current Housing Element are eligible for the “by-right” development review process. Please confirm which sites are being “carried over” and if they may be eligible for “by-right” development review.
- d. MCL appreciates the attention to planning for ADUs. ADUs have proven to provide infill housing that can be sized and designed to be affordable to lower-income households and the workforce, within an existing, developed footprint. In Section 3.3, it is estimated that 78 ADUs will be built within the eight-year RHNA cycle (Please note that the Table 10 Sites Inventory cites 100 new ADUs). This estimate is based on an average of 9.75 ADUs “approved” between 2018 and 2021. The estimate for new ADUs is ambitious in that it is based on: 1) a very short time frame of observed trends skewed by one-year (2021); and 2) ADUs that have been approved but not

- permitted and built. Nonetheless, MCL supports Corte Madera’s efforts to facilitate and incentivize ADU approvals and construction.
- e. The Site and Capacity Analysis in Section 3.4 provides a fairly detailed assessment of realistic assumptions for the large opportunity sites that are commercially developed or underutilized. This section notes that none of the sites have environmental constraints. However, a number of the sites are within the Federal Emergency Management Agency (FEMA) flood hazard zone. The accompanying, Draft Safety Element (comments presented below) includes a robust discussion of flooding, flood management, and sea level rise. At minimum, the Site and Capacity Analysis should provide a cross reference to information and recommendations of the Draft Safety Element. Further, regarding site constraints, please see the additional comments below under Chapter 4 – Housing Constraints.
 - f. This chapter also includes Section 3.8, Opportunities for Energy Conservation. This section references the Town’s currently adopted Climate Action Plan and General Plan policies and programs that address increased energy conservation and efficiency. This text reinforces and supports recommended policies such as Policy H-3.6 (cited below in Chapter 5 discussion) that would promote green building materials, energy efficient products, and loan programs for lower income homeowners.
3. Housing Constraints (Chapter 4). Chapter 4 presents the State required constraints that must be identified and considered in the Housing Element. However, what is not included in this analysis are physical and environmental conditions, constraints, and challenges. As noted above, Chapter 3, Section 3.4 provides a thorough and thoughtful Site and Capacity Analysis. However, this chapter states that none of the housing opportunity sites presented in Table 10 have any environmental constraints. However, a number of these sites are in low-lying areas that are within the FEMA 100-year flood zone, are prone to increased flooding, and are vulnerable to projected sea level rise (source: County of Marin BayWAVE).

It is requested that the constraints analysis be expanded to include a discussion of physical and environmental conditions and resources/constraints (e.g., flood zone, fire hazard zone, steep slopes, limited access, wetlands, etc.) within the Corte Madera planning area that can influence property development. Further, known conditions and constraints for the individual opportunity sites should be added to Table 10 (Sites Inventory). While not required by the State for inclusion in the constraints analysis, adding this information will assist the public and decision-makers to: a) better understand the conditions and challenges of certain sites; and b) confirm site development capacity and feasibility for development/redevelopment.

4. Goals, Policies, and Programs (Chapter 5). MCL generally agrees with the goals, policies, and programs presented in the Draft Housing Element. As drafted, they: a) address housing needs; b) address recent changes in State housing laws, c) address promoting workforce housing; and d) focus housing opportunities on developed, infill sites. With these in mind, we particularly support for the following, which align with MCL’s currently adopted housing policy and the direction of our housing policy update:
- a. Goal H-2 - Use land efficiently and sustainably. Supports redevelopment of commercial and underutilized site for housing/mixed-use.

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- b. Policy H-2.1 - Housing to Meet Local Needs. Encourages providing housing for the workforce, particularly service workers.
- c. Policy H-2.3 - Contributions for Workforce Housing from Non-residential Uses. Provides continued support, for example, for commercial linkage fee charged to non-residential developers to go into the Town's affordable housing fund.
- d. Policy H-2.4 - Employee Housing. The Town of Corte Madera is home to two, large shopping centers that employ lower wage retail and service workers. Incentives should be offered to employers that provide opportunities for employee housing within Corte Madera.
- e. Policy H-2.6 - High Potential Housing Opportunity Areas. Focuses support for housing on the 11 opportunity sites that are commercial or underutilized.
- f. Policy H-2.8 - Mixed-Use Housing. Support for mixed use.
- g. Policy H-2.13 - Accessory Dwelling Units.
- h. Policy H-3.6 - Energy Efficiency and Renewable Energy Program. Continues implementing programs for new development and substantial home remodels/additions.
- i. Policy H-4.2 - Community Participation in Housing and Land Use Plans. Continues community outreach and education.
- j. Policy H-4.3 – Inter-Jurisdictional Planning for Housing. Supports collective planning for housing throughout the County.

Draft Safety Element Update

The Draft Safety Element amends the currently adopted Corte Madera General Plan Safety Element. MCL's focus of comments are on the proposed amendments specifically addressing flood control and floodplain management, sea level rise planning and adaptation, and hazard mitigation and emergency preparedness. Overall, the draft text is clear and well-written.

1. Flood Control and Floodplain Management (Section 7.4). MCL supports Goal F-1, which is to place a high priority on flood control planning and implementation. Much of the low-lying areas of Corte Madera are prone to periodic flooding and are within the FEMA flood hazard zones. Policy F-1.1 reinforces this goal by committing to develop and maintain an ongoing planning process that is to be used as a basis for flood control projects and managing the development of flood prone areas. This policy is particularly critical in that a number of the opportunity sites identified in the Draft Housing Element are located in the low-lying areas that vulnerable to flooding and projected sea level rise. Further, Program F-1.1b presents a commitment to periodically update the Town's Storm Drainage Master Plan, which would include an assessment of the infrastructure needed to handle projected flood vulnerabilities such as extreme precipitation and sea level rise. This program fully aligns with MCL's recently adopted sea level rise policy position.
2. Sea Level Rise and Adaptation (Sections 7.4-7.5). MCL was pleased to read that this section of the Draft Safety Element references, relies on, and utilizes the County of Marin *BayWAVE Vulnerability Assessment and Adaptation Land Use Planning: Guidance for Marin County Local Governments*. These documents, which were prepared in coordination with all cities/towns in Marin, are excellent resources. They offer data and tools to promote a consistent, countywide approach to tracking, planning for, and

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adapting to projected sea level rise. MCL provides full endorsement of Goal F-5 (Protect the community from sea level rise and climate change impacts), along with the supportive policies and programs. Specific comments are as follows:

- a. Policy F-5.1 – Develop and maintain an ongoing planning process for sea level rise (SLR) and climate change adaptation policies, programs, and projects. This policy and accompanying implementing programs fully align with MCL’s recently adopted sea level rise policy position in that they commit to: a) participating in a regional collaboration; b) fostering community engagement; c) focusing on protecting vulnerable populations; and d) pursuing funding for planning and adaptation.
- b. Policy F-5.2 – Ensure that new development is resilient to flooding and sea level rise. MCL particularly supports the following supportive implementing programs:
 - 1) Program F-5.2a - require new development including substantial alterations to address flooding and SLR and integrate adaptation measures in design.
 - 2) Program F-5.2b - consider requiring additional “freeboard” requirements for critical facilities, new construction, and remodels (essentially higher finished floor elevations for habitable area; see comment below regarding municipal code amendments).
 - 3) Programs F-5.3b and F-5.3c – pursuing shoreline infrastructure and protection (hard line and nature-based adaptation).
- c. These sections also include a thorough discussion of “adaptation pathways” (adaptation measures and tools) for future planning and development, Pathways include: 1) No Action; b) Accommodation, which is to require that new buildings be built at higher elevations and existing buildings be raised over time; 3) Protection, which is either nature based or hard line improvements; and 4) Managed Retreat. The draft element recommends the Accommodation pathway for planning in the near- to medium term so as to take a wait-and-see approach for the long-term based on reality of projections over time. This approach is generally consistent with MCL’s sea level rise policy position. However, we assume that the Protection pathway is still part of the planning for protecting the Corte Madera shoreline and critical infrastructure. MCL endorses an “adaptation pathway” where “step-wise” (phased short-term to long-term) solutions can be considered in order to evaluate both the short- and long-term impacts, as well as the benefit/value for the investment.

In tandem with the proposed amendments to the Safety Element, MCL acknowledges that the Town is amending its municipal code provisions related to flooding and FEMA standards. Right now, the Corte Madera municipal code requires that all new buildings (residential and non-residential) that are within the FEMA flood hazard zone be built with a finished floor that is at least one foot above the base flood elevations established by FEMA. The code amendments propose that this provision continue to apply to all new residential buildings and that commercial buildings either comply or that they be “flood proofed.” As drafted, the proposed code amendments would not apply to “non-habitable areas” of new buildings such as crawl spaces and parking garages. This provision is acknowledging the housing and mixed-use opportunity sites presented in the Draft Housing Element that are located within the FEMA flood hazard zone. As these opportunity sites are developed/redeveloped, the Town anticipates that buildings will be elevated to meet this finished floor standard with parking garages below. This approach would follow the “accommodation” adaptation pathway that is outlined in the Draft

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Safety Element. Regarding the additional one foot of “freeboard” proposed in these amendments, it is important to note that a number of other bayfront cities/towns are taking a more conservative adaptation approach to planning for projected sea level rise. These cities/towns (including San Rafael) have adopted a higher “freeboard” requirement of three feet above the FEMA base flood elevation.

3. Hazard Mitigation and Emergency Preparedness (Section 8.3). The edits to this section of the Draft Safety Element incorporate the Town’s *2018 Multi-Jurisdictional Local Hazard Mitigation Plan*, which assesses risks posed by natural hazards. MCL’s review of this section has focused on fire hazard planning with particular attention to development of evacuation routes and emergency vehicle access. The foundation of this section, as well as the very long list of goals, policies, and programs follow the recommendations of FIRESafe Marin and the Marin Wildfire Prevention Authority. MCL supports this approach, and more specifically the following policies and programs:
 - a. Policy PHS-1.9 – locate new, essential public facilities outside of high fire hazard areas, special flood hazard areas, and high risk for geologic and soil instability, to the extent feasible. If not feasible to avoid, require design to minimize damage.
 - b. Policy PHS-2.1 - establish safe and viable evacuation routes.
 - c. Program PSH-3.2a – Vegetation Management. Continue to enforce vegetation management as required by the Fire Code. Eliminate use of fire-hazardous plants, improve fire flows and water supplies to hillside areas.
 - d. Program PSH-3.2d – Regional Collaboration. Support regional partners including MMWD (Marin Water) and the Marin County Open Space District to scale-up landscape-level wildfire mitigation work.
 - e. Program PSH-3.2.f – Grazing Program. Expand goat and sheep grazing program as a fuel reduction strategy.

Regarding Programs PSH-3.2a and PHS-3.2f, MCL would like to report that it is updating its vegetation management policy position. We look forward to continued communication with the Town of Corte Madera on this effort.

Future Review of Draft Environmental Impact Report

MCL looks forward to the future release of the Draft Environmental Impact Report (DEIR) covering the environmental review for the Draft Housing and Safety Elements. With the changes in housing legislation that would streamline future development review, and in some cases exempt environmental review, MCL will be reviewing the DEIR to assess the adequacy of this document.

Thank you for this opportunity to comment these critical policy planning documents.

Yours truly,



Robert Miller
President



Paul Jensen
Board Member

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