

June 22nd, 2022



Protecting Marin Since 1934

Marin County Community Development Agency
Planning Division - Housing
3501 Civic Center Drive
San Rafael, CA 94903
Attn: Leelee Thomas and Tom Lai

Via Email: lthomas@marincounty.org; tlai@marincounty.org

Subject: Marin County Draft Housing & Safety Elements

Dear Ms. Thomas and Mr. Lai:

Thank you for the opportunity to review and submit comments on the Marin County Draft Housing & Safety Elements. Marin Conservation League (MCL) acknowledges that these documents are 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 County staff for completing and releasing these documents 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 prescribed public review processes that promote streamlining and "by-right" (ministerial) permitting processes. To fully understand these new housings laws, in January 2022, MCL hosted "After Hours Event – 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,

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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. Format. MCL applauds County staff for the format and organization of the draft element, which is comprised of numerous documents covering specific topic areas. The organization of the documents makes the read easy to follow from the Needs Assessment through to the Sites Inventory (Appendix C).
2. Needs Assessment. The Needs Assessment is telling, as it confirms that the greatest housing need is for the low-, very low-, and extremely low-income households. These income levels support a high percentage of Marin's workforce that is required to travel far for affordable housing. Planning for housing opportunities to accommodate these households will promote a more sustainable balance in jobs and housing within the County, which will help address the impacts of climate change.
3. Constraints Analysis. The Constraints Analysis is comprehensive and well written. It includes and acknowledges environmental resources and challenges such as stream conservation, flooding/sea level rise, and fire hazards. It is recommended that the Appendix C- Sites Inventory table be revised to include known environmental conditions and constraints for the individual sites. Adding this information to the Sites Inventory table will assist the public and decision-makers in better understanding these conditions and challenges of certain sites.
4. Chapter 5 – Goals, Policies & Programs. MCL supports the four goals and most of the policies and programs. Specific comments are as follows:
 - a. Goal 3 – “Ensure Leadership and Institutional Capacity” is confusing and difficult to interpret. It is recommended that the text be revised or rephrase so that it better aligns with the four supportive policies. The supportive policies are very clear, but do not clearly relate to the goal.
 - b. Policy 1.4 – Development Certainty - “Promote development certainty and minimize discretionary review for affordable housing and special needs housing through amendments to the Development Code.” The intention of this policy is clear. However, how this policy is implemented through Development Code amendments is unknown and open ended. MCL reserves the opportunity to review and comment on the content of the Development Code amendments when they are available for public review.
 - c. Program 1 – Adequate Sites for RHNA and Monitoring No Net Loss. This program references and summarizes the Sites Inventory (housing opportunity sites in Appendix C). The text of this program includes reference to a “revamp” of the Housing Opportunity Sites (HOD) policy language to acknowledge allowable density; maximum and minimum number of units; site constraints; and “objective standards” (if applied).

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MCL reserves the opportunity to review and comment on a “revamp” of this policy language when it is available for public review.

- d. Program 2 – By-Right Approval. This program specifies that housing projects/sites that are eligible for the “by-right” approval process are: 1) market rate projects that propose to provide 20% low income inclusionary; 2) 100% affordable housing projects; and 3) projects that include 20% units affordable to homeowners at 60% of AMI or to renters at 50% AMI. Through the “by-right” process, an eligible project would not be subject to a discretionary review, would be exempt from CEQA/environmental review, and would be subject to compliance with “objective standards.” There are a handful of opportunity sites in Appendix C that are being “carried over” from the current and past County Housing Elements. It is our understanding that the State housing laws require that sites “carried over” from the current Housing Element are automatically eligible for the “by-right” process. Is this correct for these sites? Please clarify.
 - e. Program 8 – Development Code Amendments. This program recommends that the County Development Code be amended to, among others increase allowable density and building height limits to 30 dwelling units per acre and 45 feet, respectively in the City Center and Baylands Corridor (noted in Appendix C- Sites Inventory). MCL supports this recommendation for the City Center but opposes a broad-brush application of this change to the Baylands Corridor. Much of the Baylands Corridor is undeveloped Baylands and marsh. Please clarify the boundaries of the Bayland Corridor and what areas are proposed for application of these code amendments.
5. Appendix C – Sites Inventory. The Sites Inventory is well organized and comprehensive. While MCL is pleased that changes were made to the initial inventory that was published earlier this year, we still have concerns about specific sites because they have known site constraints. One example is the Black Point Nursery in East Novato, which is identified as a market rate housing site. A majority of this site is encumbered by Simmons Slough, is adjacent to wetlands, and it does not have sewer service. Appendix C notes that site constraints and environmental conditions were factored into the housing development estimates presented for each site in the table. Citing these known constraints would provide a better understanding on how the housing unit estimates were determined. As noted above, it is recommended that the Sites Inventory be amended to include a column citing known environmental conditions and other constraints such as access to utilities and services. This information will be helpful for the public and decision-makers. Lastly, if there are further changes to the Sites Inventory as a result of its review by the State of California Department of Housing and Community Development, MCL reserves the right to review and comment on these changes prior to final review and action by the County Board of Supervisors.

One missed opportunity in the Sites Inventory is specific, federally owned sites in the West Marin area that are developed and/or suitable for housing use. West Marin, as a Gateway Community to Point Reyes, experiences an affordable housing deficit. If the National Park Service (NPS) personnel could be housed withing the park, that may take some burden off

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of the community. In addition, the West Marin workforce is in dire need for affordable housing, and pressure for housing is exacerbated by the visitor draw to areas such as the Point Reyes National Seashore. It is assumed that since the Housing Element is a State-driven process, federal lands are left to the Federal government for planning land use. Please confirm that this assumption is correct. There might be an opportunity for coordination between the Federal government (e.g., NPS), the County of Marin, and housing interests to plan for housing outside the effort of the Housing Element.

Draft Safety Element

The Draft Safety Element is well-written and well organized. The draft element comprehensively covers six topic areas: a) Equitable Community Safety Planning; b) Disaster Preparedness, Response & Recovery; c) Geology & Seismicity; d) Flooding; e) Wildfire; and f) Climate Change and Resiliency Planning. MCL supports the goals, and most of the policies and programs presented in the draft element. Specific comments are as follows:

1. Sea Level Rise – Climate Change and Resiliency Planning. MCL recently adopted its Sea Level Rise Policy Position Statement. The policies and implementing programs align with the MCL policy position. MCL specifically applauds the attention to the focus on:
 - a. Adaptation planning (Program EHS-6.1b – Develop Adaptation Plans, Program EHS-6.1c – Integrate Adaptation in Plan Documents;
 - b. Promoting nature-based adaptation strategies and tools (Program EHS-6.1b – Use Environmentally Sensitive Adaptation Strategies; and
 - c. Public disclosure of risks (Program EHS-6.1f – Disclose Current and Future Hazards [through development of a resale inspection program]).

2. Wildfire Risk and Regulations. The draft element acknowledges and supports the Marin Wildfire Prevention Authority (MWPA). MCL is pleased to see that new focus areas for wildfire safety include: a) supporting steps communities can take to reduce risks; b) considering equity in wildfire planning; c) incorporating climate change tools and adaptations; d) continuing to work to understand the importance of land use patterns relative to changes in climate; e) increasing safety and resilience for nonconforming developments; f) establishing proper evacuation plans; g) updating building code requirements in the WUI; and g) ensuring post fire recovery planning. The draft text is up to date with MWPA priorities including home hardening, and evacuation route planning. Additional attention should be given to community-based fuel break efforts (work beyond defensible space) and fire wise community organizing under FireSafe Marin auspices.

While the intentions are good, there is potential conflict between two of the recommended programs, Program EHS-1.1c (Present Displacement of Vulnerable People) and Program EHS-5.3c (Require Rebuilding After Disaster to Meet Current Standards). Marin County has many areas that are developed with old structures that are nonconforming and predate current zoning, building and fire code standards. Full compliance with current code

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standards at the time of re-build could result in a smaller building footprint and the reduction or elimination of housing units (causing displacement).

MCL also offers strong support for the following programs related to fire safety:

- a. Program EHS-5.3d – Restrict Land Divisions. As stated in this program, land divisions should be prohibited in very high and high fire hazard areas unless there is availability of adequate water and reliable water for fire suppression access for firefighting vehicles, and adequate evacuation for residents.
- b. Programs EHS-5.5b – Implement Ecologically Sound Methods of Vegetation Management and EHS5.5d – Require Fuel Reduction and Management Plans for New Development. While MCL currently has a policy addressing vegetation management, it is being revisited to update.

Future Review of Draft Environmental Impact Report

Marin Conservation League looks forward to the mid-summer release of the Draft Environmental Impact Report (DEIR) addressing CEQA/environmental review of these documents. With the changes in housing legislation that would streamline future development review, and in some cases exempt CEQA/environmental review, MCL will be reviewing the DEIR to assess the adequacy of this document.

Thank you for this opportunity to comment these critical County documents.

Yours truly,



Robert Miller
President



Paul Jensen
Board Member