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County of Marin  
Board of Supervisors  
Planning Commission  
Community Development Agency

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### RE: Draft Housing & Safety Elements

To Whom It May Concern:

The Environmental Action Committee of West Marin (EAC) is based in Point Reyes Station and has been working to protect the unique lands, waters, and biodiversity of West Marin since 1971. We appreciate the opportunity to comment on the Draft Housing and Safety Element updates.

Since EAC's founding, we have been committed to the health of West Marin's lands, estuaries, bays, and watersheds. In one of our earliest campaigns, we advocated for sustainable community planning to safeguard the irreplaceable natural environments from 1960s development plans that would have paved over the lands we know today as the Point Reyes National Seashore, Golden Gate National Recreation Area, Marin County Parks and Open Space, Marin Municipal Water District Watershed, Gary Giacomini Open Space, and more than 136,000 acres of productive agricultural lands.

These comments are focused on communities in the West Marin watersheds and proposed changes to the Countywide Plan (CWP) that would have long-term impacts to sustainable planning. We have organized this letter into three sections:

#### 1) Public Process and Countywide Plan (CWP) Integrity

#### 2) General Questions and Inconsistencies in the Draft Housing Element

#### 3) Requested Actions for the CDA to Incorporate into the Draft Housing & Safety Elements

We look forward to providing more substantive comments in the coming months with the release of the Draft Environmental Impact Report (Draft EIR) that we understand will narrow site selection, allowing for more comprehensive comments on both the Housing and Safety Elements.

## **Section 1: Public Process and Integrity of the Countywide Plan (CWP)**

### **1.1. Public Process Concerns.**

EAC has participated in the public processes for the Housing and Safety Element since January 2022. While we are grateful to the Community Development Agency (CDA) for the availability of online meetings and remote access to staff for questions, the planning process has been less than ideal, and in our opinion is one of the main reasons that the Draft Housing Element proposes precedent-setting rollbacks to the County's environmental corridors and conservation zoning. This could have been avoided with ground-up community planning.

Due to the pandemic, the CDA engaged in a series of online meetings and developed online tools to encourage public input. While online meetings do increase accessibility for some, these meetings are not collaborative and exclude individuals who do not have access to the internet<sup>1</sup> or the skills to understand how to comment or communicate through the complex portals. Ultimately, the online meeting process constrains public engagement and collaboration, reducing the planning session to online PowerPoint presentations for community members who have access to the internet and a home computer. It becomes an experience of being talked at rather than participating in a dialogue.

The online forums prevent actual collaboration, dialogue, and input that is fostered through in-person community-by-community meetings. In addition, the online forum prevents public employees, and appointed and elected officials from engaging with and being accountable to a local community while making decisions that propose to dramatically change the development of that community.

### **1.2. Online Mapping Tools and Relationship to the Countywide Plan (CWP).**

The CDA released an extensive series of online mapping tools to gather broad community feedback to identify parcels appropriate for potential development. As the Draft Housing Element report indicates, hundreds of people participated in the use of the tools to make suggestions and recommendations of sites for consideration<sup>2</sup>. The multiple versions of maps and lists of potential sites was an overwhelming amount of information that kept changing from week-to-week, making it difficult to understand what was being proposed.

EAC's review of the Draft Inventory Sites<sup>3</sup> and the Balancing Act Tool established that the information collected was not informed by the CWP nor were these documents easily

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<sup>1</sup> June 14, 2022 Draft Housing Element Workshop, community members from the San Geronimo Valley were unable to participate due to a power outage.

<sup>2</sup> This data collection was limited to English speaking individuals with computers, internet access, and with the technology skills to navigate the online tools. While some efforts have been made to offer information in Spanish, this effort has not been comprehensive.

<sup>3</sup> County of Marin Draft Inventory Site List Google Map available at:

<https://www.google.com/maps/d/u/0/viewer?mid=1fpxZN5FM9A7ZBYywc1FyYZNkqIttdN056&ll=38.05956845131791%2C-122.6762669999998&z=10>

accessible in the distribution of materials intended to inform and guide participating members of the public in the process.

In other words, the tools designed to gather public input were not designed or grounded in the CWP's policies or framework that is the supreme document to guide future physical development of a community. All decisions on future development should flow from the CWP, the supreme document to guide future physical development of a community, as is supported by 40 years of case law.

Instead, the CDA is proposing changes to the CWP to meet the Regional Housing Needs Allocation (RHNA). This subverts the strategic land-use intentions of the CWP. While we understand the need to identify additional sites to create a planning buffer—as parcels will be removed after the Draft EIR is released—the process is akin to a kitchen sink approach.

### 1.3. The Case for Ground-Up Community Engagement.

In-person and coordinated local community engagement should not be disregarded. We found two examples within the Draft Housing Element where community stakeholders helped to inform and find solutions that meet specific community needs when compared to the January 2022 inventory of sites.

- **San Geronimo Valley:** The County's top-down planning approach identified 90 potential housing units in the Tamalpais School District parcel and former Golf Course parcel that is currently owned by the Trust for Public Land. In the local Community Plan, the CWP, and Plan Bay Area 2050 these locations are inappropriate and infeasible for development. Thanks to local community engagement, the inappropriate site selections were removed and replaced with alternate locations that have potential to provide housing and serve the needs of the community that lacks affordable housing options and that will complement the villages of the San Geronimo Valley.
- **Community of Bolinas:** The top-down planning approach incorrectly identified the public park and local businesses as appropriate areas for future development. Following the release of the maps, the local community stakeholders and the Bolinas Community Land Trust worked with the CDA to identify parcels that were planned for affordable housing and to identify other potential sites to serve the needs of the community, also lacking in affordable housing options, that are in alignment with the current community culture and infrastructure.

In both examples, community groups found out about site selection *after it was released* to the public and had to work backwards, investing rushed time and effort to provide information to community members and provide input to the CDA for better site selection. In

the end, the site selections seem to be balanced in the community planning, pending the release of the Draft EIR.

Unfortunately, the same type of community coordination has not occurred in other communities in unincorporated Marin County. At the June 14th Public Workshop, coastal community members expressed that they did not have the opportunity to fully review plans, coordinate community response, or provide education to the community on what is happening. This is a major shift in the way that the County of Marin engages with their community members around development planning.

The County of Marin has a storied history of responsive community planning to plan for development proactively and sustainably. As mentioned in the introduction of our letter, the 1970s community planning safeguarded the irreplaceable habitats and natural resources that sustain our human and natural environment. The last update to the CWP in 2007 served as another example of collaborative community engagement and development that resulted in an award-winning CWP that would help protect sensitive coastal habitats; ensure resource availability; reduce greenhouse gas impacts; encourage infill and redevelopment projects focused on underutilized development near transit and job centers.

Under pressure of the RHNA timeline, the CDA has moved away from bottom-up community collaboration and relied on top-down consultant-informed planning that undermines the goals of our CWP, disregards the time and effort of the public participating in the comprehensive CWP updates of the past, and reduces public confidence in community engagement and outreach.

## **Section 2: General Questions and Inconsistencies in the Draft Housing Element**

Below we have outlined questions and inconsistencies within the Draft Housing Element that we would like to have addressed in the public process. We have also included suggestions to increase public understanding and transparency.

### **2.1. Guiding Principles of Housing Element Update.**

Why is the Housing Element update applying only three of the twelve CWP Guiding Principles to this update? The CWP is the supreme document that guides future physical development of the community. All Guiding Principles of the CWP should apply in housing site selection to ensure appropriate site selection that is informed by this overarching framework.

### **2.2. Land Use Element Update.**

Due to the non-standard organization and layout of the Marin's CWP, it is unclear what modifications are being made to the Land Use Element. Where can the public easily find a list of the Land Use Element policies that are being updated? How does the County cross reference for internal consistency between elements? How is this information being provided to the public to ensure that subordinate land-use actions comply with the CWP at the time they are being passed and implemented?

### **2.3. Table H-2.5: Population by Unincorporated County Community.**

The total population of the communities based on the figures provided in *Table H-2.5 Population by Unincorporated County Community* does not equal 68,902 as the total line indicates. The total is 47,396 with a variance of 21,506 people. Why is there a variance in these totals? What is the correct number?

### **2.4. Population by Unincorporated County Community + Housing Element Projected Population Increase.**

It would be helpful for the report to integrate or include a table that demonstrates the potential population increase if the Draft Housing Element was implemented. This provides important information for the public to cross-examine against the projected population increases in Marin County over the next 8 years.

### **2.5. Table H-2.21: Vacant Units by Type.**

The paragraphs of text preceding and describing *Table H-2.21 Vacant Units by Type* highlight some specific community vacancy rates and the high percentages of second homes or vacation units in coastal Marin County. Unfortunately, this table is organized by type of vacancy and not by community like the other tables in the Draft Housing Element.

We would like to see a table of vacancy rates that includes the community level information to better understand which communities are impacted more heavily by seasonal, recreational, or occasional use. This is an important aspect of the housing challenges in coastal Marin County as vacation rentals, second homes, and investment properties remove critical residential housing stock.

### **2.6. Inclusion of “Other Vacant” Sites (Abandoned or Red-Tagged).**

Has the County reviewed specific parcels in areas of coastal Marin villages that are categorized as “other vacant” that are abandoned or red-tagged to be included as potential development sites in the Draft Housing Element Update? Abandoned or red-tagged<sup>4</sup> housing units not in current use as residential housing stock could be identified for redevelopment or subdivision.

### **2.7. Availability of Water Table H-3.2: Water Capacity for New Development.**

We are unable to find reference to the Buck Center Inventory Site that proposes 249 housing units on this table. Where would the water supply for this site come from? Is there capacity to serve the proposed units within the existing water district?

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<sup>4</sup> Eligible, red-tagged units that are eligible to be brought up to current code and safety standards

## **2.8. Wastewater Infrastructure Capacity and Sensitive Environmental Habitat Areas.**

It would be helpful for the County to overlay a heat map based on number of units proposed in the Site Inventory List over a GIS map of environmental resources including shorelines, sea-level rise projections, emergent groundwater projections, wetlands, creeks, the stream conservation planning area, water capacity based on *Table H-3.2 Water Capacity for New Development by Water District or Private Well*, and *Table H-3.5 Wastewater Treatment Capacity*. Without this information or the pending Draft EIR, it is difficult to comment on the feasibility of potential sites based on the ability to be able to support the potential development.

## **2.9. Table H-3.11: Coastal Zone Development (1982-2022).**

This table seems to be incomplete. Only two cells are updated for *Units Constructed* for the years 1988-2002 and 2002-2010, and the rest of the table is blank.

## **2.10. Implementing Programs Contradictions.**

Throughout the Draft Housing Element there are numerous references to the 2007 CWP land-use policies that are focused on promotion of compact neighborhoods, encouraging infill development, and promoting cluster development.

In unincorporated areas of Marin County, there are proposed Inventory Sites that do not meet this definition. For example, locations in Inverness on Balmoral Road do not meet these criteria; and the site selection seems arbitrarily based on allocating potential housing units to each coastal village rather than reviewing the layout of the communities and proposed locations to proximity of services, transportation, and the village core.

Locations like the Buck Center are located outside of the City-Center Corridor and would require a precedent-setting change to the CWP to modify the environmental planning corridors and rezone A-60 agricultural conservation zoning, promoting urban sprawl.

These examples highlight a fundamental contradiction with the CWP as the Housing Element strays from the CWP policies and guidelines.

## **2.11. By-Right Development and Loss of Local Control.**

The requirement in this RHNA cycle that sites that are not developed in 8 years may thereafter be subject to by-right development creates a host of unintended and unknown consequences for the County and communities to cope with in the coming years.

The large number of potential locations being identified in this RHNA allocation creates an environment in which developers may side-step local community planning. It benefits developers to delay developing housing units on the identified parcels, instead waiting

until the 9th year to submit applications, benefitting from a streamlined permitting process, which in some cases, may not require a project specific CEQA analysis.

This potential for thousands of streamlined development projects needs to be analyzed to ensure that all potential development locations are not sited near sensitive environmental resources and that the community infrastructure and resources are able to support the development projects.

## **2.12. Analysis on Upzoning and Potential to Exacerbate Displacement, Gentrification, and Fragmentation.**

We are not aware of comprehensive analysis by the County of potential consequences or outcomes of upzoning and the increased housing supply on disadvantaged communities. It has been reported that upzoning without promotion and support of affordable housing within communities has the potential to create additional displacement, gentrification, or greater social and economic fragmentation<sup>5</sup>.

The County needs to examine and unravel its history of exclusionary zoning practices and promote locally planned housing development to address the housing crisis in our communities. However, this type of planning must be accompanied by additional sets of policies to ensure the increased housing supply and density does not displace, gentrify, or further fragment communities.

In addition, the County needs to ensure any new housing stock is not converted to short-term rentals, investment properties, or vacation homes that harms the residential community. Otherwise, we are only exacerbating housing problems, promoting urban sprawl, diminishing future potential development locations, and placing pressure on our finite natural resources without achieving the intended goals to provide residential housing within our communities.

## **2.13. General By-Right and Coastal Zone Development Questions.**

During public workshops, County staff and consultants stated that by-right or ministerial permitting will take place under the RHNA allocations if the locations are not developed in 8 years. However, it has also been stated that this will not apply in the Coastal Zone.

Can you please provide the authority for the Coastal Act savings clause or other reference in the regulations?

Will any rezoning need to take place in the Coastal Zone? If so, a Local Coastal Planning amendment will need to occur, and coastal resource impacts should be closely reviewed and coordinated with the California Coastal Commission staff.

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<sup>5</sup> Brookings, Double Edged-Sword of Upzoning. July 15, 2021. Available [www.brookings.edu/blog/how-we-rise/2021/07/15/the-double-edged-sword-of-upzoning](http://www.brookings.edu/blog/how-we-rise/2021/07/15/the-double-edged-sword-of-upzoning)

In areas that are subject to by-right development in the future, will potential development projects be required to prove access to freshwater and wastewater treatment ability?

#### **2.14. Potential Site Inventory: Priority Development Areas and Impacts to Infrastructure and Resources.**

Some of the Potential Site Inventory locations in unincorporated Marin County are not located in Priority Development Areas<sup>6</sup> and fail to meet the criteria for sustainable development. Development in these locations would promote urban sprawl and increase greenhouse gas emissions<sup>7</sup>, both conflict with the goals of Marin's CWP.

How is the County reconciling the distribution of potential housing locations in rural areas lacking adequate infrastructure (roads, wastewater treatment, access to water, public transportation, and job centers) that would increase populations and negative impacts on these limited resources?

#### **2.15. Best Available Science and Data to Inform Planning.**

Is the County able to integrate the most up to date science and data into the Draft EIS and the Draft Housing and Safety Elements? Specifically, the County's Climate Vulnerability Reports are now out of data as new science and data has been released regarding the potential severity of rising sea levels and new mapping systems that integrate the impacts of emergent groundwater. Rising sea levels and emergent groundwater predictions should require any potential sites within 100 feet of a shoreline or wetland be removed. In low-lying areas within floodplains, the setback should be much greater.

### **3. Requested Actions to Incorporate into the Draft Housing & Safety Elements**

It is difficult to comment on the potential site list in the Draft Housing Element and Draft Safety Element without the Draft EIR that ultimately will narrow the list of sites. However, we have made some recommendations below:

#### **3.1. Marin's award-winning Countywide Plan must be honored, not rolled back. Do not change our environmental corridor boundaries.**

In 2007, Community members volunteered their time and worked with the Community Development Agency to help update the CWP with a theme of "sustainable communities" creating a plan that would reduce negative impacts on the environment

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<sup>6</sup> Association of Bay Area Governments, Priority Development Areas. Available at: <https://abag.ca.gov/our-work/land-use/pda-priority-development-areas>

<sup>7</sup> Priority Development Areas are defined as: 1) Infill to be in existing urban areas that are not to extend beyond urban growth boundaries and that are not Priority Conservation Areas. 2) must have a completed plan for significant job and population growth. 3) Either A) Transit-Rich, at least 50% of the area is within a 1/2 mile of ferry, rail, or bus service that runs every 15 minutes, or b) Connected Community, entire area within 1/2 mile of bus stop with peak service of 30 minutes or less or 1/2 mile of high quality transit and must be in an area identified by the California Department of Housing and Community Development as High Resource or has in place two policies to reduce Vehicle Miles Traveled (bicycle and pedestrian planning projects).

through strategic land-use planning that encourages development to infill sites near transportation corridors and discourages development in hazardous areas subject to wildfires, flooding, and sea level rise. It does not make any sense that the County is planning to change the environmental corridors that contradict the guidelines of the CWP and would initiate urban sprawl development.

### **3.2. Do Not Rezone A-60 Parcels or Modify Environmental Corridors.**

Agricultural conservation zoning should not be changed to pave the way for developers to build housing over the next 8 years. A-60 zoning has protected the Inland Rural Corridor from urban sprawl development since 1973. The County should make decisions based on sustainable development and incorporate the long-term consequences of changing the CWP Corridors and roll-backs to A-60 zoning before making these precedent-setting changes. The Buck Center site and other proposed A-60 sites should be excluded from the list.

### **3.3. Protect Sensitive Habitat Areas and Depleted Water Resources from Irresponsible Development Locations.**

New potential development sites should be at least 100 feet away from shorelines, creeks, and wetlands to protect habitat, water quality, and potential development from rising sea levels and emergent groundwater.

Locations within mapped floodplains, within 100 feet of riparian corridors, wetlands, or shorelines should be removed from consideration to protect critical and sensitive environmental habitat areas.

Sites located within critical watersheds that provide habitat for endangered and threatened species should be removed from consideration.

The County's Inventory Site List continues to include inappropriate locations for development that are too close to creeks, wetlands, and shorelines and agricultural lands that would expand suburban sprawl outside of urban growth boundaries. This conflicts with climate change vulnerability planning and studies the County has been working on for years and will only exacerbate problems in the coming decades.

### **3.4. Proposed housing should be in areas with adequate water and wastewater infrastructure to reduce environmental harms and avoid exacerbating lack of water availability due to extreme drought conditions.**

The rural villages of West Marin are without any centralized wastewater treatment systems, and any new development that would be susceptible to flooding should not be developed. Our communities will only set the stage for increasing bacterial loads in our freshwaters systems and beaches that are threats to public and environmental health.

In addition, freshwater is provided to communities through a network of water districts or private wells. In some communities, the viability of household wells is unstable. Specifically, in Nicasio, household wells run dry each summer. The smaller water districts in the rural coastal communities are extremely vulnerable to drought conditions, as demonstrated in the 2021 Water Year where some communities were on the brink of water rationing.

### **3.5. Avoid Environmental Hazards and Focus on Urban Area Infill.**

It is essential to apply current environmental hazards planning to remove locations susceptible to environmental hazards including wildfire, flooding, and sea level rise.

Locations proposed in high wildfire risk areas should be reconsidered, and the County should focus on infill near community services and transportation corridors. Infill will provide access to public transportation and services and align with the Sustainable Communities Strategy Growth Geographies as Priority Development Areas.<sup>8</sup> Adding thousands of housing units to rural areas will increase the number of Vehicle Miles Traveled (VMT), undermining Marin and California's greenhouse gas emission reduction goals.

### **3.6. Protect Residential Communities with Complementary Programs and Policies.**

Housing should be prioritized for people that live and work in our communities on a full-time basis. We can't simply build our way out of this crisis. Without ensuring safeguards that proposed development will serve the residential and workforce communities, we may exacerbate our existing affordable housing crisis. The County needs to find ways to further restrict short-term rentals, tax investment housing that does not serve as a primary residence (e.g., vacancy tax that reduces investment property incentives), and explore other solutions to preserve our communities.

### **3.7. Honor the Sustainable Communities Strategies of Plan Bay Area 2050.**

The County should promote infill near commercial cores, job centers, and transit centers, as well as promoting mixed-use commercial spaces. The Bay Area Association of Governments released the Plan Bay Area 2050<sup>9</sup> strategy that identifies Priority Development Areas (PDAs) and Priority Conservation Areas (PCAs). The Draft Housing Element refers to the County obtaining funding by developing PDAs, but fails to honor the protections intended by PCAs. The full potential site list of 6,500 locations includes parcels in areas of PCAs.

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<sup>8</sup> The Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments, Plan 2050, Chapter 1. Growth Geographies. Available at: <https://www.planbayarea.org/2050-plan/final-plan-bay-area-2050/chapter-1-introduction-and-growth-geographies>

<sup>9</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, Plan Bay Area 2050. Available at: <https://www.planbayarea.org/>

**3.8. Any significant amendments to the CWP environmental corridors or conservation zoning must take place as a transparent and comprehensive public process.**

We recommend the CDA conduct an update to the CWP in the coming years that will fully engage local community members to update Community Plans and to prioritize engagement with the unincorporated villages to ensure consistency throughout planning and housing element documents.

**3.9. We request the Planning Commission and Board of Supervisors uphold the current CWP and not approve any updates that are not specifically required by the State of California<sup>10</sup>.**

The County should not make precedent-setting changes to expand the City-Center Corridor and should remove all A-60 agricultural zoning parcels from site selection and rezoning plans.

Thank you for the consideration of our comments. We look forward to further engagement on the Housing and Safety Element update process in the coming months and the release of the Draft EIR.

Respectfully,



Morgan Patton, Executive Director  
Environmental Action Committee of West Marin



Bridger Mitchell, Board President  
Environmental Action Committee of West Marin

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<sup>10</sup> There is no legal requirement for the County to change the CWP environmental corridors and or A-60 zoning. The proposed changes seem to be based on the RHNA and the CDA's scramble for site selection to meet the allocation. If the Buck Center (and any other A-60 parcels remaining on the list) are removed from consideration, this will eliminate the need to amend the Countywide Plan environmental corridors, any needs to change A-60 zoning, and respect the will of the residents of Novato who voted to create an urban growth boundary.