

COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

Brian C. Crawford
DIRECTOR

Marin County Civic Center
3501 Civic Center Drive
Suite 308
San Rafael, CA 94903
415 473 6269 T
415 473 7880 F
415 473 2255 TTY

Building and Safety
Environmental Health Services
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Environmental Review
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June 11, 2019

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Status report on Board of Supervisors workplan to preserve housing affordability and prevent displacement.

Dear Board Members:

RECOMMENDATION: Receive update on the Board of Supervisors' ("Board") workplan to preserve housing affordability and prevent displacement.

SUMMARY: In February 2016, your Board approved a work plan designed to preserve housing affordability and prevent displacement. This Report provides an update of the policy items that comprise that work plan:

- Acquisition of multi-family rental properties for preservation as affordable housing;
- Landlord incentives program;
- Ordinance to establish source of income protection;
- Development Code amendments for junior second units;
- Development Code amendments for second unit regulations;
- Rental Housing Dispute Resolution Ordinance (supplemental policy);
- Short-term rental regulations;
- Ordinance to require just cause for evictions;
- Enhancements to the multi-family inspection and code compliance program;
- Evaluate multi-family land use designations; and
- Re-evaluate the Housing Overlay Designation policy.

No action beyond acceptance of this informational report is requested of the Board at this time.

DISCUSSION: A comprehensive set of policy options to address the County's affordable housing needs was first presented to your Board through a series of three public workshops between October and December 2015. At the December workshop your Board directed staff to pursue 11 of those policy options. An 18-month, three-phase implementation timeline and work plan were confirmed by your Board at a hearing on February 9, 2016. In subsequent hearings, your Board made three adjustments to the original workplan:

- Replacement of voluntary rent guidelines with the Rental Housing Dispute Resolution Ordinance (Mandatory Mediation program);
- Deletion of the amnesty program for second units in light of changes to State law that remove or mitigate many of the preexisting regulatory barriers to the creation or legalization of Accessory Dwelling Units; and

- Addition of a program to enhance the County's inspection and code enforcement program for multi-family rental properties.

The attached Report (Attachment 1) serves as an update of work completed and anticipated in accordance with the current Board workplan to preserve housing affordability and prevent displacement.

As summarized in the attached Report, staff have dedicated considerable resources to community engagement activities that encourage participation and support transparency. To that end, staff designed outreach and engagement plans with explicit consideration of those least likely to be part of the decision-making process. Outreach plans are developed individually around how to best meet the target audience; they commonly include creation of accessible materials, social media campaigns distributed through formal platforms as well as stakeholder networks, radio public service announcements, press releases, and email updates sent through the County's housing email list.

This work aligns with the County obligation to affirmatively further fair housing. In support of that commitment, staff regularly assist Marin cities and towns in the development and passage of policies that preserve housing affordability and prevent displacement.

CONCLUSION: In the coming year, staff will continue to administer ongoing work plan items, and pursue the completion of initiatives that are currently in progress.

FISCAL IMPACT: None. No actions are recommended at this time.

REVIEWED BY:

- | | |
|---|---|
| <input type="checkbox"/> Auditor Controller | <input checked="" type="checkbox"/> N/A |
| <input type="checkbox"/> County Counsel | <input checked="" type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,



Debbi La Rue
Senior Planner



Brian C. Crawford
Director

Attachments:

1. Report on Board work plan to preserve housing affordability and prevent displacement.

A full reference copy of this staff report and associated attachments will become available for public review at the Board of Supervisors office, 3501 Civic Center Drive, Suite 329 (8:00 a.m. to 5:00 p.m., Monday through Friday) and at the Community Development Agency, Planning Division, 3501 Civic Center Drive, Suite 308 (8:00 a.m. to 4:00 p.m., Monday through Thursday, closed Fridays).



Work plan of the Marin County Board of Supervisors to preserve housing affordability and prevent displacement June 2019 update

In 2016, the Marin County Board of Supervisors (“Board”) directed Community Development Agency (CDA) staff to pursue a work plan designed to preserve housing affordability and prevent the displacement of Marin residents. This report outlines the accomplishments with respect to implementation of strategies identified in the work plan.

Throughout the report, work plan programs are arranged in order of implementation and indicated by **bold and golden font**. Where applicable, the program title is followed by an italicized description of the scope of work initially described in the work plan approved by the Board on February 9, 2016.

Acquisition of multi-family rental properties for preservation as affordable housing. *This strategy is already in progress. CDA is collaborating on a task force with the Marin Community Foundation, Marin Housing Authority, Tamalpais Pacific Foundation, and the City of San Rafael to seek out opportunities for acquisition of multi-family rental properties in Marin’s cities and the unincorporated area. This strategy will require ongoing funding and support from the Board.*

This policy represents an ongoing strategy of CDA to collaborate with community partners to identify and assess the feasibility of properties for acquisition. Properties acquired and preserved as affordable housing with the assistance of Housing Trust Fund monies in the past three years include:

- **King Street Senior Housing.** In May 2018, your Board approved a grant of \$200,000 to support the renovation and conversion of a former convent in downtown Larkspur into 11 permanent supportive housing units for older adults with experiences of chronic homelessness.
- **Ocean Terrace Apartments.** In June 2016, your Board approved a \$500,000 grant and a \$500,000 loan to support the acquisition of an eight-unit apartment complex in the coastal community of Stinson Beach.
- **Piper Court Apartments.** In February 2016, your Board approved a \$675,000 loan to finance the acquisition and conversion of 27 multi-bedroom homes into units affordable to low-income families. Located near a high performing school and close to public transit, this agreement furthers a County fair housing commitment to provide more affordable rental housing to families in areas of opportunity.
- **Giacomini Way.** In December 2017, your Board approved a \$110,000 grant to support the purchase of a three-bedroom home in Point Reyes Station. The home is now secured in perpetuity as affordable to low-income families.



Beyond the scope of the acquisition program, the County has regularly contributed Housing Trust Fund monies to projects proposing the creation of new affordable housing opportunities. Projects funded since 2016 include:

- *Redwood Boulevard.* In October 2018, your Board approved a \$250,000 grant to support predevelopment activities for the prospective development of 80 affordable homeownership units in the City of Novato.
- *Victory Village.* In February and June 2018, your Board approved a \$3.6 million loan to finance the acquisition and construction of 54 units of affordable housing in the Town of Fairfax to very-low- and extremely-low-income older adults. Twenty percent of the units are set aside as permanent supportive housing for older adults who have experienced homelessness.
- *Scattered site project in Bolinas.* In March 2018, County staff authorized a \$25,000 grant to a local land trust to support predevelopment activities for five prospective affordable housing acquisition, rehabilitation, and/or development opportunities in Bolinas.
- *Coast Guard Housing.* The County has invested at least \$132,000 toward studies and in exploration of a potential acquisition of a property in Point Reyes Station containing 36 two-, three- and four-bedroom townhomes. Acquisition of this property is expected later this year.

In November 2018, the Housing and Federal Grants Division issued a Notice of Funding Availability (NOFA) for \$1,000,000 to spur the creation of affordable rental homes for families in areas of opportunity. Two affordable housing developers responded with proposals in December 2018. Staff met with the Affordable Housing Subcommittee in April 2019 to review the responses and expect to return to your Board with a recommendation later this year.

Landlord incentives program. *Marin Housing Authority (MHA) staff will draft a “landlord incentives” program offering a variety of incentives to landlords who rent to low-income tenants, including those with Section 8 vouchers. The proposed program will be presented to the Board for consideration at a public hearing. If approved by the Board, the program will be managed by MHA.*

In 2016, your Board approved two policies designed to leverage federal and community resources to create more affordable housing opportunities within the existing rental market. In July of that year, your Board funded two landlord incentives programs, administered by the Marin Housing Authority (MHA) and the Community Land Trust Association of West Marin (CLAM), to encourage the creation of affordable rentals within the existing housing market. These two-year pilot programs incentivized landlords to participate in the Housing Choice (“section 8”) voucher programs and encouraged homeowners to create more affordable rental opportunities through bedroom conversions or the development of ADUs.

During the first two-year pilot period, both landlord incentive pilot programs – MHA’s Landlord Partnership Program and CLAM’s Real Community Rentals – achieved and surpassed their contract



deliverables. MHA increased its success rate of voucher holders leasing a home from 37% to 59%, and CLAM created 13 new affordable rental housing opportunities in underutilized homes in West Marin.

In recognition of these successes, in August 2018 your Board authorized a two-year extension of both incentive programs to run through June 2020.

In the second two-year contract term, the Landlord Partnership Program will build upon the initial advances it made in the improvement of MHA's voucher success rate. By June 2020, MHA will increase its voucher success rate from 59% to 65%. As a strategy to increase its success rates, MHA has committed to participate in meetings, attend public hearings, and provide information as appropriate to facilitate the expansion of source of income ordinances to Marin cities and towns. MHA will also increase its reporting to include more detailed demographic trends and analyses of the geographic areas where voucher holders successfully find homes.

Having laid the educational and social groundwork for promoting the development of new affordable rental housing opportunities in West Marin, CLAM plans to build on its partnership with Bolinas Community Land Trust and San Geronimo Valley Affordable Housing Association to expand its reach and support of property owners who desire to create affordable rentals. CLAM has committed to doubling its target number of new affordable units for the second two-year phase of its Real Community Rentals program. It will also engage in long-term affordability monitoring of these units to gauge the success of this innovative program.

Ordinance to establish source of income protection. CDA staff will draft an ordinance establishing source of income protection for renters with third-party rental subsidies, including section 8 voucher holders. The proposed ordinance will be presented to the Board for consideration. If adopted by the Board, the ordinance will apply to all rental housing in the unincorporated county.

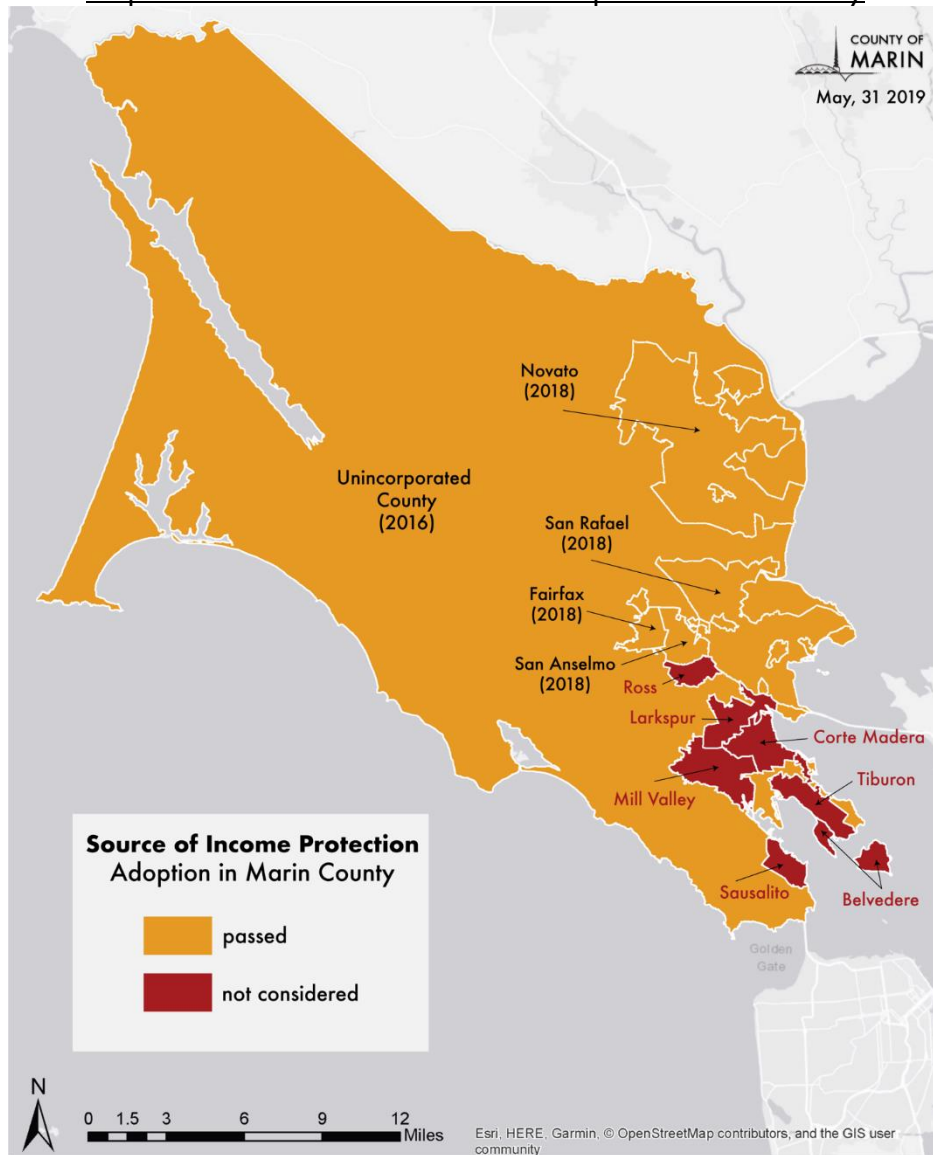
In November 2016, your Board adopted a fair housing ordinance prohibiting discrimination against tenants with third-party rental subsidies.¹ In March 2017, the ordinance was amended to broaden its applicability by eliminating exceptions for owner-occupied properties.

Source of income ordinances work synergistically with Marin Housing Authority's Landlord Partnership Program to improve a voucher holder's ability to find a home in Marin. As part of an effort to support the success of that program, CDA assisted four Marin cities and towns in the development and passage of their own source of income ordinances in 2018: Town of Fairfax, City of Novato, City of San Rafael, and Town of San Anselmo (Map A). In May, the Federal Grants Priority Setting Committee, made up of community representatives and local elected officials from Marin cities and towns, asked staff to provide technical assistance to support their exploration of tenant protections such as the County's Source of Income, Just Cause, and Rental Housing Dispute Resolution ordinances. In response, staff developed a package of resources, including sample ordinances, staff report language, and frequently asked questions.

¹ Marin County Code Chapter 5.53



Map A: Source of Income Protection Adoption in Marin County



Development Code amendments for junior second units. CDA staff will draft Development Code amendments to improve and enhance the implementation of existing regulations allowing room rentals otherwise known as “junior second units.” The proposed code amendments will be presented to the Planning Commission followed by the Planning Commission’s recommendation being presented to the Board. If adopted, the amendments will apply to junior second units in unincorporated Marin County.

In March 2017, your Board amended the Development Code to define a Junior Accessory Dwelling Unit (JADU) as “a type of Accessory Dwelling Unit that is no more than 500 square feet in size, is



contained entirely within a single-family structure, and has been certified as a Junior Accessory Dwelling Unit by the Director.”²

In December 2018, your Board voted to continue a program that waives or reduces building permit fees by up to \$1,500 per eligible JADU through 2019. It also opted to expand the fee reduction program to allow waiver of the Department of Public Works (DPW) Roadway Impact Fees³ for JADUs in 2019. To qualify for these fee waivers, a property owner must agree to refrain from using the subject unit as a short-term rental for two years following completion of the unit.

Since the establishment of the fee reduction program in December 2017, the County has encouraged the creation of six JADUs and waived \$7,690.59 in permit fees⁴.

In December 2018, the County launched a website, “Make Room for Marin,” (www.marincounty.org/makeroomformarin) to promote and encourage ADUs by providing property owners with ideas and basic resources to guide them through the process of creating an accessory unit. CDA is currently working on a collaborative grant with other Marin jurisdictions to expand and improve the website by including sample floor plans, permit process videos, regulation summaries, and a cost estimate calculator, among other features. A countywide ADU and JADU Expo is planned to celebrate the relaunch of the website. Designers, builders, planners from participating jurisdictions, and local housing organizations will be able to answer questions about constructing and maintaining ADUs and JADUs.

Development Code amendments for second unit regulations. CDA staff will draft Development Code amendments to help improve the approval process for second units. Concurrently, CDA will collaborate with the DPW to conduct a parking study to evaluate parking needs for second units and other types of housing, so that any resulting recommendations can be incorporated into the proposed amendments. The proposed amendments will be presented to the Planning Commission followed by the Planning Commission’s recommendation being presented to the Board. If adopted as an ordinance by the Board, the amendments will apply to second units in the unincorporated County.

In March 2017, the Board amended the Development Code to increase the maximum allowable size of an Accessory Dwelling Unit (ADU) to 1200 SF.

To encourage the creation of ADUs, your Board voted on December 18, 2018 to offer fee reductions of up to \$3,500 in building permit fees through 2019.⁵ Since the creation of that incentive, and through March 2019, the County has issued \$41,170.80 in fee reductions and thereby supported the creation of 13 new ADUs.

² Marin County Code § 22.130.30

³ Marin County Resolution Number 2003-97

⁴ Total fees waived as of March 31, 2019

⁵ Marin County Resolution Number 2018-135



DPW continues to charge Roadway Impact Fees and Public Transportation Facilities Fees⁶ as applicable to ADU projects.

Rental Housing Dispute Resolution Ordinance (Mandatory Mediation).

The Rental Housing Dispute Resolution Ordinance was adopted by your Board on December 12, 2017 to promote community accountability and discourse in the rental housing market and to discourage high rent increases. The ordinance, which went into effect on January 11, 2018, is referred to as “mandatory mediation,” and offers an opportunity for landlords and tenants to discuss issues related to increases in rent that exceed five percent in a one-year period.

Mediation is a process in which a neutral third party facilitates the negotiation of a mutually acceptable resolution to a dispute between two parties. Mandatory mediation is distinguished by a requirement for both parties to participate in good faith for the entirety of the mediation process, even if the landlord and tenant do not settle their dispute.

The District Attorney’s (DA) Consumer Protection Unit conducts English- and Spanish-language mediations mandated by the Rental Housing Dispute Resolution Ordinance on behalf of CDA. The mediators charged with handling these cases have all participated in an intensive 40-hour training course and maintain resumes with many years of legal and/or mediation experience.

In January 2018, staff notified landlords of their rights and responsibilities under the Rental Housing Dispute Resolution Ordinance. Because the County did not have the ability to generate a comprehensive list of rental units, staff relied upon multiple sources to develop its outreach program. To legally lease living accommodations in the unincorporated County, every individual and business is required to maintain a business license with the Department of Finance. Licensed owners of a rental property received an informational mailer containing a summary of the ordinance, a list of frequently asked questions, staff contact information, and the agency web site address to obtain additional information. The agency also sent mailers to property owners registered with the Environmental Health Services (EHS) housing inspection program who were identified as operating properties in the unincorporated County. Through these efforts, staff discovered that many owners were not maintaining a business license and were not participating in the housing inspection program. In response, staff expanded the purview of its notification process to include properties identified on the County Assessor records as having more than one residential unit. Staff also coordinated with the Marin Rental Property Association and the Marin Association of REALTORS to notice housing providers.

The County maintains a webpage dedicated to the Rental Housing Dispute Resolution program. The webpage provides a tool for tenants to look up if they reside in the unincorporated County or another Marin jurisdiction, a program summary, the Notice of Tenant Rights, program application forms, the enabling ordinance and associated implementation guidelines, and contact information for both CDA staff and the Consumer Protection Unit. All documents are provided in English, Spanish, and Vietnamese. The webpage may be found at www.marincounty.org/mandatorymediation.

⁶ Marin County Resolution Number 2002-97. The Public Transportation Facilities Fee is colloquially referred to as a Traffic Mitigation Fee.



Over the first 16 months of the program, tenants and landlords submitted 45 applications to the Rental Housing Dispute Resolution program (Table 1). Sixty percent of the applicants were eligible for mediation while 40 percent were disqualified in large part because their rental properties were located outside the unincorporated County and the jurisdiction of the County ordinance.

The Consumer Protection Unit connects ineligible applicants with other services and opportunities. Some of the ineligible applicants have been successfully engaged in the Consumer Protection Unit's voluntary mediation program, which is available to tenants throughout the county.

Table 1: Mandatory Mediation Applicant Eligibility and Reason for Ineligibility

	Date Received	Resolution Date	Eligible/Ineligible	Outcome/Reason for Ineligibility
1	2/12/18	2/16/18	Ineligible	Rent increase under 5% and not within applicable time period (8/2017). [Mill Valley]
2	3/19/18	3/21/18	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
3	3/20/18	3/27/18	Ineligible	Rent increase not within applicable time period (2017). [Sausalito]
4	3/23/18	4/13/18	Eligible	Mediation conducted 4/10/2018; agreement reached re: 2-year written lease. [Kentfield]
5	4/2/18	4/18/18	Eligible	Mediation conducted 4/18/2018; no agreement reached. [San Rafael]
6	5/14/18	5/31/18	Eligible	Mediation conducted 5/31/2018; no agreement reached. [Ross]
7	6/4/18	7/5/18	Eligible	Mediation Agreement and Non-Disclosure Agreement executed in the matter. [Mill Valley]
8	7/11/18	7/12/18	Ineligible	Rent increase not within applicable time period (2017) and not in unincorporated Marin County. [Belvedere]
9	8/14/18	8/20/18	Ineligible	Rent increase less than 5%.
10	8/21/18	9/20/18	Eligible	Mediation conducted 9/10/2018; agreement reached and fully executed. [Mill Valley]
11	7/11/18	7/12/18	Ineligible	Rent increase not within applicable time period (2017) and not in unincorporated Marin County. [Belvedere]
12	8/14/18	8/20/18	Ineligible	Rent increase less than 5%.
13	8/21/18	9/20/18	Eligible	Mediation conducted 9/10/2018; agreement reached and fully executed. [Mill Valley]
14	10/8/18	10/9/18	Ineligible	Rental property not in unincorporated Marin County. [San Anselmo]
15	12/3/18	12/19/18	Eligible	Mediation conducted 12/19/2018; agreement reached re: 18-month lease and rent increase. [Sausalito]
16	2/8/19	2/12/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
17	2/11/19	2/12/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
18	2/12/19	2/12/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
19	2/12/19	2/13/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
20	2/12/19	2/13/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
21	2/13/19	2/14/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
22	2/13/19	2/14/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
23	2/14/19	2/14/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
24	2/19/19	2/19/19	Ineligible	Rental property not in unincorporated Marin County. [Larkspur]
25	3/6/19	4/5/19	Eligible	Mediation conducted 3/29/2019; no agreement reached. [Mill Valley]
26	3/6/19	3/7/19	Ineligible	Rental property not in unincorporated Marin County. [Novato]



	Date Received	Resolution Date	Eligible/Ineligible	Outcome/Reason for Ineligibility
27	4/1/19	4/24/19	Eligible	Mediation conducted 4/24/2019; agreement reached. [Mill Valley]
28	5/3/19	5/22/19	Eligible	Mediation conducted 5/22/19; no agreement reached. [Marin City/Sausalito]
29	5/6/19	5/22/19	Eligible	Applicant did not appear for mediation scheduled on 5/22/19; no agreement reached. [Marin City/Sausalito]
30	5/6/19	5/22/19	Eligible	Mediation conducted 5/22/19; no agreement reached. [Marin City/Sausalito]
31	5/7/19	5/23/19	Eligible	Mediation conducted 5/23/19; no agreement reached. [Marin City/Sausalito]
32	5/8/19	5/22/19	Eligible	Mediation conducted 5/22/19; no agreement reached. [Marin City/Sausalito]
33	5/8/19	5/22/19	Eligible	Mediation conducted 5/22/19; no agreement reached. [Marin City/Sausalito]
34	5/9/19	5/22/19	Eligible	Mediation conducted 5/22/19; no agreement reached. [Marin City/Sausalito]
35	5/16/19	5/23/19	Eligible	Mediation conducted 5/23/19; no agreement reached. [Marin City/Sausalito]
36	5/16/19	5/23/19	Eligible	Applicant cancelled mediation scheduled for 5/23/19; no agreement reached. [Marin City/Sausalito]
37	5/20/19	5/23/19	Eligible	Mediation conducted 5/23/19; no agreement reached. [Marin City/Sausalito]
38	5/20/19	5/23/19	Eligible	Applicant cancelled mediation scheduled for 5/23/19; no agreement reached. [Marin City/Sausalito]
39	5/20/19	5/23/19	Eligible	Applicant cancelled mediation scheduled for 5/23/19; no agreement reached. [Marin City/Sausalito]
40	5/23/19	6/3/19	Eligible	Applicant wishes not to pursue mandatory mediation; no mediation conducted. [Marin City/Sausalito]
41	5/24/19	5/29/19	Eligible	Subsequent to eligibility letters being sent, landlord issued reduced rent increase; applicant satisfied; no mediation conducted. [Tiburon]
42	5/23/19	-	Eligible	Mediation scheduled for 6/19. [Marin City/Sausalito]
43	5/24/19	-	Eligible	Mediation scheduled for 6/19. [Marin City/Sausalito]
44	5/28/19	-	Eligible	Mediation scheduled for 6/19. [Marin City/Sausalito]
45	5/29/19	-	Eligible	Mediation scheduled for 6/19. [Marin City/Sausalito]

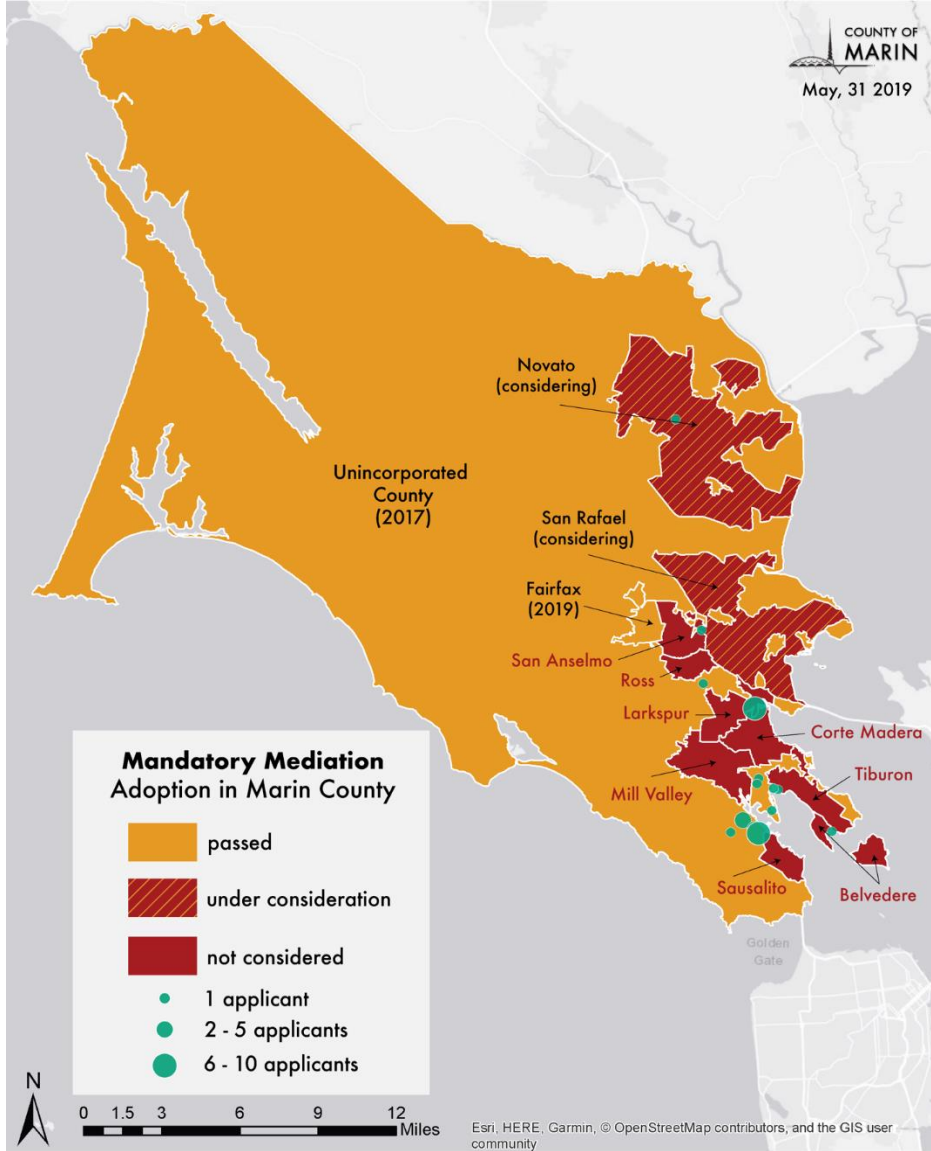
During February – May 2019, the Rental Housing Dispute Resolution program experienced a marked 400% increase in mediation requests received as compared to that same period in 2018. Staff surmise that this increase may be attributable to two factors: 1) increased awareness of the program; and 2) passage of the County’s Just Cause Ordinance.

Public knowledge of the program has increased by recurring press coverage of the deliberations of other cities and towns as they consider expanding the County program to their own jurisdictions (Map B). Program awareness has been further amplified by recent staff efforts to publicize the Just Cause Ordinance adopted by your Board in December 2018. Because that Ordinance requires landlords to comply with the noticing provisions of the Rental Housing Dispute Resolution Ordinance, many landlords or property managers who missed previous outreach campaign messages and press coverage of the program are now alerting their tenants to its existence. As landlords learn about and



discharge their responsibility to notify tenant households, tenants become more likely to inquire about and apply to the program.

Map B: Mandatory Mediation Adoption in Marin County



The increased public awareness of the Rental Housing Dispute Resolution program prompted by the Just Cause Ordinance is largely limited to those property owners and tenant households associated with properties subject to Just Cause – approximately 57% of the rented housing stock. To address this gap, CDA and the County Administrator’s Office plan to advertise Rental Housing Dispute Resolution through a housing education campaign aimed to increase public awareness of Marin housing opportunities, rules, and resources.

In addition to promoting landlord compliance with program noticing requirements, the Just Cause Ordinance may be bolstering participation by allaying tenant households fear of eviction. In a May



2018 update to your Board on the Rental Housing Dispute Resolution program, staff reported a potential connection between low application rates and a general fear of eviction:

The Consumer Protection Unit reports that every tenant who has called to inquire about the County's mandatory mediation services has expressed concern that participation in the program could result in an eviction. Some applicants have chosen not to apply for that reason.

Since the passage of the Just Cause Ordinance, the Consumer Protection Unit reports that prospective applicants for the Rental Housing Dispute Resolution program are less likely to express fear of a retaliatory eviction. However, staff also continue to receive anecdotal reports that some renters are unwilling to participate in mediation for fear that the property owner or manager would have an adverse reaction. In recent months, despite the opportunity that mediation presents for open communication between landlords and tenants, some eligible renters have chosen not to apply because the program does not prevent persistent and unsustainable rent increases; approximately six applicants have chosen to withdraw their program application for this reason.

Short-term rental regulations. *CDA staff will draft an ordinance regulating short-term rentals (i.e. "vacation rentals") initially for the Marin County Coastal Zone. The proposed ordinance will be presented to the Planning Commission followed by the Planning Commission recommendation being presented to the Board at a public hearing. If adopted by the Board, the regulations will be filed with the California Coastal Commission (CCC) for review and certification. If certified by the CCC, the regulations will be brought back to the Board to be considered for applicability to the non-coastal area of unincorporated Marin. If adopted by the Board, the regulations will apply to rental housing in the unincorporated county.*

On August 7, 2018, your Board adopted an ordinance⁷ requiring operators of short-term rentals to notice neighbors of that use, to identify a Local Contact Person, and to share their contact information with neighbors. For neighbors or other residents who could not or would not directly contact the Local Contact Person, the CDA contracted with Host Compliance to offer a 24-hour complaint hotline which has been advertised in a County news release and posted on CDA's webpages dedicated to [short-term rentals](#)⁸ and [code enforcement](#).⁹

As part of its Fiscal Year 2019/2020 work plan, the Community Development Agency initially intended to pursue a pilot program requiring a long-term resident to live on properties with short-term rentals in a coastal community. However, this initiative has since been deferred for the Fiscal Year 2019/2020 timeframe in favor of exploring potential revisions to the County's septic system standards that may ease the cost and time of obtaining permit approvals for new ADUs.

⁷ Marin County Ordinance Number 3695; Marin County Code Chapter 5.41

⁸ <https://www.marincounty.org/str>

⁹ <https://www.marincounty.org/cdaenforcement>



Ordinance to require just cause for evictions. *CDA staff will draft an ordinance establishing criteria that constitute a “just cause” for eviction of rental housing tenants. The proposed ordinance will be presented to the Board for consideration. If adopted by the Board, the ordinance will apply to all rental housing in the unincorporated county.*

In December 2018, your Board adopted an ordinance requiring cause to terminate a residential tenancy (“Just Cause”).¹⁰ The ordinance generally applies to properties located in the unincorporated areas of Marin that have at least three dwelling units. Unoccupied, vacant, and owner-occupied units and those used as short-term rentals count toward a property’s total number of dwelling units. Exceptions are provided for:

- ADUs;
- JADUs;
- Units with government-subsidized rents;
- All units in developments where at least 49% of the units are restricted as affordable; and
- Units occupied by on-site property managers.

The Ordinance calls for compliance with other existing applicable regulations, and permitting or licensing requirements, and stipulates that landlords must renew the registry of subject units annually. It also enumerates reasons for which a residential tenancy of a subject unit may be ended. Grounds for eviction under Just Cause include:

- Tenant fails to pay rent;
- Tenant breaches a legitimate term of their lease agreement;
- Tenant uses the property for illegal activities;
- Tenant rejects a written lease extension;
- Landlord, or an immediate family member, moves into the unit;
- Landlord seeks in good faith to remove the unit from the rental market;
- Unit is declared unfit for human habitation and must be temporarily removed from the rental market; and
- Unit is removed from the rental market because substantial renovations required to comply with code enforcement health and safety concerns will make it temporarily unfit for human habitation.

Following passage of the Ordinance, staff distributed a notice via direct mailer to all owners of property containing three or more units in the unincorporated County. The notice contained a summary of Ordinance applicability, requirements for compliance, and resources such as contact information for

¹⁰ Marin County Code Chapter 5.100



staff and the web address of the County webpage dedicated to this topic: www.marincounty.org/justcause. Questions commonly presented in public testimony or expressed in phone calls to staff were developed into a frequently asked questions section on that County webpage.

The Ordinance went into effect on January 17, 2019 and permits landlords of subject units to evict tenants only for those reasons enumerated in it. Landlords are also required to include certain information in any Notice of Termination served to a tenant, and to provide a copy of that notice to the County.¹¹ Since January 2019, four copies of Notice of Terminations¹² have been submitted to the County.

To enhance the accuracy and timeliness of data on the rental market within the unincorporated County, the Just Cause Ordinance also includes a data collection provision to document and report on factors such as evictions, non-renewal of leases and adjustment of rental rates.

The Ordinance includes two means of collecting data. First, landlords of subject rental units are required to provide the County with a Notice of Termination in order to lawfully terminate a residential tenancy. Second, the ordinance establishes a rental registry that collects information annually on the number of rental units, ownership, location, occupancy status and rental rates for properties in the unincorporated county subject to the Ordinance.

Since June 1, 2019, landlords have been required to register subject rental units with the County. CDA estimates that 3,401 homes constituting roughly 12% of the unincorporated County's rental housing stock¹³ are subject to this requirement. To register, landlords must complete an online registry¹⁴ which asks for information such as an active business license number, an EHS housing inspection permit number, one year of rental rates, and the occupancy status of each unit; no tenant-identifying information is requested.

To advertise the registry, staff conducted extensive outreach, including, distribution of a press release and public service announcements (PSA) on KWMR, and carried out a social media campaign via Facebook, NextDoor, and the Patch, among other

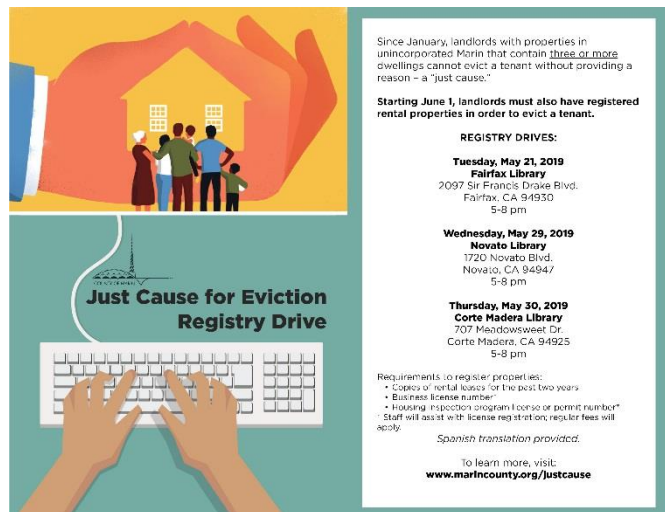


Image 1. Social media graphic advertising Just Cause registry drive events.

¹¹ Marin County Civil Code § 5.100.050

¹² Notice of Termination forms may be completed and submitted to the County electronically at www.marincounty.org/justcause.

¹³ U.S. Census Bureau. (2016.) *Tenure by Units in Structure, 2012-2016 American Community Survey 5-year estimates*. Retrieved from <https://factfinder.census.gov>.

¹⁴ The online registry is available at www.marincounty.org/justcause.

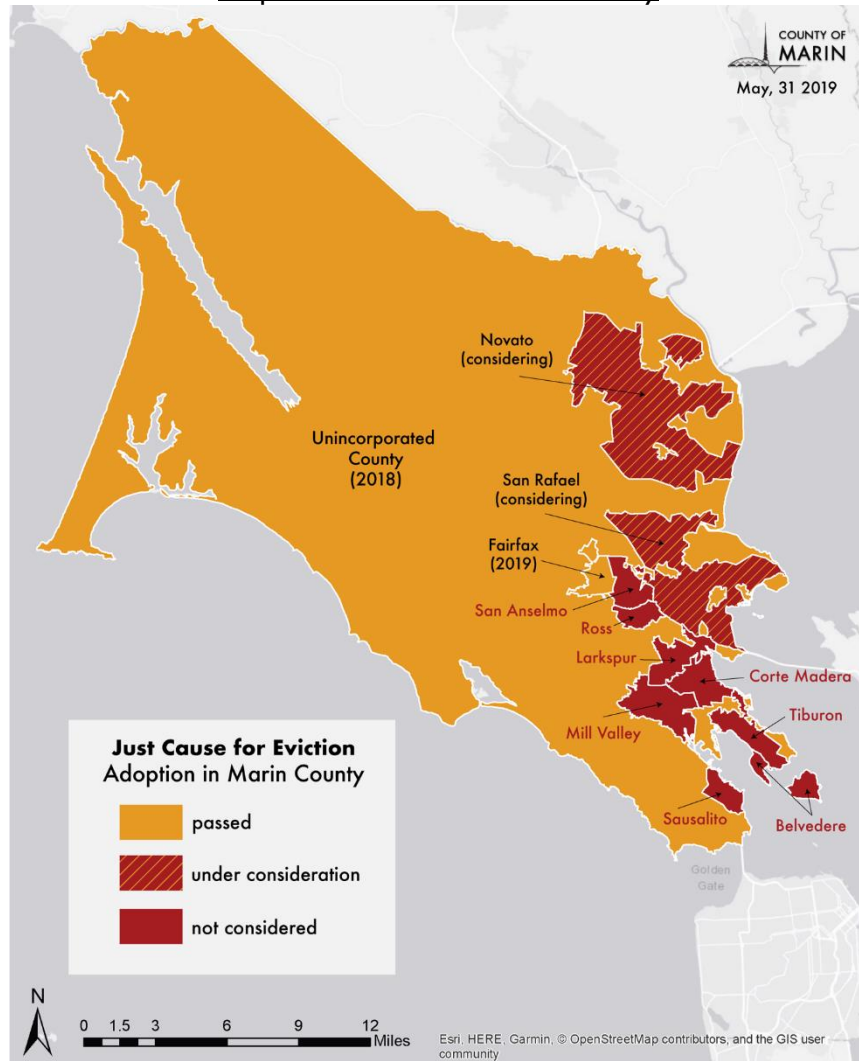


platforms; stakeholders¹⁵ were also asked to help spread awareness. The social media campaign and PSA were conducted in English and Spanish.

Staff also hosted three “registry drives” at libraries in Corte Madera, Fairfax, and Novato, where property owners could get hands-on assistance with property registration (Image 1). Department of Finance and CDA’s Environmental Health Services (EHS) Division staff joined in these events - creating a one-stop shop for license, permitting, and registration compliance. In addition, staff contacted all owners of properties with more than 20 units to offer individualized assistance in the registration process.

In May 2019, the Town of Fairfax adopted a similar Just Cause ordinance (Map C). As of June 3, 2019, the City of San Rafael has approved a First Reading of a Just Cause ordinance and scheduled a Merit Hearing for June 17, 2019. The City of Novato is also considering the matter.

Map C: Just Cause in Marin County





Enhance multi-family housing inspections and enforcement of housing code.

County staff is responsible for inspecting rental housing properties with three or more units located within the unincorporated County and cities and towns in Marin except for the City of San Rafael and the City of Novato, both of which administer their own housing inspection and enforcement programs. Staff currently inspects approximately 8,900 rental units on approximately 650 properties, representing 48% of the total number of units and 44% of rental properties within the entire county. Similarly, the Marin Housing Authority has assumed responsibility for inspecting public housing units and correcting violations within their purview.

County staff initiates the standard inspection process by providing advance written notification of the inspection date to the owner. Staff typically inspects 25-30% of the units on the day of inspection. A standard fee is charged annually to the property owner to cover the County cost of conducting the program, with fees varying based on the number of units on a property.

During your deliberations on tenant protection measures, the Board received public testimony regarding the lack of proper or timely maintenance of rental units that may result in substandard living conditions, potential adverse health effects for tenants, and violations of state housing law administered by the County. The Board responded to this input by requesting that staff evaluate the County's housing inspection and enforcement program to consider ways of ensuring that staff is working effectively with landlords and tenants to identify and resolve housing code problems.

With that directive in mind, staff consulted with the Board of Supervisors Affordable Housing Subcommittee to explore changes to current inspection and enforcement procedures and policies. These program changes were presented to and accepted by your Board in September 2018; implementation occurred in early 2019:

1. Inspect 100% of rental units on a property if one of two events occur:
 - a) County staff finds more than one major code violation within a building or on the property. Typical major violations include vermin infestation, leaking roofs, windows or siding, and excessive mold attributed to leaks, sanitary sewer line failure and persistent leaks in plumbing lines.

Properties would return to the standard protocol of staff inspecting 25%-30% of the units on a property only after all violations have been corrected in a timely manner.
 - b) The property owner or their property manager fails to correct code violations within a reasonable period of time as determined by staff, based on magnitude of code violation and work required to correct.
2. In January 2019, CDA instituted a policy to charge additional fees to owners of properties with recurring violations to offset County cost of additional inspection and enforcement time and to create a financial incentive for compliance. This policy insures that owners of well-maintained properties will not bear the financial costs associated with increased monitoring.



3. In 2018, CDA acted to increase and enhance staff resources through the creation of a part-time, Spanish-speaking bilingual, housing inspector position.
4. In March 2018, the EHS housing program grew its website content to include more educational and referral information on a variety of topics, such as landlord and tenant rights and responsibilities, landlord tenant dispute resolution, rodent infestation, indoor air quality, mold, and services offered by Legal Aide of Marin.

Since implementation of these enhancement measures, EHS has placed two properties – one in unincorporated Mill Valley and another in the City of Larkspur – under a 100% inspection requirement. One property resulted in full compliance and correction of a significant roof leak. Staff is working with building officials to clarify the plumbing issues associated with the second property; hot water typically takes up to 12 minutes to reach some units.

Property inspections prompted by tenant complaints will continue to be responded to within 24-48 hours based on the severity of the alleged violation. Staff responses are usually initiated by way of return phone call to the tenant.

During the Affordable Housing Subcommittee deliberations of this program, CDA prompted a conversation with the City of San Rafael and the City of Novato about best practices and areas for improvement in Marin’s three housing inspection programs. While those cities chose not to join the County in an immediate modification of its housing inspection program, CDA maintains an open line of communication with the managers of the City of Novato and City of San Rafael housing inspection programs, and will continue to work collaboratively with those agencies as they work toward a shared goal of ensuring safe and healthy homes in Marin.

Re-evaluate the Housing Overlay Designation policy. (Housing Element Program 1.c, scheduled for 2016). CDA staff will analyze the effectiveness of the Housing Overlay Designation (HOD) in the unincorporated county, consistent with Housing Element Program 1.c. If opportunities for amending the HOD policy are identified, then any proposed changes will be presented to the Planning Commission followed by the Planning Commission’s recommendation being presented to the Board of Supervisors for consideration. The Board will review the recommendation and provide staff with direction on next steps.

The Housing Overlay Designation (HOD) was established in 2007 as a policy and program of the Countywide Plan (CWP) (CD-2.3 excerpted below). Designed and promoted as a critical tool supporting the County’s efforts to develop new affordable workforce housing, the program has not resulted in the development of any affordable workforce housing through infill development on commercial sites.

CWP CD-2.3 Establish a Housing Overlay Designation. The Housing Overlay Designation (HOD) is established, as shown in Maps 3-2a and 3-2b. The purpose of the HOD is to encourage construction of units to meet the need for workforce housing, especially for very-low- and low-income households, and for special needs housing, in the City-Centered Corridor



close to transit, employment, and/or public services. Sites for the HOD include reuse of existing shopping centers or other underutilized sites. Development on sites designated as both mixed use and as suggested HOD sites shall be developed pursuant to the HOD Policy and Program and not the mixed-use land designation criteria. Each square foot of market-rate HOD housing shall be offset by an equal reduction in the square footage of the permissible commercial development. Up to 658 housing units may be approved within the HOD, subject to a discretionary approval process.

The HOD program requires, that to the maximum extent feasible, 49% of all new units developed on selected sites be restricted as affordable to low- and very-low-income households. In exchange, it incentivizes development by requiring housing densities of at least 30 units per acre and establishes grounds for developers to apply for concessions such as parking, floor area ratio (FAR), and height and fee reductions. However, as a result of the expansion of State density bonus¹⁶ law, all the incentives offered to induce the development of affordable housing through this program are available to projects that qualify for a State-mandated density bonus. With the adoption of the 2015-2023 Housing Element, your Board directed staff to evaluate the program and identify alternative strategies to reinvigorate it as an effective tool to promote affordable workforce housing.

In early 2017, CDA staff convened a working group of industry experts to evaluate ways to make the policy more effective, and in August 2017, your Board directed staff to continue the exploration of two policy options: 1) amend the HOD to require residential development and, 2) create specific plans for HOD sites.

Amend the HOD to require residential development. Since the HOD Policy does not establish a minimum residential requirement, a loophole in this policy allows for a site to develop as a 100% commercial use without any residential development. One option for addressing this issue is to require that a predetermined percentage of new floor area be devoted to residential use as currently mandated for the Countywide Plan Mixed Use Policy as follows:

“For parcels larger than two acres in size, no more than 50% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.”

“For parcels 2 acres and less in size, no more than 75% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.”

This option is consistent with the 2015-2023 Housing Element program 1(c)(a): “Amend Countywide Plan Policy CD-2.3 to remove the requirement that HOD sites shall not comply with the mixed-use criteria.”

¹⁶ California Government Code § 65915



Reevaluation of the HOD policy will be included in the forthcoming work plan for the next Countywide Plan update scheduled to begin later this fiscal year.

Specific Plans. As in the 2017 Grand Jury Report,¹⁷ the working group identified lengthy, costly and uncertain entitlement processes as a critical barrier to the creation of affordable housing in Marin. Specific Plans could lower this barrier by doing up front detailed planning to establish specific criteria that would be used to evaluate housing projects on defined sites before a development is proposed. The planning review process and criteria would be developed with input from the community and major planning issues would be resolved up front through the Multifamily Design Guidelines, adopted by your Board on December 10, 2013, community plans, the Countywide Plan and objective design guidelines, if adopted by your Board. Environmental review would be required to implement such a program. Specific Plans would enhance transparency for all interested parties, as it could specify physical and programmatic criteria that a housing development would necessarily meet to receive approvals.

Later that year, as part of the 2017 legislative housing package, Governor Brown signed a new bill into law, "SB 35," that removes discretionary review processes, such as public hearings and CEQA requirements, from the entitlement process and offers streamlined review for residential development proposals meeting certain criteria,¹⁸ such as:

- At least half of the residential units are dedicated as affordable to families with low incomes;
- "Urban infill" – the project is located on a site with at least 75% of the perimeter already developed;
- The project is not located in coastal areas, on prime farmland, wetlands, or flood plains, in community conservation areas, etc.; and
- Payment of prevailing wages for construction workers.

Development proposals that meet SB 35 eligibility criteria and that apply for processing under that statute can only be denied for failure to meet uniformly verifiable standards. On May 7, your Board authorized an application to the State for SB 2 Planning Grant funding to sponsor the creation of objective design and development standards that could be applied to all SB 35-eligible projects and could be used on HOD sites.

Evaluate multi-family land use designations. *(Housing Element Program 1.b, scheduled for 2016). CDA staff will analyze existing multi-family land use designations in unincorporated Marin County, consistent with Housing Element Program 1.b. If opportunities for rezoning are identified, then any proposed changes will be presented to the Planning Commission followed by the Planning Commission's recommendation being presented to the Board of Supervisors for consideration. The Board will review the recommendation and provide staff with direction on next steps.*

¹⁷ Marin Civil Grand Jury. (April 12, 2017). *Overcoming Barriers to Housing Affordability.*

¹⁸ S.B. 35, (Cal. 2017).



Implementation of this policy is intended to align with the completion of the County's Assessment of Fair Housing in order to incorporate the research and findings of that assessment into the evaluation of multi-family land use designations. However, the U.S. Department of Housing and Urban Development has delayed implementation of the Affirmatively Furthering Fair Housing rule for an indeterminate period, so staff has elected to proceed with this program ahead of the Assessment of Fair Housing.

In the first phase of implementation, Staff prepared a benchmark study of comparable Bay Area jurisdictions. A multi-family zoning map is being prepared to analyze the spatial relationship to both potential environmental and regulatory barriers as well as amenities and services. Following the mapping analysis, staff will prepare a report that summarizes impediments to development in existing multifamily zoning districts and identification of policy alternatives. These findings are anticipated for presentation before your Board in the second half of 2019.