



# TOWN COUNCIL MEETING SUPPLEMENTAL STAFF REPORT

**DATE:** May 1, 2024  
**TO:** Mayor and Town Council  
**FROM:** Bryn McKillop, Associate Planner  
Jeffrey Beiswenger, Planning & Building Services Director  
**SUBJECT:** Supplement to Agenda Item #2: Progress Report on Housing Element Implementation

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## RECOMMENDATION

Staff recommends the Town Council review the Progress Report on Housing Element Implementation. No action is required.

This staff report has been revised since the agenda was posted with additional information, including the following:

- 1-K: Fee Discounts. Add more information on fee discounts available to those building Accessory Dwelling Units (ADUs).
- 2-G: Processing and Permit Procedures. Added some information on new permit procedures that were adopted in November, 2023.
- 3-F: Tenant Protections. Expanded the description of tenant protections and the ordinances that have been adopted to date.
- 4-G: Disavowal of Racially Restrictive Covenants. Added references to State law on this issue.
- Under "Next Steps" a few bullets were deleted or edited to remove items that have already been completed in 2023 or early 2024.

## BACKGROUND

Implementation of programs within the recently adopted Housing Element is underway and the intent of this staff report is to highlight the recent accomplishments. The Housing Element is one of the seven mandated elements of the General Plan, and the only element that must be updated on a set schedule, consistent with the establishment of Regional Housing Needs Allocations (RHNA), which are published at eight-year intervals.

The Town received a letter from the California Department of Housing and Community Development (HCD) on April 8, 2024 that states the Town of Fairfax, Housing Element 2023-31 has been certified by the California Department of Housing and Community Development (HCD). Following the adoption of the Housing Element on December 13, 2024, implementation of the Housing Element 2023-31 programs began in earnest. In the certification letter, HCD acknowledged the successful completion of many zoning code amendments including: integration of objective design standards; adoption of standards for low impact clustered residential development; updates to density bonus

provisions; changes to processing and permit procedures; provision of zoning for residential care facilities, transitional and supportive housing, and low-barrier navigation centers; inclusion of a reasonable accommodation procedure; and adoption of a Workforce Housing Overlay. The Town also adopted an inclusionary housing program and commercial linkage fees to help facilitate and fund future affordable housing projects.

Housing Element certification is important because several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities program, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the Town meets housing element requirements for these and other funding sources.

## **POST HOUSING ELEMENT ADOPTION ACTIVITIES**

Now that the Housing Element is certified, the Town will focus on implementing housing programs contained within the Element with the intent of adding additional housing opportunities over the next eight years. The following list summarizes the progress made on the Programs listed in Chapter Four of the Housing Element since adoption.

### **1-F: Home Sharing and Tenant Matching**

The Town has updated their website to include a page on housing opportunities for seniors which includes the promotion of Home Match Marin. Through this countywide program, the Town collaborates with Marin County to place tenants in homes of Fairfax residents who have extra space. Several successful matches have been made in Fairfax to date. Staff is exploring options with Home Match to increase promotional opportunities.

### **1-H: Accessory Dwelling Unit/Junior Accessory Dwelling Unit (ADU/JADU) Awareness**

The Town has promoted and participated in ADU Center events that provide residents of Fairfax with the opportunity to learn more about ADUs. The ADU Center offers one on one feasibility consultations for homeowners, technical assistance, vendor recommendations, and off the shelf and eventually pre-approved ADU plans. Through collaborating with other Marin jurisdictions, Fairfax can offer the services of the ADU Center.

### **1-I: Pre-Approved ADU Floor Plans**

The Town is in the process of collaborating with the ADU Center on developing pre-approved ADU plans. The State requires the Town to have these available to the public by January 1, 2025.

### **1-J: Technical Assistance**

The Town has created an ADU/JADU application checklist on the Town website. It will continue to work on providing other resources. A checklist and other resources can help residents demystify the ADU permitting process, enabling more ADUs to get built in Fairfax.

### **1-K: Fee Discounts**

The Town offers a 50 percent reduction in ADU planning application fees and has had reduced fees in place for several years (dating back to 2015). In 2020, Ordinance 844 established that all units less than 750 square feet in size were exempt from impact fees and ADUs 750 square feet or larger in size are charged proportionately in relation to the square footage of the primary dwelling unit (the floor area of the ADU divided by the floor area of the primary dwelling unit).

### **2-A: Workforce Housing Overlay (WHO)**

The Workforce Housing Overlay (WHO) was adopted on February 7, 2024. The purpose of the WHO zone is to promote the development of affordable workforce housing for lower and moderate-income households in specific areas of the town identified in the General Plan. Prior to the adoption of the Housing Element, Staff conducted an outreach campaign to identify property owners interested in inclusion in the WHO. Staff are planning another outreach campaign to encourage property owners to take advantage of the new zoning provisions.

### **2-B: Rezoning Sites from Prior Inventories**

The Workforce Housing Overlay was adopted on February 7, 2024 which rezoned many of the housing sites from prior inventories.

### **2-C: Establish Objective Design and Development Standards (ODDS)**

The ODDS were adopted for most zoning districts on November 1, 2023 and additional provisions were adopted on February 7, 2024 along with the WHO. ODDS are clear, measurable, standards for site design and architectural style that impact the design and appearance of housing or mixed-use development. ODDS help strengthen local control over the design and appearance of future housing developments while still streamlining the permitting process to comply with new State laws.

### **2-D: Standards for Low Impact Clustered Residential Development on Large Sites**

The Low Impact Clustered Residential Development zoning amendments were adopted on January 24, 2024. The intent is to expand development opportunities for market rate housing with no change in the density from what would otherwise be allowed, while creating opportunities to set aside permanent open space.

### **2-E: Affordable Housing Density Bonus**

As required by State law and to bring the Code into compliance, the Affordable Housing Density Bonus zoning amendment was adopted in November 2023.

### **2-G: Processing and Permit Procedures**

As required by State law and to bring the Code into compliance, this program was completed in November 2023. Additional provisions have been included in the Code to streamline the development process (including the ODDS described above in 2-C). Changes include revisions to review timeframes, compliance determinations, and application filing procedures. For affordable housing projects, applicants can now apply for a preliminary application, and expect a streamlined approval process if a project complies with the development standards provided in the code.

### **3-A: Zoning for Residential Care Facilities**

Included in the November 2023 updates to the zoning ordinance were amendments required by State law. This included adding development standards related to Residential Care Facilities and allowing by-right approval.

### **3-B: Transitional and Supportive Housing**

Also included in the November zoning updates were new development standards related to Transitional and Supportive Housing consistent with State law. Transitional and supportive housing are types of affordable and special needs housing linked to supportive (social) services. These housing types and accompanying services are designed to help individuals with low incomes and one or more disabilities find stable housing and live fuller lives.

### **3-C: Low-Barrier Navigation Centers**

Also included in the November zoning updates were new development standards related to Low-Barrier Navigation Centers consistent with State law. A low-barrier navigation center is a housing first, service-enriched shelter focused on moving people into permanent housing.

### **3-D: Provide Reasonable Accommodation**

A reasonable accommodation is an adjustment or waiver to a development standard to accommodate a disability. This is required by State law and a process was added to the zoning ordinance to allow for waivers as needed.

### **3-E: Inclusionary Housing Program and Commercial Linkage Fee**

Inclusionary programs require that a percentage of the total housing units in a proposed project be made available to moderate and/or lower income households through a long-term affordability agreement or a payment fee in lieu of construction of the units. This program was completed in November 2023 with the adoption of zoning ordinance amendment to require the construction of affordable housing and/or the payment of inclusionary housing in-lieu fees when new residential units are constructed.

### **3-F: Tenant Protections**

To implement the enacted tenant protections ordinances adopted in November 2022 (Ordinance No. 870 and Ordinance No. 871) and amended in September 2023 (Ordinance No. 882), the Town has posted information on legal rights and duties to the Town website in addition to other resources for tenants to access as advised to by Program 3-F. The Town has recently established a procedure for individual rent adjustments through a petition process in Ordinance No. 888 in order to provide both tenants and landlords an avenue for dispute resolutions. The Town will continue to make progress on this program by preparing and distributing brochures and creating a report on rental housing in Fairfax.

### **3-H: Housing for Special Needs Populations and Extremely Low-Income Households**

The Town has started contacting affordable housing developers, and will continue throughout the year to identify opportunities and connect them with available assistance programs. The Town will continue to facilitate the production of affordable housing through the other initiatives in the program.

#### **4-A: Affirmative Marketing of Affordable Housing Opportunities**

The Town has started to prepare information on available sites and potential opportunities for affordable housing in Fairfax and is working on compiling a list of developers for distribution. The Town is making progress towards the other initiatives of the program as well.

#### **4-C: Mediation and Enforcement**

The Town has posted on its website resources detailing fair housing practices and is making progress towards working with Fair Housing Advocates of Northern California (FHANC) and Marin County Planning to conduct workshops and seminars in the future.

#### **4-F: Fair Housing Information**

The Town has made information available on the Town website about fair housing requirements, fair housing programs, and agencies where they can report cases of suspected discrimination. It is making progress towards the other related initiatives.

#### **4-G: Disavowal of Racially Restrictive Covenants**

Discriminatory covenants are already illegal and unenforceable per California State law (AB 1466), so nothing requires homeowners or homebuyers to remove them from older county records when they are discovered. However, California law does provide a way for consumers to initiate the removal of these discriminatory covenants through the use of a “Restrictive Covenant Modification” form (RCM), which can be completed and submitted to the Marin county recorder to effectuate the redaction of discriminatory racial covenants. The Town has posted information and links to Marin County’s program to disavow racially restrictive covenants on its Fair Housing webpage.

#### **5-D: Staff Housing Specialist**

The Town hired a housing specialist as an associate planner in March of 2024. This position will be instrumental in the implementation of Town housing programs.

### **NEXT STEPS**

Going forward, the Town will focus on implementing programs identified for progress in the 2024 timeframe listed below. For more details on the timing of program implementation, see the descriptions of programs in Chapter Four of the Housing Element. In addition to the programs listed below, Chapter Four discusses other programs for implementation targeted for 2025 through 2028.

- Release RFP for town-owned sites (Program 1-C)
- Host pop up events around Town to raise awareness about ADUs (Program 1-H)

- Work with the ADU Center on pre-approved ADU plans (Program 1-I)
- Identify lending partners for ADU financial assistance program (Program 1-L)
- Release RFP for Focused Geologic Study in the Town Center area (Program 2-J)
- Make subdivision amendments, checklists, and recommendations for changes to impact fees (Program 2-H)
- The Zoning Ordinance will be revised to comply with State law regarding the treatment of transitional and supportive housing facilities (3-B)
- Prepare and distribute a brochure on tenant protections (Program 3-F)
- Create a Fairfax report on rental housing (Program 3-F)
- Include information on California State law AB 1466 and Marin County's Racially Restrictive Covenant Disavowal Program in Town newsletter (Program 4-G)