



# FAIRFAX TOWN COUNCIL MEETING

## STAFF REPORT

**MEETING DATE** September 3, 2025

**PREPARED FOR** Mayor and Town Council

**PREPARED BY** Jeffrey Beiswenger, Planning & Building Services Director

**SUBJECT** Approve Responses to the 2024-2025 Marin County Civil Grand Jury Report entitled *The Worrisome Future of Marin Housing*

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### RECOMMENDATION

Approve responses to the Marin County Civil Grand Jury Report entitled [\*The Worrisome Future of Marin Housing\*](#).

### BACKGROUND

In California, civil grand juries are authorized to “investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit” ([Cal. Penal Code section 925a](#)). Within 90 days after the grand jury submits a report regarding the operations of any public agency, the “governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body...” ([Cal. Penal Code section 933\(c\)](#)). The written response must be submitted to Judge James Chou by September 15, 2023.

On June 24, 2025, the Marin County Civil Grand Jury released a report entitled [\*The Worrisome Future of Marin Housing\*](#) (Attachment A). The Grand Jury report focused on the progress Marin cities and towns are “making to ease the housing crunch by supporting the development of new housing.” The Grand Jury has requested the Town to respond to Findings F1-F9 and Recommendations R1-R6.

### DISCUSSION

Staff has reviewed the Grand Jury Report and drafted responses (Attachment B). The responses show where the Town agrees and disagrees with the findings and has made several comments on the recommendations.

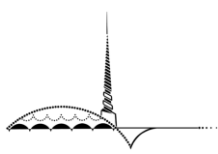
To develop draft responses, Town staff worked closely with the Marin Housing Working Group, which is made up of the County and 11 cities and towns of Marin, with membership consisting of housing and planning staff of each jurisdiction. The issues related to housing are extremely complex and vary significantly from one jurisdiction to another. It was helpful to start with responses that were common to all jurisdictions and then identify differences. Each jurisdiction is preparing a report unique to conditions with each community. Once the draft responses were developed, Fairfax staff wrote the final responses (see Attachment B), to represent the specific Fairfax perspective on the Grand Jury findings and recommendation.

**FISCAL\_IMPACT**

None.

**ATTACHMENTS**

- A. Grand Jury Report: *The Worrisome Future of Marin Housing*
- B. Responses to Grand Jury Report



# **The Worrisome Future of Marin Housing**

## **NIMBY Resistance Takes a Backseat to Economic Reality**

### **June 24, 2025**

#### **SUMMARY**

California is an expensive place to live, and Marin County (Marin) has the third-highest median home price among all California counties.<sup>1</sup> In 2023, four in ten Californians considered moving out of California due to the high cost of living.<sup>2</sup> Housing is by far the largest expense for most families.<sup>3</sup> The 2024-25 Marin County Civil Grand Jury (Grand Jury) investigated the progress Marin’s housing jurisdictions (Marin’s cities, towns, and the County of Marin (County)) are making to ease the housing crunch by supporting the development of new housing as required by the California Regional Housing Needs Allocation (RHNA) program.<sup>4</sup> Building more housing (even market-rate housing) has been shown to ease housing costs at all income levels.<sup>5</sup> The Grand Jury found that while most Marin jurisdictions are making good faith efforts to execute their housing plans, most, if not all, Marin housing jurisdictions will fail to achieve the state-mandated new housing goals for the current planning cycle.

The Grand Jury determined through interviews that despite the changes in state law since 2017, designed to encourage more housing, the current housing cycle goal requiring the issuance of 14,405 building permits across the 12 Marin housing jurisdictions is unrealistic and is unlikely to be achieved. In the current environment, the availability of housing expertise, building sites, and the cost of financing, building materials, and construction labor do not provide developers a reasonable economic return to build housing. The lack of a financial incentive to build more housing significantly impacts new housing production.

The Grand Jury discussion and recommendations that follow to support new housing production are organized under the following topics:

- Housing affordability impact on Marin’s workforce
- The community’s role in housing development
- Streamlined planning and permitting for multifamily and ADU housing
- Increased investment in multifamily affordable housing
- Improved site availability to support new housing

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<sup>1</sup> Current Sales & Price Statistics, Median Sold Price of Existing Single-Family Homes, April 2025 <https://www.car.org/marketdata/data/countysalesactivity> (accessed 5/14/25).

<sup>2</sup> Sara Chernikoff, “California is Home to the Most Expensive Housing Markets in the US: See a Nationwide Breakdown,” *USA Today*, March 12, 2024, <https://www.usatoday.com/story/money/2024/03/12/most-expensive-housing-markets-in-america/72930811007/>, (accessed 5/14/25).

<sup>3</sup> “Consumer Expenditures,” *U.S. Bureau of Labor Statistics*, September 25, 2024, <https://www.bls.gov/news.release/cesan.nr0.htm>, (accessed 5/14/25).

<sup>4</sup> The term “Marin” means the entire county, including all cities, towns, and the unincorporated area governed by the County of Marin. The term “County” means the county governmental agencies within Marin. The term “housing jurisdiction” refers to a region (county, town or city) that is required to file and execute a housing element.

<sup>5</sup> W. E. Upjohn Institute, “How Even Luxury Housing Can Help Solve the Housing Shortage,” page 7, <https://research.upjohn.org/cgi/viewcontent.cgi?article=1314&context=reports>, (accessed 5/19/25).

There are significant consequences if Marin’s housing jurisdictions fail to meet the current cycle goal. Under State law, failure to make adequate progress in achieving their mandated housing goals exposes jurisdictions to lawsuits, penalties, loss of permitting authority, and approval processes, all of which could substantially impact future housing.<sup>6</sup> The Grand Jury recommendations focus on improving citizen engagement and maximizing multifamily and Accessory Dwelling Unit (ADU) development to increase the odds of achieving Marin's housing goals.

## **BACKGROUND**

The Grand Jury determined through interviews that Marin has a housing challenge. Marin residents believe that housing and homelessness are the two biggest priorities in the County.<sup>7</sup> The Marin County Board of Supervisors (BOS) deems improving the supply of affordable housing and permanent supportive housing as the most important priority for the County.<sup>8</sup> Interviews with numerous local leaders indicate that housing substantially impacts Marin’s ability to attract and retain private and public-sector employers and their workforce.

## **The Housing Cycles and the General Plan**

Since 1969, California has required every local municipality (towns, cities, and counties) to create a housing plan (called a “Housing Element”) that describes how the municipality or housing jurisdiction plans to address its existing and future housing needs and support a variety of housing types for different income levels. Each eight-year period is referred to as a “cycle.” The 5th cycle for Northern California counties began on January 31, 2015, and ended on January 31, 2023. The 6th cycle began on February 1, 2023, and ends on January 31, 2031.<sup>9</sup>

The Housing Element process requires housing jurisdictions to assess available land for residential development, considering factors that might constrain housing production, such as zoning laws, environmental regulations, and market conditions. The Housing Element process also requires housing jurisdictions to enact policies and programs that prevent discrimination and foster inclusive communities, including those that ensure housing is accessible to all, regardless of race, ethnicity, religion, gender, or economic status. Public participation is an important component of the development of the Housing Element process because it allows community members to contribute input and feedback, which helps to shape policies that reflect local needs and priorities. As each cycle progresses, jurisdictions are required to demonstrate progress

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<sup>6</sup> Association of Bay Area Governments, “Consequences of Non-Compliance with Housing Laws,” June 2021, <https://abag.ca.gov/sites/default/files/documents/2021-06/Consequences%20of%20Non-Compliance%20with%20Housing%20Laws.pdf>, (accessed 5/14/25).

<sup>7</sup> Richard Halstead, “Marin Survey Outlines Residents’ Top Priorities, with Housing in Lead,” *Marin Independent Journal*, November 12, 2023, <https://www.marinij.com/2023/11/12/marin-survey-outlines-residents-top-priorities-with-housing-in-lead/>, (accessed 5/14/25).

<sup>8</sup> County of Marin Office of the County Executive, “How the County Budget is Created: County Service Funding Levels,” January 19, 2024 update, <https://www.marincounty.gov/departments/executive/budget-and-priority-setting/how-county-budget-created/>, (accessed 5/14/25).

<sup>9</sup> California Department of Housing and Community Development, “Housing Element and Regional Housing Needs Determination Schedule”, ABAG Planning Period, <https://www.hcd.ca.gov/planning-and-community-development/housing-element-and-regional-housing-needs-determination-schedule>, (accessed 5/14/25).

toward achieving these goals. Lack of progress creates the potential for legal actions by the state to increase accountability.<sup>10</sup>

## **The 5th Housing Cycle Goals and Results**

During the 5th housing cycle, the California legislature recognized that the pace of housing construction was not rebounding from the 2008-2010 financial crisis, which devastated the development of new housing in California.<sup>11</sup> The lawmakers also recognized housing development was not keeping pace with new household formation driven by growth in health care, information technology, and other areas of the California economy.<sup>12</sup> The deficit between the housing required and the housing available increased housing prices, making California the second most expensive housing market.<sup>13</sup>

During the 5th cycle, nine of 12 Marin housing jurisdictions met their jurisdiction-level housing goals. The three municipalities that failed to achieve their jurisdiction-level goal were: Tiburon (36 percent of the goal), Belvedere (63 percent of the goal), and San Rafael (55 percent of the goal). In addition, San Anselmo (88 percent of goal), Sausalito (88 percent of goal) met their overall jurisdiction 5th cycle goals, but failed to achieve their very low-income housing goals.<sup>14</sup> Figure 1 shows how all Marin housing jurisdictions performed compared to the original 5th cycle goal.<sup>15</sup> In total, Marin's 12 housing jurisdictions achieved their overall 5th cycle goal of 2,298 by permitting 2,605 housing units.

## **The 6th Housing Cycle Goals and Results to Date**

In response to the continued housing deficit, in the 6th cycle, the California Department of Housing and Community Development (HCD) significantly increased the RHNA (California Government Code section 65580, et seq.) housing goals for the 539 housing jurisdictions in California.<sup>16</sup> Figure 1 shows how, in the 6th cycle, Marin jurisdictions are required to permit 14,405 units for an increase of 627 percent compared to the 5th cycle. The substantial increase in the housing goal for Marin jurisdictions was based on an evaluation of 5th cycle results, population and household growth, employment growth, and other factors, and was supported by

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<sup>10</sup> U.S. Department of Housing and Urban Development, "Advancing Fair Housing at the State Level, page 4, <https://www.hcd.ca.gov/sites/default/files/docs/hud-exchange-advancing-fairhousing-2024.pdf>, (accessed 5/14/25).

<sup>11</sup> ft Editorial Staff, "California Residential Construction Starts", *firsttuesday Journal*, April 14, 2025, [https://journal.firsttuesday.us/the-rising-trend-in-california-construction-starts/17939/#:~:text=56%2C700%20SFR%20starts%20took%20place,was%202011%20with%2022%2C000%20st arts,](https://journal.firsttuesday.us/the-rising-trend-in-california-construction-starts/17939/#:~:text=56%2C700%20SFR%20starts%20took%20place,was%202011%20with%2022%2C000%20st arts,(accessed 5/14/25).) (accessed 5/14/25).

<sup>12</sup> California Center Jobs & The Economy, "California Employment Report for May 2019," page 4, <https://centerforjobs.org/wp-content/uploads/2019-May-job-facts-1.pdf>, (accessed May 14, 2025).

<sup>13</sup> David McMillin, "Median Home Prices in Every State," *BankRate*, April 8, 2025, <https://www.bankrate.com/real-estate/median-home-price/>, (accessed 5/2/25).

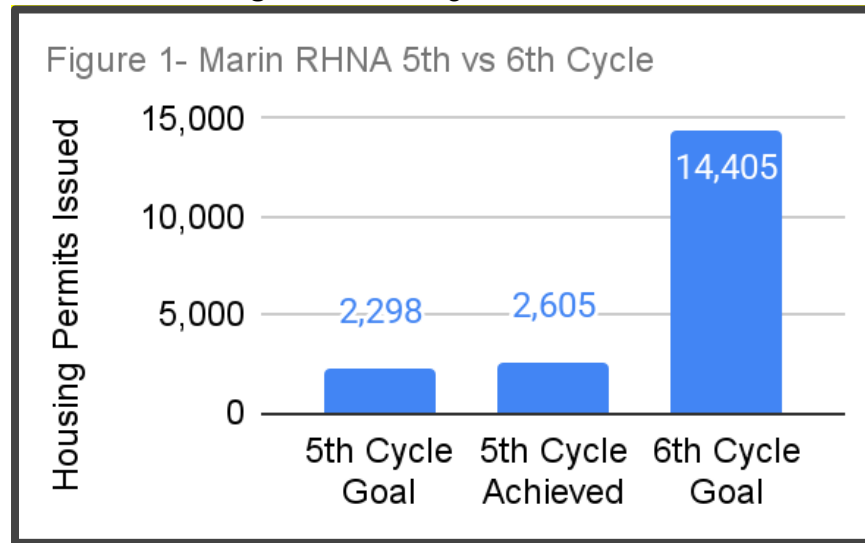
<sup>14</sup> HCD, "Table of Regional Housing Needs Allocations RHNA Cycle 5 (2015-2023): Building Permit Activity by Jurisdiction," [https://abag.ca.gov/sites/default/files/documents/2024-02/2015-2023\\_Bay\\_Area\\_RHNA\\_Progress\\_Report-.pdf](https://abag.ca.gov/sites/default/files/documents/2024-02/2015-2023_Bay_Area_RHNA_Progress_Report-.pdf), (accessed 5/14/25).

<sup>15</sup> HCD, "Table of Regional Housing Needs Allocations RHNA Cycle 5 (2015-2023): Building Permit Activity by Jurisdiction."

<sup>16</sup> HCD, "Annual Progress Reports - Data Dashboard and Downloads," slide 9, <https://www.hcd.ca.gov/planning-and-community-development/housing-element-implementation-and-apr-dashboard> (accessed 5/14/25).

new laws that attempted to reduce the barriers that affordable and market-rate housing developers faced in building new housing.<sup>17</sup>

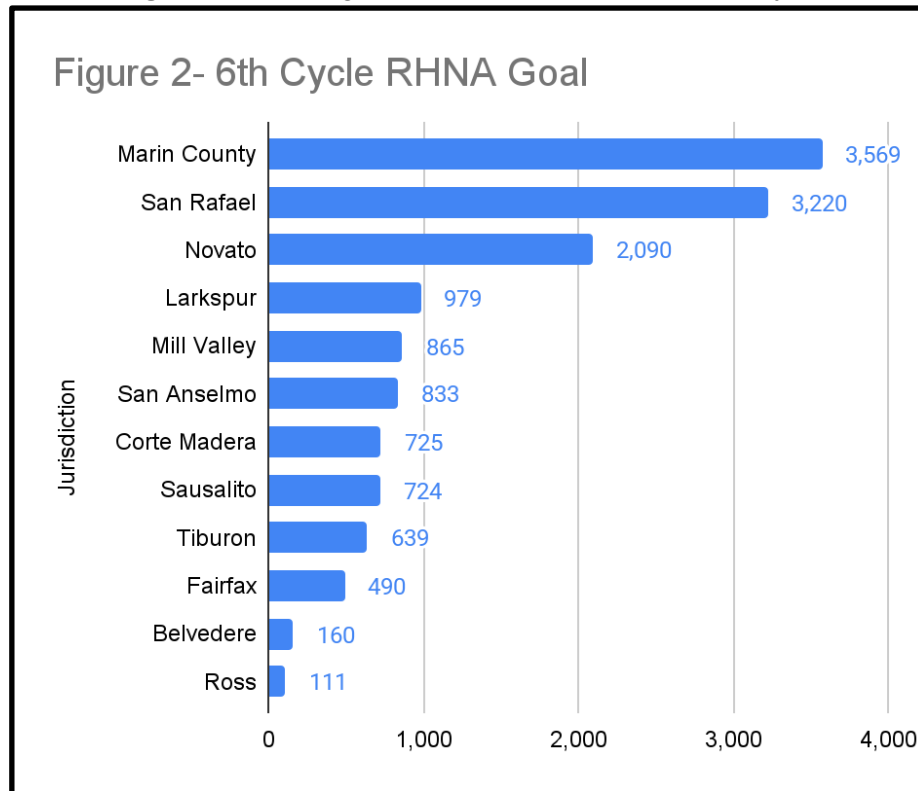
**Figure 1: Housing Permits Issued**



Source: California Department of Housing and Community Development

During 2023-2024, each Marin housing jurisdiction developed its plan and gained approval of those plans from the HCD. The jurisdictions then rezoned land parcels to conform to their approved RHNA plans. Figure 2 shows the housing permit requirements for the 12 Marin jurisdictions for the 6th cycle:

<sup>17</sup> <https://www.hcd.ca.gov/planning-and-community-development/regional-housing-needs-allocation>, (accessed 5/25/25).

**Figure 2: Housing Units Required Under the 6th Cycle**

Source: California Department of Housing and Community Development

## Key Housing Elements Definitions

To help housing jurisdictions achieve the aggressive 6th cycle goals, HCD created an online portal to track the compliance of all jurisdictions with RHNA goals.<sup>18</sup> The portal organizes housing development into four processes:

1. Submitted — Housing application submitted
2. Entitled — All application documents are complete and approved
3. Permitted — All construction permits are approved
4. Completed — Property is ready for occupancy

A housing development is deemed entitled (Step 2) once the planning process is completed. Housing jurisdictions gain an RHNA credit once a housing development is permitted (Step 3).

HCD also categorizes housing based on the median income of households in the housing jurisdiction.<sup>19</sup> The RHNA goals are evenly split between lower income (0-80 percent of the

<sup>18</sup> “Annual Progress Reports - Data Dashboard and Downloads,” slide 2, *California Department of Housing and Community Development*, <https://www.hcd.ca.gov/planning-and-community-development/housing-element-implementation-and-apr-dashboard> (accessed 5/14/25).

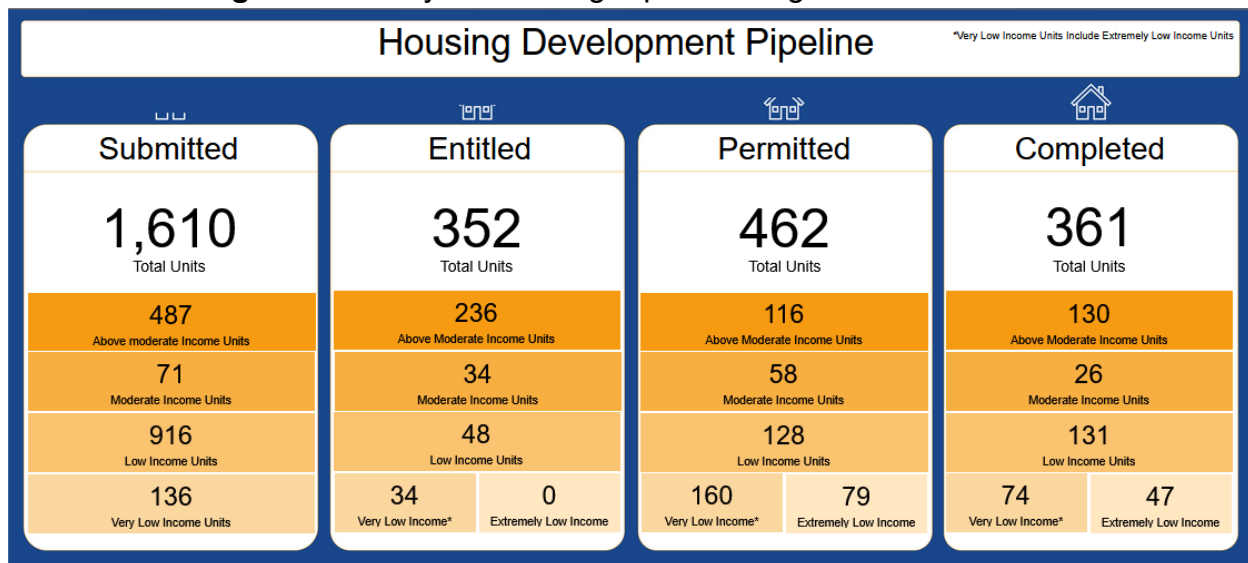
<sup>19</sup> “Income Limits,” *California Department of Housing and Community Development*, <https://www.hcd.ca.gov/grants-and-funding/income->



jurisdiction's median income) and moderate and above-moderate income (over 80 percent of the jurisdiction's median income).<sup>20</sup>

The information published by HCD shows that as of January 31, 2024 (the date of the latest available information), Marin lags far behind its 6th cycle goals (see Figure 3). Marin housing jurisdictions need to permit an average of 1,800 housing units per year to achieve the 14,400 unit goal over the entire 6th cycle. However, in the first year of the 6th cycle (2023), all Marin housing jurisdictions combined permitted only 462 units (see column labeled "Permitted") or only 25 percent of the annual 1,800 unit requirement. Anecdotal information for 2024 indicates permit activity consistent with 2023.<sup>21</sup>

**Figure 3: 6th Cycle Housing Pipeline Progress as of 1/31/24**



Source: California Department of Housing and Community Development

## Reasons for the Poor 6th Cycle Results

Despite the general population's agreement that California has a housing crisis,<sup>22</sup> a major impediment to new housing has historically been community resistance.<sup>23</sup> The Grand Jury determined through interviews that in the past, the "Not In My Backyard" (NIMBY) resistance from members of the Marin community has been formidable. Among other tactics, community members may oppose new housing development in Marin by citing the California Environmental

[limits#:~:text=Extremely%20low%20income%3A%2015%2D30,80%25%20to%20120%25%20of%20AMI,](#) (accessed 5/14/25).

<sup>20</sup> Citizen Marin "California Housing Mandates and RHNA," Table H-4.1, <https://citizenmarin.org/rhna%3F>, (accessed 5/14/25).

<sup>21</sup> "Creation of New Housing," *County of Marin*, <https://data.marincounty.org/stories/s/Creation-of-New-Housing/k2pv-b86k>, (accessed 5/14/25).

<sup>22</sup> Californians and the Housing Crisis," *Public Policy Institute of California*, <https://www.ppic.org/interactive/californians-and-the-housing-crisis/>, (accessed 5/14/25).

<sup>23</sup> Bruce Maiman, "NIMBYism is a California Thing, and it's Wrecking Cities. Consider Loomis," *CAL Matters*, August 28, 2019, <https://calmatters.org/commentary/2019/08/nimbyism-in-suburban-sacramento/>, (accessed 5/14/25).



Quality Act (CEQA).<sup>24</sup> Although not all CEQA challenges are inappropriate, the ability of community members to create obstacles has resulted in project delays, time-consuming litigation, and often project cancellation. Litigation over planning decisions and project approvals has both delayed the process and, importantly, raised the price of potential development to the point where the development was no longer economically viable.<sup>25</sup>

Recognizing these impediments, the California Legislature passed over 100 laws<sup>26</sup> from 2017 to 2024 designed to reduce the ability of community members to block new housing and increase the ability of the communities to permit new housing construction. These new laws often provide ministerial processes to encourage and streamline new housing development. These laws restrict housing jurisdictions from delaying or denying projects based on subjective criteria such as community character, color, and/or design style. The new laws allow developers to bypass such legacy housing restrictions, and some laws encourage local jurisdictions to develop a set of objective standards for developers to follow.

In interviews with local housing leaders, they praised some of these new laws and also commented that they introduced more complexity into the development process. Through its investigation, the Grand Jury learned that housing leaders struggle to understand the impact of these new laws and new ministerial processes that support many different decision-making protocols; and, every Marin jurisdiction has adopted its own ministerial processes, but has struggled to align these local codes to the complex new state laws.

The Grand Jury determined through interviews that builders of new housing in Marin face significant cost challenges that make building housing financially unattractive. High interest rates, construction and labor costs, complex state and local building rules and codes, and a lack of available land provide for-profit housing developers with inadequate incentive compared to other investment opportunities. Affordable housing developers access different sources of financing, but face the same cost pressures that impact market-rate housing developers, and they also face restrictions on rental rates that further reduce the financial incentives for the development.

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<sup>24</sup> Dan Walters, “How Environmental Law is Misused to Stop Housing,” *Cal Matters*, <https://calmatters.org/commentary/2023/01/how-environmental-law-is-misused-to-stop-housing/>, (accessed 5/14/25).

<sup>25</sup> Conor Dougherty, “Twilight of the NIMBY,” *The New York Times*, <https://www.northbaybusinessjournal.com/article/news/twilight-of-the-nimby-though-blamed-for-the-housing-crisis-theyre-not-gi/>, subscription required (accessed 5/14/25).

<sup>26</sup> “California’s 2024 Housing Laws: What you Need to Know,” Section on Streamlining, *Holland and Knight Law Firm*, <https://www.hkllaw.com/en/insights/publications/2023/10/californias-2024-housing-laws-what-you-need-to-know>, (accessed 5/14/25).

## **APPROACH**

In order to prepare findings and recommendations to address the complex problem of housing in Marin, the Grand Jury pursued the following:

- Conducted research into the physical and economic conditions and demographics of Marin, including population, economic and financial data regarding land use policies/constraints, and housing supply and demand
- Reviewed historical construction data of new housing in Marin
- Interviewed Marin town and city planning directors
- Interviewed Marin County Community Development Agency leadership
- Interviewed local housing developers and attorneys who support Marin housing development
- Researched issues and interviewed leaders of housing advocacy organizations
- Researched recent state laws intended to increase the quantity of housing in California
- Conducted a detailed review of the current cycle of the Marin RHNA housing requirements and evaluated each Marin jurisdiction's progress toward reaching the goals

## **DISCUSSION**

### **Housing Affordability Impact on Marin's Workforce**

Housing affordability is a key challenge for many current Marin households and people who would like to live and work in Marin. Households are considered cost-burdened when they spend more than 30 percent of their income on housing.<sup>27</sup> A majority of Marin renters (58 percent) are cost-burdened, and 38 percent of Marin homeowners spend more than 30 percent of their income on housing.<sup>28</sup>

As Figure 4 illustrates, decreased new housing construction, which contributed to increased housing prices, was decades in the making. The building of single-family residences in Marin peaked in the early 1970s and bottomed out by 2010. (See the thin red line in Figure 4.) By the end of the 1990s, easy-to-build-upon flat parcels of land were hard to find, and Marin's housing jurisdictions created local ordinances limiting hillside construction that supported housing during earlier periods.<sup>29</sup>

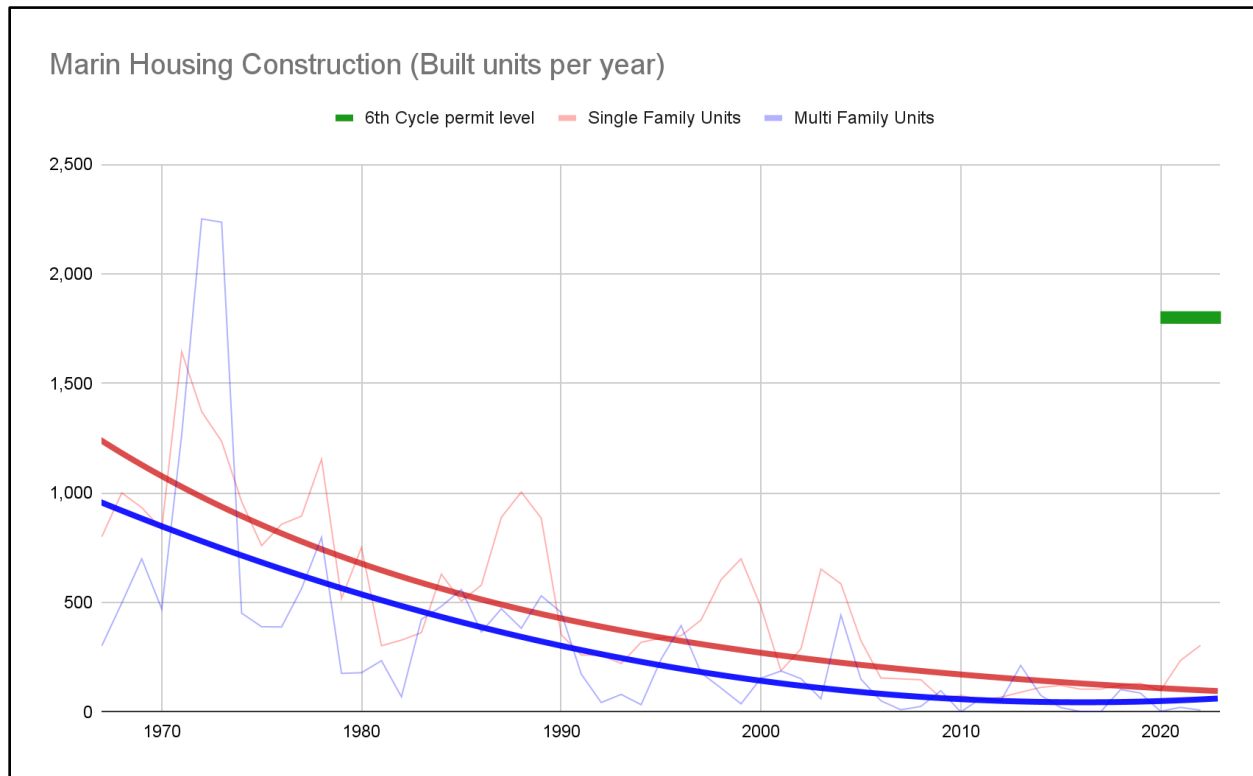
Construction of multifamily housing units followed a similar trend (See the light blue line in Figure 4). Construction peaked in the 1970s, but dropped precipitously starting in the 1980s and has not recovered. The solid red line in Figure 4 represents the 6th cycle yearly goal, which shows Marin would need a very large increase in housing construction to reach its RHNA goals.

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<sup>27</sup> Sara Kimberlin, "California's Housing Affordability Crisis Hits Renters and Households With the Lowest Incomes the Hardest, page 1, *California Budget & Policy Center*, April 2019, [https://calbudgetcenter.org/app/uploads/2019/04/Report\\_California-Housing-Affordability-Crisis-Hits-Renters-and-Households-With-the-Lowest-Incomes-the-Hardest\\_04.2019.pdf](https://calbudgetcenter.org/app/uploads/2019/04/Report_California-Housing-Affordability-Crisis-Hits-Renters-and-Households-With-the-Lowest-Incomes-the-Hardest_04.2019.pdf), (accessed 5/14/25).

<sup>28</sup> County of Marin, "Housing Affordability in Marin County," <https://data.marincounty.org/stories/s/Housing-Affordability-in-Marin/eixh-kvn2/>, (accessed 5/14/25).

<sup>29</sup> City of San Rafael, "Hillside Guidelines Handout," <https://www.cityofsanrafael.org/11071-2/>, (accessed 5/14/25).

**Figure 4: Marin Housing Construction (Built units per year - 1965-2023)**

Source: Marin County Community Development Agency

Each jurisdiction conducts a rigorous evaluation of its future housing needs and describes the plan to fulfill those needs in its Housing Element. Marin housing jurisdictions face the challenge that the current housing stock of family-oriented single-family housing built primarily in the 1970s and 1980s is often not well aligned with the current or future population, dominated by older, often single, adults. About one-third of all current Marin households house only one resident, yet over 70 percent of Marin's housing stock is single-family residences with multiple bedrooms.<sup>30</sup> The affordable housing type often best suited to serve the needs of Marin's median-income workforce is multifamily rental housing located close to transportation and services. In identifying sites for their Housing Elements, many Marin jurisdictions have struggled to find sites appropriate for this type of housing during the Housing Element development process.

The lack of new housing stock contributed significantly to rising Marin median housing prices, which increased by over \$1 million in the eight-year period between 2013 to 2021 (from \$966,000 to \$1.91 million, a 98 percent increase).<sup>31</sup> Over that same period, median household income in Marin only increased by 45 percent. In addition, housing costs impact affordable

<sup>30</sup> "2023-2031 Housing Element," Marin Countywide Plan, Table H-2,15: Housing Units by Type, Countywide, page 32, [https://www.marincounty.gov/sites/g/files/fdkgoe241/files/2024-05/2023-2031\\_marincountyhousingelement\\_chapter2.pdf](https://www.marincounty.gov/sites/g/files/fdkgoe241/files/2024-05/2023-2031_marincountyhousingelement_chapter2.pdf), (accessed 5/14/25).

<sup>31</sup> "2023-2031 Housing Element," Marin Countywide Plan, Table H2.4, page 45.

housing residents more than market-rate housing residents, since housing consumes a much higher percentage of the household budgets for the affordable group.<sup>32</sup>

The consequences of high housing costs are significant and impact Marin's public-sector workforce. According to Marin public-sector leaders interviewed by the Grand Jury, 60 percent of public-sector workers (including teachers, police, and fire) do not live in Marin. These leaders indicate that the lack of local affordable housing is the primary reason why these workers are forced to live in other counties, which impacts employee job satisfaction and retention.<sup>33</sup> More broadly, housing costs are the number one reason why people are leaving California.<sup>34</sup>

## **The Community's Role in Housing Development**

Marin has had the reputation of being anti-growth for a long time. Dating back to the 1960s, residents and local officials actively opposed large-scale housing projects to maintain local control, preserve the county's scenic landscapes, and protect its unique character.<sup>35</sup> At the time, these pro-environmental values were widely celebrated in popular culture.<sup>36</sup> Historically, the public hearing process has been a deterrent to building housing because the process discounts the value of objective information and technical expertise in favor of subjective opinions that prioritize speakers who are unrepresentative of the whole community and provide few mechanisms for addressing misinformation.<sup>37</sup> Against this backdrop, the Grand Jury was surprised to repeatedly and consistently hear from local planning directors, developers, and other housing experts that community opposition is *not* currently the most significant impediment to the development or construction of housing.

In recent years, there has been a growing recognition across the country of the severe housing crisis.<sup>38</sup> Much has been written about how the NIMBY tide is receding in California.<sup>39</sup> This is

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<sup>32</sup> Examiner Staff, Low-wage Workers Might Make More in SF, but Housing Costs are Still out of Reach, *San Francisco Examiner*, February 10, 2015, [https://www.sfexaminer.com/news/low-wage-workers-might-make-more-in-sf-but-housing-costs-are-still-out-of/article\\_7415c2ac-3dc9-55dc-97d3-c48b52708f12.html](https://www.sfexaminer.com/news/low-wage-workers-might-make-more-in-sf-but-housing-costs-are-still-out-of/article_7415c2ac-3dc9-55dc-97d3-c48b52708f12.html), (accessed 5/14/25).

<sup>33</sup> Confidential Interviews

<sup>34</sup> Hans Johnson and Eric McGhee, "Who's Leaving California and Who's Moving In," *Public Policy Institute of California*, <https://www.ppic.org/blog/whos-leaving-california-and-whos-moving-in/>, (accessed 5/14/25).

<sup>35</sup> Among the most significant housing proposals blocked by local activists was the massive Marinello planned community in the Marin Headlands and expansions of 101 and Sir Francis Drake Blvd to prevent improved access to Western Marin, thwarting the development of significant housing there. This Small is Beautiful movement generally advocated for small, local control of decision making. See Mary Perot Nicols, "Buildings Are Judgement - II," *Ramparts*, May 1975, p. 50.

<sup>36</sup> See popular songs such as Joni Mitchell's 1970 song "Big Yellow Taxi."

<sup>37</sup> Anika Singh Lemar, "The Public Hearing Process For New Housing is Broken. Here's How to Fix it," *The Brookings Institute*, May 4, 2022, <https://www.brookings.edu/articles/the-public-hearing-process-for-new-housing-is-broken-heres-how-to-fix-it/>, (accessed 5/14/25).

<sup>38</sup> Conor Dougherty, "Why Too Few Homes Get Built in the US," *The New York Times*, Aug 22, 2024, <https://www.nytimes.com/2024/08/22/briefing/us-housing-crisis.html>, (accessed 5/14/25); Also, see Conor Dougherty, "America's Affordable Housing Crisis," *The New York Times*, March 27, 2024, <https://www.nytimes.com/2024/03/27/briefing/affordable-housing-crisis.html>, (accessed 5/14/25); And also, Lily Geismer, "America Needs a New Approach on Affordable Housing: History Offers a Guide," *AOL*, March 25, 2024, <https://www.aol.com/america-needs-approach-affordable-housing-150752019.html>, (accessed 5/14/25).

<sup>39</sup> See, for example, Annie Lowrey "Four Years Among the NIMBYs," *The Atlantic*, May 12, 2022, <https://www.theatlantic.com/ideas/archive/2022/05/san-francisco-bureaucracy-housing-crisis/629719/>, subscription required, (accessed 5/14/25).

especially true in the Bay Area.<sup>40</sup> While some Marin residents still express concerns about potential impacts on neighborhood character, infrastructure strain, and environmental considerations, this is somewhat balanced by YIMBYs (Yes in My Backyard) advocating for increased housing production to address affordability and availability issues. At some point, California residents who were concerned about growth went from being viewed as noble protectors of the environment to being criticized for perpetuating inequality.<sup>41</sup>

The Grand Jury determined through interviews that recent California legislation has reduced the ability of residents to significantly disrupt or influence most housing development projects. Since 2017, California lawmakers have passed over 100 pieces of legislation intended to combat the growing housing affordability and availability crises by shifting housing policy from the local level to the state. In confidential interviews, the Grand Jury heard from both developers and planning directors throughout Marin that new state laws significantly reduce the ability of local jurisdictions to deny housing projects that meet objective requirements, even if there is community opposition.

The Grand Jury determined through interviews that Marinites may now refrain from saying explicitly they are anti-growth, but they are still anxious about change and have legitimate concerns about how housing development may impact their communities. Traffic and emergency evacuation remain concerns for many Marin residents. While the state-led RHNA program limits local community discretion, the local jurisdictions still have an interest in being responsive to their constituents. Marin jurisdictions can encourage housing development, while at the same time making their communities feel heard and addressing their concerns by following a set of best practices.

## **When Should Community Engagement Occur?**

Numerous housing leaders told the Grand Jury that the public often fails to understand that recent changes in California law have streamlined the planning process and prevent the use of subjective criteria as a basis for project denial. Repeatedly, the Grand Jury was told that jurisdictions should engage their communities proactively during the development of the Housing Element and the rezoning processes that increase site density – not merely reactively on a project-by-project basis. Under current state housing laws, community opposition occurring in response to a housing application may well be too late for the community to have significant input.<sup>42</sup> Depending on the jurisdiction, there may not be a hearing or a requirement to obtain an

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<sup>40</sup> The San Francisco Chronicle has had a regular, dedicated section entitled “Bay Area Housing Crisis.”

<sup>41</sup> Conor Cougherty, “Twilight of the NIMBY,” June 5, 2022; See Also, Sophia Bollag, “Gavin Newsom Ups Pressure on Cities to Build More Housing,” *San Francisco Chronicle*, May 22, 2022, <https://www.sfchronicle.com/politics/article/newsom-housing-17188515.php>, (accessed 5/14/25).

<sup>42</sup> Anika Singh Lemar, “The Public Hearing Process For New Housing is Broken. Here’s how to fix it,” *The Brookings Institute*, May 4, 2022, <https://www.brookings.edu/articles/the-public-hearing-process-for-new-housing-is-broken-heres-how-to-fix-it/>, (accessed 5/14/25).

environmental impact report (EIR) under CEQA.<sup>43</sup> In particular, if the project is eligible for ministerial approval, there will be limited opportunities for community input.

Jurisdictions should take steps to ensure the community understands changes in California housing law that impact the community input process. If jurisdictions fail to keep their residents informed as developers accrue entitlements and building permits under the new state laws, there is the risk of backlash when the community becomes aware of a development only once construction has begun.

## **What Type of Engagement is Best?**

Studies show that intentional and accessible engagement with the community leading up to the development of a Housing Element or housing up-zoning can help garner broad support for development.<sup>44</sup> Marin housing leaders describe an array of best practices, including:

- Holding public forums about building ADUs, with staff participation from a multitude of agencies (planning, building, fire, water, and sanitary district).
- Engaging people where they already socialize, shop, and play, e.g., farmers markets, sporting events, music events, and parks.
- Using multiple means of communication, including a robust town website, postings on social media, and outreach to community newsletters published by residents.
- Putting a human face on the housing crisis. One jurisdiction created a video, highlighting people in the community who were on the verge of being unhoused.

Studies show that best practices include acknowledging that residents may have legitimate concerns about development, such as increased traffic, but planners should reorient the conversations away from what residents might lose from increased growth and, instead, focus on what they will gain.<sup>45</sup> The Grand Jury determined through interviews that planners could help connect the dots for residents so they understand that more housing means more vibrant towns in Marin with greater local amenities; and that more affordable housing could help alleviate the local shortages of workers in retail, homecare, and local government. For residents with climate change concerns, planners could emphasize that local housing development means local workers driving fewer miles across the county.

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<sup>43</sup> “California’s 2024 Housing Laws: What you Need to Know,” California Environmental Quality Act (CEQA), *Holland and Knight Law Firm*, <https://www.hklaw.com/en/insights/publications/2023/10/californias-2024-housing-laws-what-you-need-to-know> (accessed 5/14/25).

<sup>44</sup> Turner Center for Housing Innovation, “Lessons in Land Use Reform: Best Practices for Successful Upzoning,” page 3, *UC Berkeley*, December 1, 2019, [https://turnercenter.berkeley.edu/wp-content/uploads/pdfs/Lessons\\_in\\_Land\\_Use\\_Reform.pdf](https://turnercenter.berkeley.edu/wp-content/uploads/pdfs/Lessons_in_Land_Use_Reform.pdf), (accessed 5/14/25).

<sup>45</sup> “The Housing Hub - Housing and Traffic” *Marin Environmental Housing Collaborative (MEHC)*, <https://marinmehc.org/featured/housing-and-driving/>, (accessed 5/14/25). See also, “the Housing Hub - Marin Needs Housing to Serve its Aging Population,” MEHC, <https://marinmehc.org/featured/marin-needs-housing-to-serve-its-aging-population/>, (accessed 5/14/25).



## **Who Should Be Included in the “Community”?**

Planners told the Grand Jury that when a broad spectrum of the community participates, they more easily acknowledge that the housing requirements are state-mandated. The jurisdictions should engage all potential stakeholders, including those who are unlikely to attend public meetings. Polls, surveys, and online comment tools can be effective to reach the broader community.<sup>46</sup> Planners also should attempt to engage those outside of their jurisdictions. When planners hear only from existing residents, they may only capture the opinions of those with a bias toward the status quo. By broadening their engagement, planners could hear from those who do not live in the jurisdiction but hope eventually to do so.<sup>47</sup>

## **Streamlined Planning and Permitting for Multifamily and ADU Housing**

As part of its investigation, the Grand Jury interviewed planning directors from all of the Marin jurisdictions. These planning directors described a variety of processes in communicating with developers. Developers and their attorneys told the Grand Jury they receive a confusing array of planning information from planning staff, who often do not cite the governing laws that support their positions on new development projects. The developers and attorneys stated they experienced less push-back from the community where constraints on the decision-making board or council are transparent to the public. Interviewees described how substantial pressure is reduced on local decision-makers when the applicable law or rules are provided to the public and the public is informed about which laws or rules are not within the housing jurisdiction's authority to change.

The Grand Jury interviews indicate that Objective Design and Development Standards (ODDS), developed to support certain ministerial processes intended to reduce discretion in the development process, are not achieving their intended outcomes. State law defines objective standards as those that “involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and public official prior to submission.”<sup>48</sup> These standards were developed by consultants hired by the jurisdictions, and are hundreds of pages long, are highly complex, and can be internally inconsistent. Recent changes in state law (SB 35, SB 330, and AB 2011) “require that for certain types of housing and mixed-use projects,

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<sup>46</sup> Sarah Karlinsky, “Structured for Success: Reforming Housing Governance in California and the Bay Area,” page 48, *SPUR*, October 3, 2023, [https://www.spur.org/sites/default/files/2024-01/SPUR\\_Structured\\_for\\_Success.pdf](https://www.spur.org/sites/default/files/2024-01/SPUR_Structured_for_Success.pdf), (accessed 5/14/25).

<sup>47</sup> Jerusalem Denasas, “Community Input is Bad, Actually,” *The Atlantic*, (starting at paragraph 16), April 22, 2022 <https://www.theatlantic.com/ideas/archive/2022/04/local-government-community-input-housing-public-transportation/629625/>, subscription required, (accessed 5/14/25).

<sup>48</sup> “California Code Title 7. Planning and Land Use, Division 1. Planning and Zoning, Section 65913.4, paragraph 5, [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65913.4.&lawCode=GOV](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65913.4.&lawCode=GOV), (accessed 5/14/25).



jurisdictions may only consider objective criteria, and only those that are in place at the time the project application is filed.”<sup>49</sup>

The Grand Jury determined through interviews that Marin jurisdictions created objective design standards that were purchased at significant expense from consultants and then customized for the jurisdiction in an attempt to improve consistency and predictability in the planning process and reduce subjective objections to projects. From interviews, the Grand Jury learned that the standards were developed with limited consultation with multifamily housing developers who bring their own previously developed housing designs to the project. Thus, the ODDS and the developer product are misaligned and vary across each jurisdiction, forcing developers to shop their housing designs to the jurisdiction with the best economic return and then obtain exception waivers to navigate the easiest and least expensive path to planning approval.

Under state law, Marin housing jurisdictions must provide developers with a clear, simplified process and a detailed reconciliation of planning fees for obtaining planning approval.<sup>50</sup> Developers described some housing jurisdiction planning staff that are effective in providing up-to-date process documentation and reconciliation of planning fees, while other communities were poorly organized, the planning approval process was difficult to navigate, and planning fees were unclear. By law, planning fees are not allowed to be a profit center for local communities, but developers describe some fees as arbitrary and not backed up by documentation. The Grand Jury determined through interviews that Marin planning jurisdictions are not consistently providing developers and the public with detailed reconciliation of project-level planning fees, expenses, and time expectations, and therefore, some housing developers are unclear if their housing applications are billed on a cost-neutral basis as required by state law.

Virtually every local housing jurisdiction has made some efforts to streamline the process to develop ADUs, which provide another pathway to support their housing goals. According to interviews with Marin housing professionals, some jurisdictions provide a streamlined ministerial process to approve ADUs, while other jurisdictions continue to have barriers to ADU development, either regarding process or fees. Some planning jurisdictions are not consistently providing informal and informational forums for the public who may be interested in exploring an ADU to help meet the County’s housing needs. The Grand Jury is concerned, based on interviews with housing planning staff, that the majority of ADUs are not being used to provide housing but are used by homeowners as an easy path to increase housing square footage.

The impact of inclusionary housing policies that require affordable housing to be included with market-rate housing was unclear based on the Grand Jury interviews. Some public and private housing professionals were very supportive of requiring low-income housing to be included in market-rate housing, while others believed that focused low-income housing development was a

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<sup>49</sup> “Objective Design and Development Standards Take On New Importance Under State Law,” paragraph 3, *SMW Law*, <https://www.smwlaw.com/2025/01/29/objective-design-standards-take-on-new-importance-under-state-law/> (accessed 5/14/25).

<sup>50</sup> “California Code Title 7. Planning and Land Use, Division 1. Planning and Zoning, Section 65583(a), paragraph five, [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65583.&lawCode=GOV](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65583.&lawCode=GOV), (accessed 5/14/25).

more successful strategy to achieve RHNA goals. Housing applications that set aside a portion (15-25 percent) of the development for affordable units are allowed under new state laws to access streamlined processes or higher density units or both.<sup>51</sup>

## **Increased Investment in Multifamily Affordable Housing**

Most Housing Elements define multifamily housing as the major source of new housing for Marin. A current multifamily project, Oak Hill workforce housing, is projected to cost \$118,000,000 for 135 units or \$874,000/unit.<sup>52</sup> The housing sector competes against other investment opportunities to attract financing and investment capital. Affordable housing must also compete for scarce tax incentives to attract capital to finance the project. Market-rate housing developers compete against non-housing investment opportunities and housing projects outside Marin. New housing projects must provide adequate profit to housing developers, capital providers, and labor in order to be built. Multiple factors impact housing costs, but current interest rates are a substantial impediment to housing investment. In the current housing cycle, interest rates have increased 2.35 percent compared to previous housing cycles, providing substantial barriers to project economic incentive.<sup>53</sup> For existing Marin multifamily properties, the return on investment is significantly lower than in other parts of the country. In Marin, apartment cap rates (a measure of the return on investment) reached a median of 5.15 percent in 2024, rising from a median of 4.63 percent in 2023.<sup>54</sup> In 2024, the average cap rate in the U.S. was 7 percent.<sup>55</sup> Therefore, Marin multifamily housing remains a less profitable investment compared to the alternatives in other parts of the country.

The financing of affordable housing is fundamentally different from market-rate housing development. Almost half of Marin RHNA goals support affordable housing (less than 80 percent of median income), and 78 percent of rental housing units in San Rafael house lower-income workers.<sup>56</sup> Historically, the State of California financed its affordable housing investment through 400 California redevelopment agencies. The redevelopment agency program ended in 2011, but the legislature elected to advance the development of affordable housing by passing

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<sup>51</sup> The original density bonus law was originally enacted in 1979 (Gov. Code §§65915-65918), with a recent update being AB 1287, “AB1287:Density Bonus Law: Maximum Allowable Residential Density: Additional Density Bonus and Incentives or Concessions,” *CALMATTERS*, 10/11/23, [https://calmatters.digitaldemocracy.org/bills/ca\\_202320240ab1287](https://calmatters.digitaldemocracy.org/bills/ca_202320240ab1287), (accessed 5/14/25).

<sup>52</sup> Gaetan Lion, “The Unaffordable Oak Hill Project,” *The Marin Post*, March 24, 2025, <https://marinpost.org/blog/2025/3/24/the-unaffordable-oak-hill-project>, (accessed 5/14/25).

<sup>53</sup> “30-Year Fixed Rate Mortgage Average in the United States,” *Federal Reserve Bank of St. Louis*, <https://fred.stlouisfed.org/series/MORTGAGE30US>, (accessed 5/14/25).

<sup>54</sup> “Marin Apartment Investors Scoop Up Discounted Deals in 2024 Market,” *Marin Apartment Investments*, January 10, 2025, <https://marinapartmentinvestments.com/marin-apartment-investors-scoop-up-discounted-deals-in-2024-market/>, (accessed 5/14/25).

<sup>55</sup> “U.S. Cap Rate Survey H1 2024,” *CBRE*, July 31, 2024, <https://www.cbre.com/insights/reports/us-cap-rate-survey-h1-2024>, (accessed 5/14/25).

<sup>56</sup> City of San Rafael Housing Element,” calculation from graph on page 3-23, *San Rafael*, February 12, 2024, <https://www.cityofsanrafael.org/documents/city-of-san-rafael-housing-element-adopted-may-15-2023/>, (accessed 5/14/25).

over 100 pro-housing bills since 2017.<sup>57</sup> Affordable housing developments in California now primarily take advantage of the Federal and State Government Low-Income Housing Tax Credit (LIHTC) programs. These competitively awarded tax credits take advantage of several tax provisions to provide subsidies of 9 percent of the cost of the new housing project. In 2024, California was only allocated \$113,944,937 of tax credits to 55 projects, and demand for these credits far outstrips supply.<sup>58</sup> The limited availability of LIHTC funds reduces the ability of housing jurisdictions to meet RHNA housing goals.

An additional obstacle to building affordable housing is labor costs. Labor costs can represent up to 40 percent of housing costs,<sup>59</sup> and Marin housing costs reflect the fact that multifamily housing construction is very labor-intensive, and labor costs are very high in Marin compared to other parts of California and the United States.<sup>60</sup> In California, affordable housing construction costs are 39 percent higher than market-rate housing. Prevailing wage laws have a substantial impact on increasing the cost of affordable housing. Marin housing jurisdictions should understand that the payment of prevailing wages may result in the failure to construct affordable housing units and meet RHNA goals.<sup>61</sup>

Bay Area housing leaders have analyzed progress toward meeting the 6th cycle goals and realize that additional sources of funding are required to meet these goals. One important alternative is passing a bond to support affordable housing, paid for by Bay Area residents' taxes. A recent attempt to authorize a \$20 billion bond<sup>62</sup> to benefit Bay Area counties (Marin's share would have been \$700 million) was pulled from the November 2024 ballot due to a lack of confidence to meet the required two-thirds voting threshold standard.<sup>63</sup> Marin housing jurisdictions could work with the Metropolitan Transportation Commission to investigate whether a well-structured housing bond would be supported by Marin and Bay Area voters.

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<sup>57</sup> Turner Center for Housing Innovation, "Database of California Housing and Land Use Laws," copyright 2025, <https://turnercenter.berkeley.edu/california-land-use-housing/>, (accessed 5/14/25).

<sup>58</sup> "California Tax Credit Allocation Committee, 2024 Annual Report," page 8 ("2024 CTCAC Fast Facts"), *California Tax Credit Allocation Committee*, <https://www.treasurer.ca.gov/ctcac/2024/2024-TCAC.pdf>, (accessed 5/14/25).

<sup>59</sup> "Labor vs. Material Cost in Construction: 6 Things to Keep in Mind," paragraph 3, *Bridgit*, <https://gobridgit.com/blog/labor-vs-material-cost-in-construction-6-things-to-keep-in-mind/#:~:text=Labor%20costs%20represent%2020%25%20to,skilled%20professionals%20are%20required%E2%80percent8B>, (accessed 5/14/25).

<sup>60</sup> "Occupational Employment and Wages, May 2023, Construction Laborers," Top paying metropolitan areas for Construction Laborers, *U.S. Bureau of Labor Statistics*, <https://www.bls.gov/oes/2023/may/oes472061.htm>, (accessed 5/14/25).

<sup>61</sup> Jason M. Ward and Luke Schlake, "The High Cost of Producing Multifamily Housing in California," Key Findings, page vi, *RAND*, April 2, 2025, [https://www.rand.org/pubs/research\\_reports/RR43743-1.html#document-details](https://www.rand.org/pubs/research_reports/RR43743-1.html#document-details), (accessed 5/14/25).

<sup>62</sup> "2024 Bay Area Affordable Housing Bond: Regional Funding for Local Solutions," *Metropolitan Transportation Commission*, June 2024, [https://mtc.ca.gov/sites/default/files/documents/2024-07/BAHFA\\_Bond\\_Report.pdf](https://mtc.ca.gov/sites/default/files/documents/2024-07/BAHFA_Bond_Report.pdf), (accessed 5/14/25).

<sup>63</sup> Cole Reynolds, "\$20 billion Bay Area Housing Bond Pulled from Ballot as Support Sputters," *NBC Bay Area*, August 14, 2024, <https://www.nbcbayarea.com/news/local/bay-area-housing-bond-removed-ballot/3625577/>, (accessed 5/14/25).

Marin jurisdictions can ease the path for multifamily development by defining zoning districts where they want to encourage multifamily development and provide streamlined processes to support that development. San Rafael created a “Downtown Code” which encourages and supports a Multifamily Residential District to encourage this type of development.<sup>64</sup> The Grand Jury determined through interviews that several Marin housing jurisdictions have an array of processes that proactively engage potential housing developers on opportunities to develop new multifamily housing in their district.

The Grand Jury investigation revealed that in many Marin jurisdictions, outside expertise is required to review multifamily housing applications since many staff planners lack the requisite experience in multifamily housing development. All jurisdictions rely on multifamily housing to meet their affordable housing goals and also support their market-rate housing goals. Planning Directors should ensure their staff or consulting staff have the necessary background to deal with complex multifamily projects. Housing development is a partnership between communities and housing developers, and housing planners need to approach the housing plan as a way to improve the ability of the community to thrive with new neighborhoods and new residents.

## **Improved Site Availability to Support New Housing**

The Grand Jury determined through interviews that housing site availability has an important impact on the cost and ability to develop housing in Marin. Marin has long struggled with high housing costs. The limitations on land for development have hindered the construction of new homes.

All jurisdictions were required by RHNA to identify in their Housing Element sites that would support the development of new housing. Many of these sites have existing uses that often make modest or no contribution to housing.<sup>65</sup> After the approval of the Housing Elements, the sites are rezoned by the jurisdiction to align with the housing plan. While this process, defined by state law, has made progress in providing developers with opportunities to contribute new housing, interviews indicate that many sites are not economically viable for the 6th cycle development.

The Grand Jury determined through interviews that steep hillside land and difficult environmental mitigation ensure that a substantial share of the sites that Marin communities make available are not economically viable. The Grand Jury investigation revealed that the key barrier to building new housing in Marin County was the economics of the housing development, and a central pillar of housing for developers was affordable access to high-quality housing sites. High-quality sites are flat land not subject to flooding, close to public transportation and shopping, and that will provide the economic returns necessary to induce investment capital.

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<sup>64</sup> “San Rafael Zoning Ordinance Revisions and Downtown Code,” *State of California*, <https://ceqanet.opr.ca.gov/2019039167/5>, August 17, 2021, (accessed 5/14/25).

<sup>65</sup> “What is Infill Development,” Planetizen, <https://www.planetizen.com/definition/infill-development>, (accessed 5/14/25).

Grand Jury interviews indicate that many sites currently being used for commercial and retail uses throughout Marin are often located on flat land near transportation and are not included in housing plans. These sites are opportunities for housing pursuant to the incentives in California Government Code section 65912.100, et seq., for the conversion of commercial properties to residential units. To get ahead of the future housing challenges, housing jurisdictions should proactively identify commercial office sites now that could be converted, and meet with the property owners to consider re-zoning the properties for residential uses.

## **FINDINGS**

- F1.** Because the California Department of Housing and Community Development provided the County of Marin and the 11 Marin cities and towns with unrealistic housing goals for the 2023-2030 cycle, the County of Marin and the 11 Marin cities and towns will not achieve their current cycle Housing Element goals.
- F2.** The ability of the County of Marin and the 11 Marin cities and towns to comply with the current cycle California Regional Housing Needs Allocation housing goals is significantly impacted by the lack of economic returns associated with that development and, therefore, inhibits the construction of new housing in Marin County.
- F3.** Under current state law, the failure of the County of Marin and the 11 Marin cities and towns to make adequate progress in achieving their California Regional Housing Needs Allocation goals could expose these jurisdictions to the potential of litigation, loss of permitting authority, financial penalties, court receivership, and streamlined ministerial approval processes which could substantially impact the ability of local housing jurisdictions to control the development of housing.
- F4.** The cost of housing in Marin County is unaffordable for most current and potential Marin County public-sector workers, which reduces the ability of the public-sector employers to attract and retain employees.
- F5.** The County of Marin and the 11 Marin cities and towns do not consistently inform the public on how applicable state law is limiting or eliminating the discretion of the local decision makers to modify or decline housing projects, and therefore, the public often does not understand the range of options available to local housing decision makers.
- F6.** The County of Marin and the 11 Marin cities and towns are not consistently providing developers and the public with detailed reconciliation of project level public accounting of the planning fees, expenses, and time expectations, and therefore, housing developers are not clear if their housing applications are billed on a cost-neutral basis as required by state law.
- F7.** The County of Marin and the 11 Marin cities and towns are not consistently and proactively engaging the housing development community on the opportunities available in their communities to build new housing, and, therefore, housing developers may not be aware of the opportunities available to contribute to local housing development.
- F8.** Accessory Dwelling Units are an element to the success of each jurisdiction's Housing Element for the County of Marin and the 11 Marin cities and towns, yet some jurisdictions fail to provide a ministerial path to Accessory Dwelling Unit construction.
- F9.** Multifamily housing is the most important element to fulfilling each jurisdiction's Housing Element for the County of Marin and the 11 Marin cities and towns, yet some jurisdictions fail to provide a ministerial path to multifamily construction.

## **RECOMMENDATIONS**

The Marin County Civil Grand Jury recommends:

- R1.** By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to provide detailed quarterly updates to the community on the progress in executing their own specific Housing Element.
- R2.** By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to engage with the public on a quarterly basis on how State housing laws constrain the jurisdiction's ability to approve or modify a housing project.
- R3.** By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to proactively engage with potential developers to inform them of opportunities in their housing elements to support addressing the housing needs within Marin County.
- R4.** By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to publish and regularly update a public accounting of the fees charged and expenses associated with each development project submitted to the jurisdiction's planning and building activities.
- R5.** By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to ensure their housing laws provide a ministerial path for the approval of Accessory Dwelling Units.
- R6.** By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to ensure that local housing laws provide a ministerial path for the approval of multifamily housing in compliance with State housing law.



## REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requires responses from the following governing bodies:

From the following elected county officials within 90 days:

- Marin County Board of Supervisors (F1-F9, R1-R6)
- City Council: City of Belvedere (F1-F9, R1-R6)
- City Council: City of Larkspur (F1-F9, R1-R6)
- City Council: City of Mill Valley (F1-F9, R1-R6)
- City Council: City of Novato (F1-F9, R1-R6)
- City Council: City of San Rafael (F1-F9, R1-R6)
- City Council: City of Sausalito (F1-F9, R1-R6)
- Town Council: Town of Corte Madera (F1-F9, R1-R6)
- Town Council: Town of Fairfax (F1-F9, R1-R6)
- Town Council: Town of Ross (F1-F9, R1-R6)
- Town Council: Town of San Anselmo (F1-F9, R1-R6)
- Town Council: Town of Tiburon (F1-F9, R1-R6)

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933 (c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

Note: At the time this report was prepared information was available at the websites listed.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

# Town of Fairfax Response to Grand Jury Report

**Report Title:** The Worrisome Future of Marin Housing

**Respondent/Agency Name:** Town of Fairfax

**Report Date:** June 24, 2025

## Findings

- We agree with the findings numbered: F3, F4
- We disagree wholly or partially with the findings numbered: F1, F2, F5, F6, F7, F8, F9

## Recommendations

- Recommendations numbered R3, R3, R5, and R6 have been implemented.
- Recommendation numbered R4 will be implemented.
- Recommendations numbered R1 and R2 will not be implemented because they are not warranted or reasonable.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
Lisel Blash, Mayor of Fairfax

ATTEST: \_\_\_\_\_  
Christine Foster, Deputy Town Clerk

Number of pages attached: 7

## RESPONSE TO GRAND JURY FINDINGS

**F1. Because the California Department of Housing and Community Development provided the County of Marin and the 11 Marin cities and towns with unrealistic housing goals for the 2023-2030 cycle, the County of Marin and the 11 Marin cities and towns will not achieve their current cycle Housing Element goals.**

Response: Disagree (Agree, **Disagree**, Partially Disagree, Wholly Disagree)

Pursuant to California Government Code Section 65580, the purpose of a Housing Element is for local governments to plan for and facilitate the development of housing through appropriate land use policies and zoning. The Housing Element is a planning document, not a mandate to build housing.

Specifically, state law requires that a Housing Element:

- Identifies and plans for the housing needs of all economic segments of the community;
- Demonstrates adequate zoned capacity to accommodate the jurisdiction's Regional Housing Needs Allocation (RHNA);
- Includes policies, programs, and actions that remove barriers and create opportunities for housing development; and
- Complies with the requirements set forth in Government Code Sections 65580–65589.11.

While the RHNA numbers assigned to the jurisdiction are unprecedented, and market forces such as interest rates, construction costs, and labor shortages pose significant challenges to housing production, it is important to underscore that the Housing Element's core purpose is to plan for housing and not guarantee its construction.

The Town's Housing Element meets state requirements and fulfills its intended role by identifying housing needs, providing adequate zoning, and implementing policies that support housing development opportunities.

The Town offers this perspective to emphasize the difference between planning for housing, which is the jurisdiction's responsibility, and the actual construction of housing, which is primarily influenced by the private market and other external factors.

Additionally, based on the Needs Assessment conducted in the Housing Element, the goals are based on the findings below:

- **Limited Housing Options:** In the Town of Fairfax, over 70 percent of housing types are single-family dwellings.<sup>1</sup> In early 2024, the median price of single-family homes for sale was \$1,124,500 and the two condominium/townhouse units listed had an average price of \$832,000. The typical home value has increased 113.2 percent in Fairfax since 2001 from \$494,280 to \$1,053,770.<sup>2</sup>
- **Cost Burden:** In Fairfax, sixteen percent (16%) of households are cost burdened (meaning they spend 30 to 50 percent of their income on housing-related costs), while twenty-three percent (23%) are severely cost burdened (spend more than 50 percent of

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<sup>1</sup> Town of Fairfax Housing Element (2023-2031), Page 2-9.

<sup>2</sup> Town of Fairfax Housing Element (2023-2031), Page B-40.

their income on housing). Renters are more likely to experience cost burden in Fairfax compared to homeowners, forty-nine percent (49%) and thirty-three percent (33%), respectively. Seventy-three percent (73%) of extremely-low-income households and sixty-five percent (65%) of very-low- and low-income households experience cost burden, compared to thirteen percent (13%) of residents who earn above median income.<sup>3</sup>

- **Elderly Housing Need:** In Fairfax, there are 1,740 residents aged 65 or older, which is twenty-three percent (23%) of the total population. This is slightly less than the proportion of residents aged 65 or older compared to Marin County as a whole (25%). Senior renters in Fairfax are more likely to fall into the extremely low income (zero to thirty percent of average median income) category than seniors who own their homes. As they age, older adults may face additional housing costs to maintain their homes and ensure they remain accessible, a situation exacerbated by the fact that many older adults live on fixed incomes. Like all lower income residents, many older adult residents may be facing overpayment problems or are unable to find affordable rental units at all.<sup>4</sup>

**F2. The ability of the County of Marin and the 11 Marin cities and towns to comply with the current cycle California Regional Housing Needs Allocation housing goals is significantly impacted by the lack of economic returns associated with that development and, therefore, inhibits the construction of new housing in Marin County.**

Response: Disagree (Agree, **Disagree**, Partially Disagree, Wholly Disagree)

While it is true that market conditions, such as construction costs, interest rates, labor shortages, and land values can impact the pace and feasibility of housing development, the jurisdiction respectfully disagrees with the finding as stated.

The RHNA is a planning requirement, not a production mandate. Local jurisdictions are not judged by the number of housing units built, but rather by their ability to identify housing needs, provide adequate zoning capacity, and implement policies and programs that facilitate housing development in alignment with California Government Code Sections 65580–65589.11.

The Housing Element is intended to remove barriers and create opportunities for development through land use policy, not to guarantee economic returns or control market dynamics. The jurisdiction's certified Housing Element meets these planning obligations. It identifies available sites, adopts housing-supportive policies, and streamlines permit processes to make development more feasible.

Inhibitors to actual housing construction are complex and largely driven by external economic factors beyond a jurisdiction's control, such as financing conditions, developer interest, and construction costs. While economic viability plays a role in determining whether a project moves forward, it is not a valid measure of a jurisdiction's compliance with RHNA obligations.

Therefore, we respectfully disagree with the framing of this finding, as it conflicts planning responsibility with market-driven housing production, two related, but distinctly separate, aspects of California housing law.

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<sup>3</sup> Town of Fairfax Housing Element (2023-2031), Page 2-11.

<sup>4</sup> Town of Fairfax Housing Element (2023-2031), Page B-13.

**F3. Under current state law, the failure of the County of Marin and the 11 Marin cities and towns to make adequate progress in achieving their California Regional Housing Needs Allocation goals could expose these jurisdictions to the potential of litigation, loss of permitting authority, financial penalties, court receivership, and streamlined ministerial approval processes which could substantially impact the ability of local housing jurisdictions to control the development of housing.**

Response: Partially Agree (**Agree**, Disagree, Partially Disagree, Wholly Disagree)

The jurisdiction acknowledges that jurisdictions out of compliance with state housing laws, such as the Housing Element Law may face consequences including litigation, financial penalties, streamlined approvals for qualifying projects, and reduced local control.

However, it is important to clarify that such enforcement actions are primarily triggered by failure to adopt and implement a compliant Housing Element, not by the pace of actual housing production, which is largely driven by private market forces beyond the Town's control.

The Town has adopted a state-certified Housing Element for the current planning cycle and is actively implementing its programs and policies. As of now, the Town has made significant progress on implementing policies and programs as reported in the Town's Annual Progress Report to HCD on an annual basis.

By continuing to meet statutory obligations, such as zoning for adequate housing, addressing governmental constraints, and promoting fair housing, the Town significantly reduces the risk of state enforcement and demonstrates its commitment to meeting state housing requirements.

**F4. The cost of housing in Marin County is unaffordable for most current and potential Marin County public-sector workers, which reduces the ability of the public-sector employers to attract and retain employees.**

Response: Agree (**Agree**, Disagree, Partially Disagree, Wholly Disagree)

The Town agrees that the high cost of housing in Marin County presents a significant challenge for public-sector workers, including teachers, first responders, and municipal staff; many of whom are unable to afford to live in the communities they serve. This affordability gap can hinder the ability of local governments and public agencies to attract and retain qualified employees, ultimately affecting the delivery of public services.

The Town is committed to addressing this issue through its certified Housing Element, which includes policies and programs to support a range of housing options. The Town has adopted a Workforce Housing Overlay Ordinance to offer developers a streamlined process for providing affordable units at opportunity sites located within proximity to areas of employment in the Town.

**F5. The County of Marin and the 11 Marin cities and towns do not consistently inform the public on how applicable state law is limiting or eliminating the discretion of the local decision makers to modify or decline housing projects, and therefore, the public often does not understand the range of options available to local housing decision makers.**

Response: Disagree (Agree, **Disagree**, Partially Disagree, Wholly Disagree)

The Town disagrees with this finding. The jurisdiction actively informs the public about how state housing laws affect local land use authority, including the ways in which legislation such as the Housing Accountability Act, SB 35, SB 9, SB 450, and the Density Bonus Law limit local discretion on certain housing projects.

The Town has taken several proactive steps, including:

- Zoning Code Amendments to align with new state housing laws, which are discussed and adopted in noticed public hearings before the Planning Commission and Town Council.
- Regular updates to the Town's website, including the Housing Element page, where the public can access summaries of relevant state laws, housing programs, and project information.
- Hiring a planner to focus on housing element implementation, formerly the operation of a tenant and landlord phone line, and presently outreach to the public and developers.
- Ongoing community engagement, including workshops, newsletters, and FAQs, to help residents understand both the opportunities and limitations within the current regulatory landscape.

While state housing law continues to evolve and can be challenging to communicate in detail, the Town of Fairfax has been and continues to be committed to maintaining open and accessible public communication and will continue to refine and expand its outreach efforts accordingly.

**F6. The County of Marin and the 11 Marin cities and towns are not consistently providing developers and the public with detailed reconciliation of project level public accounting of the planning fees, expenses, and time expectations, and therefore, housing developers are not clear if their housing applications are billed on a cost-neutral basis as required by state law.**

Response: Disagree (Agree, **Disagree**, Partially Disagree, Wholly Disagree)

Gov Code 65940.1 requires a County/City to "request from a development proponent, upon issuance of a certificate of occupancy or the final inspection, whichever occurs last, the total amount of fees and exactions associated with the project for which the certificate was issued." Additionally, "The city or county shall post this information on its internet website, and update it at least twice per year." The County and 11 cities and towns of Marin are in compliance with this State law.

**F7. The County of Marin and the 11 Marin cities and towns are not consistently and proactively engaging the housing development community on the opportunities available in their communities to build new housing, and, therefore, housing developers may not be aware of the opportunities available to contribute to local housing development.**

Response: Disagree (Agree, **Disagree**, Partially Disagree, Wholly Disagree)

The Housing Working Group, made up of the County and 11 cities and towns of Marin, and staffed by the County, has held numerous forums with developers to gather input and share information, for example:

- April 7, 2022- Countywide Developer Forum to help inform the Housing Elements in the cities and towns and the County
- April 17, 2025- Infill Builders Developer Forum: Countywide developer forum moderated by the Infill Builders Foundation

Additionally, the Town of Fairfax has performed outreach and given tours of town opportunity sites to developers such as Habitat for Humanity and PEP Housing. As a part of the Town's housing element action plan, the Town is committed to continuing outreach and promotion of its opportunity sites (Housing Element Programs 1-C, 3-H, and Program 4-H).

**F8. Accessory Dwelling Units are an element to the success of each jurisdiction's Housing Element for the County of Marin and the 11 Marin cities and towns, yet some jurisdictions fail to provide a ministerial path to Accessory Dwelling Unit construction.**

Response: Disagree (Agree, **Disagree**, Partially Disagree, Wholly Disagree)

Permitting Accessory Dwelling Units (ADUs) ministerially is required by state law in all cases. California law mandates a ministerial review process in all other cases. The County and 11 cities and towns of Marin are in compliance with this State law and provide a ministerial path to the construction of ADUs.

**F9. Multifamily housing is the most important element to fulfilling each jurisdiction's Housing Element for the County of Marin and the 11 Marin cities and towns, yet some jurisdictions fail to provide a ministerial path to multifamily construction.**

Response: Disagree (Agree, **Disagree**, Partially Disagree, Wholly Disagree)

The Town of Fairfax provides a ministerial path to multifamily construction through its Workforce Housing Overlay Ordinance. Projects within the Workforce Overlay zone that include at least 20% of units affordable to lower-income households are entitled to ministerial approval if they meet the ordinance's objective design and development standards. Fairfax is also required to comply with Senate Bill 35 (SB 35), which streamlines the approval process for certain multifamily projects, particularly those with affordable units, that meet specific objective criteria.



## RESPONSE TO GRAND JURY RECOMMENDATIONS

The Marin County Civil Grand Jury recommends the following:

**R1. By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to provide detailed quarterly updates to the community on the progress in executing their own specific Housing Element.**

**This recommendation will not be implemented because it is not warranted or reasonable.**

Under State Housing Element law, local jurisdictions are required to report detailed information on housing production and progress on Housing Element programs in the Annual Progress Reports (APR). For housing production information includes:

- Planning Permits Entitled
- Building Permits Issued
- Certificate of Occupancy Issued
- Program and Policy Status

These detailed reports already require extensive staff time to track and process, taking vital time away from processing applications and working directly with developers. Annual reports provide the most accurate and complete picture of progress in meeting housing goals. Reporting quarterly is not warranted and would not provide a more complete or accurate picture for the public.

**R2. By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to engage with the public on a quarterly basis on how State housing laws constrain the jurisdiction's ability to approve or modify a housing project.**

**This recommendation will not be implemented because it is not warranted or reasonable.**

This recommendation is unclear. State laws streamline the approval of housing projects including SB330 and SB35. It is important that the public understand State housing laws. Often, updates are provided on more than an annual basis and are reflected in the development code amendment process or if a new law is passed outside of the usual calendar.

Town staff does provide periodic updates to the Town Council and Planning Commission, at public meetings, on State housing laws.

**R3. By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to proactively engage with potential developers to inform them of opportunities in their housing elements to support addressing the housing needs within Marin County.**  
**This recommendation has been implemented.**

This recommendation is already being implemented, as outlined in the response to Finding 7. The County and the cities and towns of Marin will continue to engage with developers both individually and through collaborative efforts under future Housing Working Group initiatives.

**R4. By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to publish and regularly update a public accounting of the fees charged and expenses associated with each development project submitted to the jurisdiction's planning and building activities.**

**This recommendation will be implemented.**

State law requires jurisdictions to provide this data, see Gov Code 65940.1. Staff is in the process of compiling this information and will be able to provide it by January 1, 2026 and also provide this information for projects in the future.

**R5. By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to ensure their housing laws provide a ministerial path for the approval of Accessory Dwelling Units.**

**This recommendation has been implemented.**

State law requires a ministerial path for approval of Accessory Dwelling Units except in some special cases that are explicitly described in state law. Additionally, the Town of Fairfax participates in ADU Marin, a program that provides technical assistance and proactively helps applicants through the ADU review process.

The Town of Fairfax has committed itself to promoting ADU development through its housing element action plan programs 1-H through 1-M.

**R6. By January 1, 2026, the Marin County Board of Supervisors and the City and Town Councils for the 11 Marin cities and towns should direct their housing planning officials to ensure that local housing laws provide a ministerial path for the approval of multifamily housing in compliance with State housing law.**

**This recommendation has been implemented.**

The Town provides a ministerial path for all Housing Element sites, and in some cases state law requires ministerial review of multifamily affordable housing. The Town of Fairfax adopted an ordinance to codify the Workforce Housing Overlay (WHO) to create a ministerial path for affordable housing projects.