



County of Sonoma  
State of California

Date: March 11, 2025

Item Number: \_\_\_\_\_

Resolution Number: \_\_\_\_\_

4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Affirming Compliance with Government Code § 65583.2, Subdivisions (h) and (i), Regarding By-Right Processing For Certain Residential Development Projects on Sites Rezoned to Accommodate the County's Lower-Income Regional Housing Needs Allocation**

**Whereas**, the Department of Housing and Community Development (HCD) has requested that the Board of Supervisors adopt a resolution demonstrating compliance with Government Code section 65583.2, subdivisions (h) and (i), with respect to “by-right” processing of residential development project applications on sites that were rezoned to meet the County’s 2023-2031 Regional Housing Needs Allocation (RHNA) for lower income households; and

**Whereas**, on August 22, 2023, the Board of Supervisors took the following actions toward meeting the County’s 2023-2031 RHNA, in adopting the 2023-2031 Housing Element Update:

- a. Adopted Resolution No. 23-0248, certifying the Final Environmental Impact Report for the 2023-2031 Housing Element Update Project and taking additional related actions;
- b. Adopted Resolution No. 23-0249, adopting the 2023-2031 Sonoma County Housing Element and amending the General Plan land use and density of sites identified in Table 15 of the Housing Element Site Inventory (in Housing Element Appendix D) to meet the County’s 2023-2031 Regional Housing Needs Allocation (“RHNA”), including its lower income and moderate-income RHNA;
- c. Adopted Ordinance No. 6445, rezoning the sites identified in Table 15 of the Site Inventory to accommodate the County’s RHNA;
- d. Adopted Ordinance No. 6444, amending Sonoma County Code Chapter 26 (the Zoning Code) for consistency with state housing laws, including amendments to repeal antiquated code

provisions that conflicted with use by right for zoning-compliant residential development;  
and

**Whereas**, the adopted Housing Element represents the County's plan for accommodating the County's 2023-2031 RHNA, for all income levels. The 2023-2031 RHNA is 3,824 units, including 1,608 units affordable to lower income households; and

**Whereas**, Government Code section 65583.2, subdivision (h), requires that sites rezoned to address a shortfall of sites to accommodate the lower-income RHNA must be zoned to "permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period." Subdivision (i) of Section 65583.2 defines "use by right" to mean in part that the local government's review of an owner-occupied or rental multifamily residential use on a rezone site may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval, including discretionary design review approval, that would constitute a "project" for purposes of the California Environmental Quality Act (CEQA); and

**Whereas**, the adopted Housing Element includes Program 4 (Actions to Meet RHNA), committing to actions necessary to address the shortfall and demonstrate an adequate inventory of sites to meet the County's RHNA. Program 4 provides that sites rezoned to meet RHNA will "meet the standards set forth in Government Code § 65583.2, including subsections (i) and (h), have sufficient infrastructure capacity and access, and will be sufficient to address the shortfall..." (Housing Element, p. 47.) The referenced inventory of sites is provided in Appendix D of the Housing Element; and

**Whereas**, on October 26, 2023, HCD certified the Housing Element as in substantial compliance with state law as of that date; and

**Whereas**, on December 5, 2023, the Board adopted Resolution No. 23-0579 and Ordinance No. 6457, rezoning additional sites listed in Table 16 of the Housing Element Site Inventory, to meet the County's RHNA. The December 5, 2023 actions completed the rezoning actions required by Programs 4a and 4b to demonstrate an adequate inventory of sites to accommodate the County's RHNA for all income levels; and

**Whereas**, all sites that were rezoned to accommodate the County's 2023-2031 RHNA are listed in Tables 15 and 16 of the Housing Element Site Inventory, with income level assignments shown; and

**Whereas**, on December 21, 2023, HCD sent a Letter of Inquiry to the County regarding the implementation status of Housing Element Program 4. HCD emphasized the January 31, 2023 statutory deadline for the County to implement the site rezoning required by Program 4, and requested documentation of adopted rezones and any accompanying resolutions by January 21, 2024; and

**Whereas**, on January 11, 2024, the County responded to HCD's December 2023 Letter of Inquiry, confirming that as of December 5, 2023 all rezoning actions to implement Programs 4a and 4b were completed before the statutory deadline, and providing the requested supporting documentation and additional detail; and

**Whereas**, on July 10, 2024, HCD responded to the County's January 11 submission through a Letter of Technical Assistance regarding the County's implementation of Program 4 to rezone sites to accommodate the RHNA. HCD's letter requested that the County revise its zoning ordinance or provide written documentation clearly demonstrating that rezoned sites meet the requirements of Government Code section 65583.2, subdivisions (h) and (i), and specifically how the County will permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households; and

**Whereas**, on August 9, 2024, the County responded to the July 2024 letter from HCD, providing the requested information detailing the County's strategy of rezoning Inventory sites as the land use mechanism for permitting multifamily uses by-right, and outlining the County's process for review of development applications on lower-income Inventory sites; and

**Whereas**, HCD responded on December 2, 2024, stating that additional wording related to affordability is required and requesting that the Board adopt a resolution clarifying County compliance with Government Code section 65583.2, subdivisions (h) and (i); and

**Whereas**, the Housing Element Update was designed to enable multifamily residential "use by right" on sites rezoned to meet the lower-income RHNA, consistent with Government Code section 65583.2, subdivisions (h) and (i). The EIR prepared for the Housing Element Update analyzed rezoning of certain sites "for by-right, high-density housing," and specified that "by-right, high-density housing means that no discretionary land use approvals and no CEQA review would be required for the development of high-density (up to 24 units per acre) housing on the sites. Design review approval for consistency with objective design standards is required for all multi-family or mixed-use housing

development of more than three units,” (Housing Element EIR Project Description, p. 2-9, as revised in Final EIR at p. 548); and

**Whereas**, numerous responses to comments published in the Final EIR address future multifamily residential use by right on rezoned sites, further clarifying the intent of the Housing Element Update project for the rezoned sites; and

**Whereas**, Sonoma County Code Section 26-08-030 identifies multifamily development as a permitted use by right in the High-Density Residential (R3) zone, including multifamily development in which 20 percent or more of the units are affordable to lower-income households, through a ministerial review process and regardless of ownership or affordability status;

**Now, Therefore, Be It Resolved** that the Board of Supervisors:

1. Affirms and declares that the County of Sonoma does currently and shall continue to allow zoning-compliant multifamily residential development as a use by right on sites identified for lower-income units in Tables 15 and 16 of the Housing Element Site Inventory, consistent with Government Code Section 65583.2, subdivisions (h), and (i). Use by right is recognized regardless of ownership status and affordability. For this purpose, “by-right” means that the County does not require a Use Permit, Planned Development Permit, or other discretionary review or approval, including discretionary design review approval, that would constitute a “project” for purposes of CEQA.
2. Directs Permit Sonoma staff to continue to process zoning-compliant multifamily residential projects as uses by right, including through ministerial design review and building permit review, on sites identified for lower-income units in Tables 15 and 16 of the Housing Element Site Inventory, consistent with this Resolution and Government Code section 65583.2.
3. Finds and determines that adoption of this Resolution is not a project subject to CEQA, pursuant to section 15378 of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15378.) Under Section 15378, an activity is a project if it has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Adoption of this Resolution merely affirms and declares existing County Code, policy, and procedures applicable to lower-income sites identified in Tables 15 and 16 of the Housing Element Site Inventory. This Resolution does not make new policy or modify

existing County Code, policy and procedure. Therefore, adoption of the Resolution has no potential to result in any direct physical change in the environment, or in a reasonably foreseeable indirect physical change in the environment. and adoption of the Resolution is not a project subject to CEQA. Even if adoption of the Resolution was a project subject to CEQA, it would be exempt pursuant to the common sense exemption in section 15061(b)(3) of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061(b)(3)) because, for the same reasons that adoption of this Resolution is not a CEQA project under Guidelines section 15378, it can be seen with certainty that there is no possibility that adoption of this Resolution may have a significant effect on the environment.

**Supervisors:**

Hermosillo:

Rabbitt:

Coursey:

Gore:

Hopkins:

Ayes:

Noes:

Absent:

Abstain:

**So Ordered.**