



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 3/11/2025

To: Sonoma County Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Tennis Wick (707) 565-1925, Isabella Wotring (707) 565-2618

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Resolution Affirming Compliance with State Housing Element Law

Recommended Action:

Adopt the Resolution affirming compliance with Government Code Section 65583.2, subdivisions (h) and (i), regarding by-right processing of certain residential development projects on sites previously rezoned to meet the County's lower income Regional Housing Needs Allocation; and determining that the action is not a CEQA project per CEQA Guidelines § 15378 and in the alternative is CEQA exempt per CEQA Guidelines § 15061(b) (3).

Executive Summary:

The California Department of Housing and Community Development (HCD) requested that the Board of Supervisors adopt a resolution demonstrating compliance with Government Code Section 65583.2, subdivisions (h) and (i), which require that certain residential development project applications must be processed as "uses by right" on sites that were rezoned to accommodate the Regional Housing Needs Allocation (RHNA) for lower-income households.

The requested resolution pertains to sites already rezoned to implement Program 4 (Actions to Meet RHNA) of the 2023-2031 Housing Element, and specifically the sites that were rezoned to meet the County's lower-income RHNA. These sites are identified in Tables 15 and 16 of the Housing Element Site Inventory for development of low-income affordable housing units, and were rezoned to R3-High Density Residential, 20 units per acre density, as required by Government Code Section 65583.2, subdivision (h)(2). Sites listed in Site Inventory Table 15 (*Rezoned Sites Approved by Sonoma County Board of Supervisors Resolution No. 23-0429 and Ordinance No. 6445 on August 22, 2023*) were rezoned on August 22, 2023, together with adoption of the Housing Element. Sites listed in Table 16 (*Sites Rezoned Through Program 4: Actions to Meet RHNA approved by Sonoma County Board of Supervisors Resolution No. 23-0579 and Ordinance No. 6457 on December 5, 2023*) were rezoned on December 5, 2023.

The recommended resolution affirms and clarifies that existing County ordinances and procedures provide for by-right processing of zoning-compliant multifamily residential development on sites that were rezoned to meet the County's 2023-2031 lower-income RHNA, regardless of ownership or affordability status and including developments in which 20 percent or more of the units are affordable to lower-income households. The resolution does not change existing zoning or development standards, and pertains only to sites listed in Housing Element Inventory Tables 15 and 16 for development of lower-income units.

Discussion:

On August 22, 2023, the Board of Supervisors adopted the 6th Cycle Housing Element (2023-2031), certified the Housing Element Update EIR, and adopted ordinances rezoning sites to meet the County's RHNA shortfall and to amend Sonoma County Code Chapter 26 for consistency with state housing laws and, by extension, with the Housing Element. Housing Element Program 4 (Actions to Meet RHNA) describes rezoning actions necessary to provide adequate sites to meet the County's Regional Housing Needs Allocation (RHNA). The majority of rezoning actions required by Program 4a were completed concurrently with Housing Element adoption, when sites were rezoned to accommodate the shortfall of adequate sites to meet RHNA, including 24 sites that were rezoned to accommodate the County's lower-income RHNA.

On October 26, 2023, HCD certified the Housing Element as substantially compliant with State law, as of that date.

On December 5, 2023, the Board of Supervisors rezoned additional sites to accommodate the remaining RHNA shortfall, completing the rezoning actions required by Program 4. (See Resolution No. 23-0579 and Ordinance No. 6457.)

On December 21, 2023, HCD sent a letter to the County, inquiring as to Program 4 implementation. On January 11, 2024, the County responded to HCD's inquiry, confirming that all rezoning actions had been completed to implement Program 4 as of December 5, 2023.

On July 10, 2024, HCD sent a letter of technical assistance to the County, requesting the County to demonstrate that the Program 4 rezoning actions meet requirements set forth by Government Code Section 65583.2, subdivisions (h) and (i), 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 on sites that were rezoned to accommodate the County's shortfall in sites for lower-income RHNA units. Government Code Section 65583.2, subdivision (h)(1), requires that sites rezoned to address a shortfall of adequate sites to meet 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." (Emphasis added.) Government Code Section 65583.2 defines "use by right" to mean that local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval, including discretionary design review approval, that would constitute a "project" for purposes of the California Environmental Quality Act (CEQA). (Gov. Code, § 65583.2, subd. (i).) However, "any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act." (Ibid.) Use by right for "all rental multifamily residential housing" must be provided in accordance with subdivision (f) of Government Code Section 65589.5 (the Housing Accountability Act), which imposes substantial additional limitations on local government review processes.

On August 9, 2024, the County responded to the letter of technical assistance with additional information, detailing how the rezoning itself allows these types of developments by-right because of established permitted uses in the zoning designations applied to lower-income RHNA sites and prior environmental review. As part of Housing Element Program 4, inventory sites identified to support lower-income RHNA units

were upzoned to the High Density Residential Zoning District (R3) at a density of 20 dwelling units per acre. Per Zoning Code Section 26-08-030, Table 8-1, the High Density Residential Zone (R3) allows multifamily residential uses by-right, without distinguishing between rental and ownership status, nor between market-rate and deed-restricted dwelling units in determining by right uses. The zoning density assigned to Inventory sites allows residential development at a density of 20 dwelling units per acre.

The County's response explained that all Housing Element Inventory sites that were rezoned to accommodate RHNA were evaluated through the Housing Element Environmental Impact Report (EIR) to enable by-right, ministerial development of multifamily housing on those sites. Multifamily residential projects on R3-zoned Inventory sites are subject to a ministerial design review process for consistency with objective standards, in compliance with Government Code Sections 65583.2, subdivision (i), and 65589.5, subd. (f), and are also reviewed for compliance with general and site-specific mitigation measures required by the Housing Element EIR.

Accordingly, the County's Housing Element and Zoning Code already permit multifamily residential uses by-right on sites rezoned to meet lower-income RHNA, regardless of ownership or affordability status, including developments in which 20 percent or more of the units are affordable to lower-income households. The requirements listed in Government Code Section 65583.2, subdivisions (h) and (i) are met by current policy, code, and procedures.

On December 2, 2024, HCD staff rejected the County's interpretation of its Code, and requested that the County adopt a resolution to clarify the County's compliance with Government Code Section 65583.2 for by-right approval of owner-occupied and rental multifamily developments in which 20 percent or more of the units are affordable to lower-income households. A timely response to HCD's request is important to avoid corrective action by HCD and potential decertification of the County's Housing Element, with associated penalties for non-compliance, including but not limited to the potential for litigation, loss of funding, and loss of permitting authority.

Adoption of the proposed resolution (Attachment 1) would affirm ongoing County compliance with the requirements of Government Code Section 65583.2, subdivisions (h) and (i), regarding by-right processing of multifamily residential development on sites rezoned to meet the County's lower-income RHNA and identified in Tables 15 and 16 of the Housing Element Site Inventory. The existing site zoning, Zoning Code and Housing Element provisions collectively provide for by-right processing of multifamily residential projects that are consistent with zoning, regardless of ownership or affordability status, and these projects continue to be processed as uses by right in accordance with Government Code Section 65583.2, subdivisions (h) and (i).

Strategic Plan:

Not Applicable

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

August 22, 2023: Resolution No. 23-0429 and Ordinance No. 6445 adopting the 2023-2031 Housing Element (

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[<https://onbaseprodext.sonoma-county.org/PublicAccess-BOSEP5/services/document-search/index.html>](https://onbaseprodext.sonoma-county.org/PublicAccess-BOSEP5/services/document-search/index.html)

December 5, 2023: Resolution No. 23-0579 and Ordinance No. 6457 completing Housing Element Program 4 rezoning actions (

[<https://onbaseprodext.sonoma-county.org/PublicAccess-BOSEP5/services/document-search/index.html>](https://onbaseprodext.sonoma-county.org/PublicAccess-BOSEP5/services/document-search/index.html))

FISCAL SUMMARY

Not Applicable

Narrative Explanation of Fiscal Impacts:

No fiscal impacts are anticipated as adoption of this resolution simply results in a continuation of existing procedures.

Narrative Explanation of Staffing Impacts (If Required):

No impacts to staffing are anticipated as adoption of this resolution simply results in a continuation of existing procedures.

Attachments:

Attachment 1: Resolution

Attachment 2: Housing Element Appendix D, Tables 15 and 16

Attachment 3: Government Code Section 65583.2

Attachment 4: 12/21/2023 HCD Letter of Inquiry

Attachment 5: 01/11/2024 Permit Sonoma Response to HCD Letter of Inquiry

Attachment 6: 07/10/2024 HCD Letter of Technical Assistance

Attachment 7: 08/09/2024 Permit Sonoma Response to HCD Letter of Technical Assistance

Attachment 8: 12/02/2024 HCD Request for Resolution

Related Items "On File" with the Clerk of the Board:

Not Applicable