

May 13, 2024

Planning Commission Chair Martha Diehl
Monterey County Planning Commission
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Dear Chair Diehl and Members of the Planning Commission,

I write in response to the County's recently released Housing Element to offer LandWatch's preliminary feedback. The Draft put out by staff largely misses the mark in terms of sound planning principles, RHNA requirements, community engagement, and sustainable practices.

Recommendations

To be consistent with state law requirements and the policies in Monterey County's general plan to focus growth in incorporated areas and to minimize growth in the unincorporated areas, a policy that was reiterated by the County in the RHNA process itself, LandWatch strongly recommends that the County:

1. Reduce substantially the number of sites in the draft site inventory, understanding that:
 - o Including three times the number of RHNA sites than are actually required will lead to destructive sprawl, excessive VMT and greenhouse gas emissions,
 - o It is not necessary to provide a 5,600 unit surplus of market rate units over the 1,136 RNA market rate target in order to provide sufficient sites for moderate and lower income.
 - o The draft Housing Element has improperly limited its count of sites for lower and moderate income sites to the percentages mandated by the Inclusionary Housing Ordinance even though every site that meets HCD's requirements for lower income units (e.g., a density of 20 units per acre) can be counted toward RHNA's affordable unit counts.
2. Identify only those sites that are consistent with the County's general plan goals, including Land Use Policy LU 1.19, which aims to ensure that future growth is supported by existing or planned and funded infrastructure (e.g., roads, water, wastewater treatment, police/fire) and are within or adjacent to existing communities. That means sites should be in close proximity to transit corridors, schools, and public and private services. The County should remove sites that encourage sprawl development and that are unnecessary to meet the RHNA requirements. We identify some of these sites below.
3. Verify eligible pipeline projects and credit them toward the County's RHNA number.

Analysis

1. The Draft Housing Element Designates Too Many Sites, Especially Market Sites, Which Create Sprawl

The Board of Supervisors has stated a desire to generate housing that serves the needs of local working families and individuals and pursue sound and sustainable land use practices. We fully support those objectives. A key objective is to concentrate growth in urbanized areas – first in incorporated cities and then in unincorporated communities that are already urbanized.

During the 6th Cycle RHNA process, the County, along with LandWatch, made extensive efforts to direct development toward municipalities and away from unincorporated Monterey County by advocating for a lower RHNA number for the County. Our shared goals were to provide housing near jobs (largely on the Monterey Peninsula); to affirmatively further fair housing (AFFH) in accord with state requirements; and to reduce wasteful sprawl and greenhouse gas emissions by incentivizing climate friendly housing that meets the needs of local working families and individuals.

Despite our best efforts, AMBAG still assigned the County 3,326 units, a huge increase from the County's 5th Cycle RHNA assignment. Adopting a site inventory that designates 10,257 units, more than three times the units AMBAG assigned, represents an unnecessary and damaging reversal of the County's position in the RHNA process and in the goals set out in its general plan.¹

It is mystifying that the County would now consider adopting a site inventory that would triple its RHNA allocation, and for no apparent reason. But it isn't just the number of units that is problematic, it is the type. Many of the excess units are in sites that are not in urbanized areas. The site inventory contemplates zoning for thousands of market rate units in these areas - a recipe for sprawl.

The draft Housing Elements fails to count hundreds of units from eligible sites toward the lower income RHNA targets. HCD has only four basic requirements to count a site toward the lower income allocation:

- It must be zoned with adequate density. Twenty units per acre is a safe harbor density in Monterey County.

¹ For further context, the [AMBAG 2022 regional growth forecast](#), which integrates economic and job growth, household formation, and population models, estimates only 2,625 additional households being added to unincorporated Monterey County in the 30-year period 2015-2045, almost four RHNA cycles. Zoning for 10,257 additional households for a single RHNA cycle is not only unnecessary to meet the legally mandated aspirational 3,326 RHNA goal, but appears even more unnecessary in light of the 30 year 2,625-unit AMBAG estimate of housing formation. For the record, nearly every AMBAG estimate over the past 20 years has exceeded actual household formation.

- The sites must be from half an acre to ten acres, or the County must adopt programs to encourage combining small sites or dividing large sites.
- The sites must be located proximate to services and opportunities, i.e., they must affirmatively further fair housing.
- If the site was designated in prior cycles and not developed, the site must provide for by-right approval of housing.

Any site that meets these requirements can and should be counted toward the lower income RHNA target. Despite this, the draft Housing Element arbitrarily limits the number of lower and moderate income units in sites that meet all four of these requirements to the number of units that would be mandated by the County's Inclusionary Housing Ordinance (IHO), i.e., only 6% are counted toward very low income units, only 6% toward low income units, and only 8% toward moderate income units. For example, on a site that meets the four requirements and that has a total realistic development potential of 100 units, the draft Housing Element only counts 20 units toward lower income and moderate unit mandates even though all of the units could be counted toward that mandate. This is an error.

By limiting the affordable unit counts to the percentage of units mandated by the IHO, the draft housing element is confusing the obligation to identify sufficient sites with the obligation to adopt programs to remove constraints on production of housing. These are distinct obligations and, indeed, HCD's guidance specifically directs land use jurisdictions *not* to rely on the IHO as a substitute for simply meeting zoning requirements for lower income sites in the site inventory.² If a site meets the zoning, parcel size, AFFH, and by-right requirements, it should be counted toward the affordable RHNA units.

While the IHO may be a valuable program to remove constraints on housing production, it is but one of the many programs that the County should promote, and it is not entitled to a privileged position. Other programs include public subsidies such as vouchers, the low income housing tax credit program (LIHTC program), and grants. In addition, programs may reduce development costs by relaxing development standards, streamlining permitting, reducing fees, and allowing density bonuses and incentives.

By limiting affordable units to the 20% of total units mandated by the IHO, the Housing Element is imposing an unnecessary 80% overhead of unneeded market rate units. That is, for every 20 units counted as affordable, the Housing Element incorrectly assumes it is necessary to zone to permit another 80 units of market rate housing. The result is a 5,600-unit surplus of market rate units,

² "The analysis of 'appropriate zoning' should not include residential buildout projections resulting from the implementation of a jurisdiction's inclusionary program or potential increase in density due to a density bonus, because these tools are not a substitute for addressing whether the underlining (base) zoning densities are appropriate to accommodate the RHNA for lower income households. Additionally, inclusionary housing ordinances applied to rental housing must include options for the developer to meet the inclusionary requirements other than exclusively requiring building affordable units on site. While an inclusionary requirement may be a development criterion, it is not a substitute for zoning." (HCD, Site Inventory Handbook, p. 14, available at [Housing Element Sites Inventory Guidebook \(ca.gov\)](https://www.hcd.ca.gov/sites/default/files/2019-05/Housing_Element_Sites_Inventory_Guidebook_(ca.gov).pdf).)

many of which are in greenfield sites that are not proximate to urbanized lands. Again, this is a recipe for Los Angeles-style sprawl.

The IHO/sprawl approach to counting affordable units will consume land that may be needed for future affordable units development. Imagine that these sites all paid in lieu fees instead of developing the affordable housing on-site - a scenario that is not at all unrealistic given the low price of in lieu compared to the cost of actually building affordable units. That would mean, under the no net loss rule, that the County would be compelled to identify even more sites for affordable housing. And it would mean that the County would be hard pressed to find new land for suitable sites for the next Housing Element cycle. Suitable land is a finite resource. The County needs to adjust its approach to reflect this fact.

2. The County Needs to Eliminate Sprawl Sites

LandWatch strongly recommends that the County remove any sites that will encourage sprawl development and that are not necessary to meet the RHNA requirements. These include large sites that are “not considered to be within a highly developed area” (i.e., sites 6, 8, 13, 14, 32, 39, 56, 57, 74, 75, and 76) as well as site 49, significant portions of sites 3 and 4 and possibly other sites. We are still reviewing the [draft site inventory](#). If more sites are needed later, the County can always add them in the future, through a mid-cycle review if necessary, but it gains nothing in green lighting bad development now.

For the remaining sites, the County should zone a minimum of 20 units per acre, and it should take 100% credit for its affordable housing requirements under the 20 unit per acre density safe harbor. The County should also adopt programs to pursue grant funds to support affordable housing development, encourage clustered development, and provide incentives for affordability by design; thereby ensuring that the current sites will be sufficient to actually satisfy RHNA numbers, and that the no net loss provision will not trigger the need to identify more sites.

The County should plan for a sufficient supply of higher density, climate friendly development; housing connected to walkable communities and transit, in high resource areas; and preservation of open space and farmlands. The County should not plan to accommodate sprawl that is not mandated by the RHNA zoning targets, and that is not likely to be needed over the next eight years. The County needs to revise the Draft Housing Element to realize these objectives.

3. The County Needs to Clarify Pipeline Project Numbers and Remaining RHNA Obligations

The site inventory in the draft Housing Element separately identifies “opportunity sites,” and “pipeline” sites, consisting of entitled or proposed development. Both are means to meet RHNA goals.

In particular, the draft Housing Element identifies a total of 519 pipeline units from six pipeline sites, of which only 116 are above moderate income units, i.e., market rate units. In effect, the draft Housing Element concludes that pipeline market rate units make up only about a tenth of the County’s 1,136-unit RHNA goal for market rate housing.

However, in its March 13th memorandum for presentation to the Planning Commission, Monterey County Housing and Community Development provided fundamentally different counts of pipeline units.³ HCD provided a table entitled “6th Cycle RHNA impacts.” The table asserts that pipeline projects include 1,345 market rate units, i.e., 209 more units than the 1,136-unit RHNA goal for market rate units.

Both numbers for market rate pipeline units cannot be correct. Are there 116 or 1,345 market rate units in the pipeline? Obviously the difference matters.

Furthermore, the unit counts for very low, low, and moderate income pipeline units differ in the draft Housing Element and the March 13 presentation to the Planning Commission.

We request that the County resolve the significant discrepancy between the March 13th memo numbers and those used in the draft Housing Element to calculate the County’s remaining RHNA obligations. Additionally, we ask that the County verify all eligible pipeline projects and credit them toward the County’s RHNA number.

Thank you for your consideration of these issues. If we can serve as a resource, please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized and cursive.

Michael DeLapa
Executive Director

³ Available under agenda for March 13th Planning Commission meeting, Item 6, Exhibit A, page 2, Table 5:
<https://monterey.legistar.com/Calendar.aspx>