



STAFF REPORT

TO: PLANNING COMMISSION

FROM: Planning Staff

DATE: January 21, 2014

SUBJECT: Public hearing to review proposed: 1. general plan text amendments to the 2007-2014 Housing Element adjusting permitted locations for emergency homeless shelters; and 2. zoning text amendments to the Martinez Municipal Code. The following zoning ordinance chapters would be affected for Federal and State law compliance: A) Density Bonus for Affordable Housing: MMC Chapter 22.57. Compliance with California Government Code Sections 65915-65918; B) Homeless Shelters - Emergency and Ongoing & Transitional and Supportive Housing: MMC Chapters 22.04, 22.12, 22.16, 22.18, 22.34, and 22.36. Compliance with California Government Code Sections 50675.2, 50675.14, and 65583; and C) Reasonable Accommodation: MMC Chapters 22.04 and 22.34. Compliance with California Fair Employment and Housing Act Government Code Sections 12926 and 12955, and Federal Fair Housing Act (42 U.S.C. Section 3601). The Planning Commission will make its recommendations to the City Council, which will consider the possible amendments at a future date to be announced.

RECOMMENDATION:

Adopt PC Resolution No. 14-02 recommending to the City Council that they find the proposed general plan and zoning text amendments exempt from the requirements of CEQA (Class 1 - Section 15301 - Existing Facilities, Class 5 - Section 15305 - Minor Alterations in Land Use Limitations, and Section 15061(b)(3) - General Rule) and adoption of the proposed General Plan amendment and ordinance amending the Zoning Ordinance, Title 22 of the Martinez Municipal Code.

BACKGROUND for GENERAL PLAN and ZONING TEXT AMENDMENT:

By State law, all California cities and counties are required to have, and periodically update, a Housing Element in their General Plans. Each Housing Element is required to establish housing objectives, policies and programs that the local jurisdiction will act upon to facilitate the provision of housing to meet the identified housing needs of all

income levels. Although Housing Elements are adopted by the local jurisdictions, their mandate is statewide and regional in nature, emphasizing the provision of “decent housing and a suitable living environment” for those with relatively lower incomes and for other “disadvantaged” populations (e.g. those with special needs, such as disabilities). For our region, the Association of Bay Area Governments (“ABAG”) established Regional Housing Needs Allocation (“RHNA”) numbers, which is used for every 7½ year long “*Housing Element Cycle*” to distribute a State mandated “fair share” of needed housing to each of the jurisdiction within the region. Since the State acknowledges that it is the private profit and non-profit developers who must actually provide the housing, the Housing Elements main function is only to assure the land use policies and regulations are in place that would both allow and engender for such “fair share” units, should such developers apply to build them. In addition, the California Department of Housing and Community Development (“HCD”) places additional requirements, pursuant to State legislation, of programs that cities and counties must include in each *Housing Element Cycle*. In order for HCD to “certify” a Housing Element such Housing Element programs, as further discussed below, are required for cities and counties to receive their share of transportation and other funding from the State.

Mandates from completed 4th Cycle Housing Element 2007-2014 (Senate Bill 2, 2007)

- Adopted program and action plan for changes to zoning regulation, establishing zoning districts where emergency shelters for the homeless will be permitted uses (i.e. not subject to use permit review, but may be subject to a set of objective standards).
- Adopted program and action plan for amending residential zones to specifically allow transitional and supportive housing, as required by State law, so they are treated as a residential use that will be subject only to the same restrictions that apply to other residential uses of the same type in the same zone.
- Adopted program and action plan for establishing internal review procedures or ordinance to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing.

Mandates from pending 5th Cycle Housing Element 2014-2022 (Senate Bill 375, 2008)

The *Sustainable Communities and Climate Protection Act* of 2008, also known as Senate Bill 375, is a State law requiring (ostensibly for the purpose of targeting vehicular greenhouse gas emissions) that each of State’s Metropolitan Planning Organizations for each region develop a "Sustainable Communities Strategy" (SCS) that integrates transportation, land-use and housing policies to plan for achievement of the emissions target for the region. For our region, the San Francisco Bay Area Metropolitan Transportation Commission (MTC) and ABAG developed the "One Bay Area" Plan, a 25-year transportation, land use and housing plan that was adopted in summer 2013.

But in addition to mandating regional planning, Senate Bill 375 placed new requirements on cities and counties for the 5th Housing Element Cycle by linking the

adoption of mandated housing programs and zoning changes to the cities' and counties' ability to certify future housing elements and possibly, to streamline the process with HCD. To remain in compliance and participate in HCD's streamlines process, the following must be completed prior to January 31, 2015:

- Rezones from 4th Cycle [*none required for Martinez*]
- Zoning for Emergency Shelters (implementing by current Housing Element)
- Zoning for Transitional and Supportive Housing (implementing current Housing Element)
- Reasonable Accommodation Ordinance Adopted (implementing current Housing Element)
- Density Bonus Ordinance Adopted (implementing past and current Housing Elements)

If a city or county does not comply with the above, they will be required to revise their housing elements every four years. It is therefore in the City's interest to adopt the above, knowing that State law already mandates these programs, even if the city and county fails to act.

DISCUSSION:

Topic 1: General Plan and Zoning Amendments for EMERGENCY SHELTERS

As was required for the 4th Housing Element Cycle, the City did adopt a program and action plan for changing the zoning regulation, planning to allow emergency shelters for the homeless as permitted uses in the NC (Neighborhood Commercial) and R-1.5 (Residential Multi-family, 1,500 sq. ft. site area per dwelling unit), in sites located "*within one-quarter mile of transit (i.e. bus) stop.*" In preparing and evaluating the draft ordinance to implement this action plan, two problems became apparent:

- No actual buildings/tenant spaces would likely be suitable in the NC & R-1.5 Districts. Since the intent of allowing Emergency Shelters as a permitted use is to provide a ready supply of large vacant buildings that could serve that function, a cursory review of possible structures in the NC and R-1.5 found that the chance of finding a vacant space in the intended 10,000 – 20,000 sq. ft. range – that could then be affordably leased and retrofitted - was nonexistent. Even if vacant space could be found, relative high lease values to space in the neighborhood commercial districts would discourage such uses.
- Requiring possible site to be "*within one-quarter mile of transit stop*" is not consistent with the intent of SB 2. State law intended for cities and counties to place few limitations on the opening of Emergency Shelters, other than a) requiring that the location be within one or more specific zoning district(s) and b) the adoption of objective standards that can be administratively applied in a way similar to the "by right" approach now used to permit Secondary Housing (i.e. "granny") units. Only criteria permitted by SB 2 is listed below:

- a. Maximum number of beds;
- b. Off-street parking based upon demonstrated need;
- c. Size and location of on-site waiting and intake areas;
- d. Provision of on-site management;
- e. Proximity to other shelters;
- f. Length of stay;
- g. Lighting; and
- h. Security during hours when the shelter is open.

❖ **OVERVIEW OF CURRENTLY PROPOSED GENERAL PLAN AND ZONING AMENDMENTS FOR EMERGENCY AND HOMELESS SHELTERS:**

- The SC (Service Commercial) and LI (Light Industrial) Districts are to replace the previously planned NC (Neighborhood Commercial) and R-1.5 (Residential Multi-family, 1,500 sq. ft. site area per dwelling unit) Districts. The newly proposed Districts are preferred in that: a) a greater number on possibly leasable buildings and /or tenant spaces and b) possible concerns from neighboring residents and or business will be reduced (see attached *Draft Planning Commission Resolution Exhibit B*).
- The limitation requiring that a possible Emergency Shelter be located “*within one-quarter mile of transit stop*” is to be removed from the General Plan, to comply with SB 2 (see attached *Draft Planning Commission Resolution Exhibit B*).
- The proposed zoning code development standards (as allowed by SB 2) can be found in the attached *Draft Planning Commission Resolution Exhibit C*. The proposed regulations also create provisions to allow non-emergency homeless shelters, integral to existing church facilities, subject to use permit approval.

Topic 2: Zoning Amendments for TRANSITIONAL AND SUPPORTIVE HOUSING

California Government Code Section 65583(a)(5) requires that transitional and supportive housing shall be considered a residential use of the property and shall be subject only to those restrictions that apply to other residential uses and dwelling types of the same type and in the same zone. The City’s 4th Cycle Housing Element contains Implementing Program 23 which specifies enacting zoning for transitional and supportive housing as required by State law. The proposed zoning code definitions that will be used to allow “transitional” and “supportive” housing as permitted uses in all R-Residential Districts can be found in the attached *Draft Planning Commission Resolution Exhibit C*.

Topic 3: Zoning Amendments for REASONABLE ACCOMMODATIONS

The Federal Fair Housing Act (42 U.S.C. Section 3601) and California Fair Employment and Housing Act (Government Code Section 12926 and 12955) impose an affirmative duty on local governments to make reasonable accommodation (modifications or exceptions) in their land use regulations and practices when such accommodation may be necessary to afford disabled persons an equal opportunity to housing. Implementing Program 24 of the City’s 4th Cycle Housing Element provides adoption procedures for

reasonable accommodation for persons with disabilities. A typical example of this would be to provide a process where a requested accommodation to minimum yard requirements might be granted to allow an access ramp in the front yard. The proposed zoning code definitions and regulations can be found in the attached *Draft Planning Commission Resolution Exhibit C*.

Topic 4: Zoning Amendments for DENSITY BONUS for AFFORDABLE HOUSING

In 2005, the State of California enacted changes to the State's density bonus law, Government Code Section 65915 which requires that cities and counties provide for mandated density bonuses, incentives and concessions for affordable housing developments in a quantity, form, and manner that satisfy the criteria contained in Government Code Section 65915-65918. Policy 3.5 of the City 4th Cycle Housing Element addresses the State's density bonus law, in that density bonuses should be provided to projects according to requirements of State law. While the City of Martinez has not formally adopted the density bonus regulations within its own code, the City has been legally bound to offer these incentives since 2005, and the State's mandated formula was recently implemented to aide in the development of the "affordable" Berrellesa Palms" Senior Housing project, currently under construction.

The proposed regulations for the State mandated density bonus process development standards can be found in the attached *Draft Planning Commission Resolution Exhibit C*. As have many cities done to respond to this State requirement, Martinez' proposed code does not contain the actual formulas for calculating the density bonus – it merely refers to the State Law, which is subject to change in the future. By referring to the State code, the City's code will always be current with State law. For additional reference, the current State code on Density Bonus is also attached.

ATTACHMENT:

Draft Resolution, with:

- Exhibit A, Findings of Consistency with the General Plan
- Exhibit B, General Plan – Housing Element – Proposed Text Amendments
- Exhibit C, Proposed Zoning Amendments Implementing 4th Cycle Housing Element

California Government Code Sections 65915 through 65918 (State Density Bonus Law)

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