

City of Sausalito Housing Element – Preliminary Comments on Menu of Options

Below are our preliminary comments on the City’s Draft Menu of Options based on our initial review. Given the quick turn around time requested, we have not had a chance to thoroughly review all of the documents, studies, and memos associated with the Menu of Options. We can provide a more in-depth review prior to the second community workshop in July.

Strategy 1: *Credit units built, under construction or approved from 1999-present to the RHNA*

The City should be able to count all of these units without any issues, but you’ll have to provide more information about the very low-income units.

Strategy 2: *Use information from Vacant and Underdeveloped Technical Study; apply existing vacant/underdeveloped unit potentials to the RHNA.*

There doesn’t appear to be any capacity for lower-income units given the small parcel sizes of the vacant and underutilized parcels, but some of the R-2 and R-3 zoned parcels might be able to count as moderate-income. If any of the parcels are adjacent to one another, you can group them into larger sites. Depending on the size of grouped sites and if they are zoned for higher-density housing, they may be appropriate for lower-income housing. Without reviewing a map of the vacant and underutilized parcels, we aren’t able to comment on the potential for grouping parcels.

Strategy 3: *Housing Element identifies a program to adopt an ADU amnesty program to legalize unpermitted ADUs*

Unfortunately, the Department of Housing and Community Development is not likely to accept the City’s methodology of counting existing accessory dwelling units (ADUs). The Regional Housing Needs Allocation (RHNA) is a projection of *future* housing needs and the illegal ADUs are *existing* units that may already serving the needs of lower-income residents in Sausalito. To count units against the RHNA, the units must create a net increase in the housing stock. State law allows jurisdictions to count some units that are made affordable through rehabilitation, conversion, and/or preservation (Government Code Section 65583.1(a) and (c)), but there are *very stringent* requirements (e.g., long-term affordability covenants, committed government assistance) for counting these units and it would be difficult to argue that the amnesty of ADUs would count as rehabilitation, conversion, or preservation.

That being said, we understand that the City’s HCD reviewer has indicated that she will consider this strategy. However, based on our experience working with HCD (and that particular reviewer), we don’t anticipate that HCD will accept this strategy of counting illegal ADUs made legal through an amnesty program. We have not contacted HCD on this issue without the City authorizing us to do so.

The City might be able to count ADUs that have been built since 1999 (the start of the RHNA planning period). However, the ADU survey did not ask when these units were built, so the City would have to collect additional information from second units owners to identify if any of the units were built since 1999.

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The amnesty program is still a good housing program and shows the City's commitment to encouraging ADUs as a source of affordable housing in the city. It also supports the City's strategy for counting the capacity for future ADUs (strategy 4).

Strategy 4: Housing Element identifies a program to adopt ADU regulations to allow ADUs

State law allows the City to count the number of second units expected to be built within the Housing Element planning period. The analysis of the potential for second unit development must rely on the following factors:

1. The number of second units developed in the prior planning period (i.e., 1999-2006)
2. The community need for second units
3. The resources and/or incentives available that will encourage the development of second units; and
4. Other relevant factors as determined by HCD.

Since the City does not have a track record of permitting ADUs, the analysis must rely on factors 2-4. The City can easily justify the community need for ADUs given the lack of vacant sites for larger-scale affordable housing developments and the continuing need for affordable housing in Sausalito. The ADU Survey contains information on property owner interest that shows support for new ADUs, which will be an important factor in the City's analysis. The City's best option for being able to count ADUs against the RHNA will be through strong programs to encourage construction. The following is a list of programs that the City could consider:

- Create pre-approved design prototypes to encourage and stimulate the development of ADUs. (see City of Santa Cruz Accessory Dwelling Unit Development Program: <http://www.cityofsantacruz.com/index.aspx?page=1150>)
- Develop information packets to market ADU construction.
- Advertise ADU development opportunities to homeowners on the city's website, at community and senior centers, in community newsletters, and in local utility bills.
- Establish and maintain an ADU specialist in the current planning division to assist in processing and approving ADUs.

In terms of the number of ADUs expected to be developed within the planning period, it will probably be difficult to assume the heavy approach, which assumed 131 ADUs. Given that the City doesn't have a long track record of approving ADUs and the planning period only goes until June 2014 (about 2.5 years from the anticipated Housing Element adoption date), it will be difficult to convince HCD that the City will approve over 50 ADUs per year.

Strategy 5: Provide documentation as to why liveaboards as should count as housing units and as providing affordable housing

The same issues that apply to counting existing ADUs apply to existing liveaboards. It is difficult, if not impossible, to count existing units against the RHNA, unless they were built within the planning period (i.e., since 1999).

Strategy 6: Provide incentives to encourage permitted marinas to offer the remainder of their liveaboard allotment to low/moderate income households

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The City's strategy to count capacity for liveabords as affordable housing is a unique strategy that HCD has probably not encountered before. This does not mean it is not a valid strategy. However, an incentive-based approach may not be adequate to convince HCD that all of the remaining liveaboard allotments will be affordable housing for lower- or moderate-income households. Since there is no evidence to support the success of incentives in creating affordable liveabords, HCD may want to see a firm commitment to creating deed-restricted affordable units.

Strategy 7: Rezoning Sites to a Higher Density

Some if not all of the sites the City has identified will need to be rezoned to meet the RHNA. This will be an important part of the City's overall RHNA strategy.

Comments on Other Options to Explore

F. Develop Program for an inclusionary Housing Ordinance (e.g., an inclusionary fee may be required to split a lot. This fee would go towards an affordable housing project)

Adopting an inclusionary housing ordinance will not assist the City in meeting its RHNA. HCD has stated, "the adoption of mandatory inclusionary zoning programs do not address housing element adequate sites requirements to accommodate the regional housing need for lower-income households. Inclusionary programs are not a substitute for designating sufficient sites with appropriate zoning, densities, and development standards as required by Government Code Section 65583(c)(1)." In fact, HCD requires jurisdictions to analyze inclusionary housing ordinances as a potential governmental constraint for their potential to negatively impact the overall development of housing. See HCD letter on inclusionary housing : http://www.hcd.ca.gov/hpd/madison_inclusionary_09.pdf.

G. Require mitigation fees for condominium conversion projects. This fee would go towards an affordable housing project

This could be a good program, but it will not help the City's strategy to meet the RHNA.

H. Regulate conversion of triplexes/duplexes to single family residences (e.g., prohibiting such conversions or require an impact fee)

This could be a good program, but it will not help the City's strategy to meet the RHNA

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