



**STAFF REPORT TO THE MARIN COUNTY
PLANNING COMMISSION**

Development Code (Title 22) and Form-Based Code (FBC) Updates

Recommendation: Recommend that the Board of Supervisors adopt the proposed Development Code (Title 22) and Form-Based Code Amendments

Hearing Date: July 27, 2026

Agenda item 5

Project Planner: Immanuel Bereket, Principal Planner
(415) 473-2755
immanuel.bereket@MarinCounty.gov

Signature:

PROJECT SUMMARY

The Development Code (Dev Code), enumerated in Title 22 of the Marin County Codes, includes a Form-Based Code (FBC), adopted in January 2023. The FBC applies to housing development applications submitted under the provisions of Senate Bill (SB) 9, SB 35, and developments proposed on Housing Element sites designated with a Housing Overlay Designation (HOD). Since the adoption of the FBC, the State has enacted additional legislation—including expansion of SB 423/SB 35, SB 6, and AB 2011—that requires ministerial or by-right approval of housing on properties zoned for residential or commercial uses. To ensure consistency with State housing law, maintain internal alignment within the County Code, and uphold objective development standards, staff recommends revising the Dev Code to require preparation of a Housing Compliance Review for any housing development project submitted pursuant to state legislation requiring ministerial or by-right approval.

BACKGROUND AND POLICY CONTEXT

On January 24, 2023, the Board of Supervisors adopted the 2023-2031 Marin County Housing Element, Safety Element, and Environmental Impact Report, along with related Countywide Plan and Development Code amendments. The Housing Element includes 33 programs and policies, including a policy to promote development certainty by establishing a ministerial review process for affordable housing projects and development of five or more dwelling units on housing element sites (Program 2: By Right Approval). Additionally, recent state legislation (e.g., California's SB 330, the Housing Accountability Act, Assembly Bill 2011, Senate Bill 35/423, etc.) requires counties to use only objective standards when reviewing qualifying multi-family and mixed-use

housing projects. These laws aim to reduce the scope of discretionary standards that, in the past, allowed officials' or the public's subjective opinions to influence project design.

In response, the Board adopted the FBC in January 2023, which provides objective design and development standards for on-site building design and site layout. The FBC standards largely relate to onsite improvements and contain limited standards for street frontages. As part of the continued efforts to transition the County's development regulations, the Board instructed staff to update Title 24 and to create Off-Site Objective Development Design Standards (Off-Site ODDS) that would address:

- **Circulation and Access:** Specific requirements for street widths, including sidewalk, vehicular and parking lane widths, and bicycle facility widths and type. Standards for on-street parking configurations and intersection design, including curb ramps, crosswalks, and curb radii.
- **Landscaping and Environment:** Quantitative rules for street trees, planting strips, and lighting (e.g., specific lumens or fixture heights).
- **Utilities:** Extending or relocating water, sewer, gas, and underground overhead electricity lines to connect the site to the main grid.
- **Stormwater:** Managing increased runoff that can impact local drainage systems.
- **Streetscape Amenities:** Benchmarks for street furniture, paving materials, and transit stops that prioritize safe and efficient circulation for all users.

Since the adoption of the FBC, the County has received an unprecedented number of housing development applications, most of which involve subdivision applications. All of these applications have been submitted pursuant to the Housing Crisis Act of 2019, adopted in (Senate Bill 330), which added, among other statutes, Government Code section 65941.1. SB 330 allows an applicant for a housing development project to submit a preliminary application, and the zoning, design, subdivision, and fee requirements that will apply to the housing development project throughout the review and entitlement process are only (with certain exceptions) those that were in effect on the date that the applicant submits a complete preliminary application, including the payment of a permit processing fee. To date, the County has received nine such applications totaling 466 proposed units and anticipates receiving more in the coming months.

DISCUSSION

Need to amend the Development Code Title 22

As currently written, the Development Code (Dev Code) limits the application of the FBC to projects submitted pursuant to Senate Bill (SB) 9 and SB 35, and to housing development applications proposed on Housing Element sites designated with a Housing Overlay Designation (HOD). Since the adoption of the FBC, the State has enacted additional housing legislation—including expanded provisions under SB 423/SB 35, SB 6, and AB 2011—that require ministerial or by-right approval of housing on properties that allow residential or commercial uses. In order to maintain consistency with State law and uphold objective development standards, staff recommends revising the Dev Code to require preparation of a Housing Compliance Review for any housing development project submitted pursuant to a state housing law that mandates ministerial or by-right approval.

Furthermore, staff recommends that the Planning Commission amend Title 22, Definitions (Section 22.130), to update the definition of “driveway” to ensure alignment with the proposed Offsite ODDS. A summary of the recommended Dev Code amendments is provided in Table 1 below.

Table 1: Proposed Dev Code Amendments

Title	Chapter/Section	Regulation
Development Code (Title 22)	22.64.020.C (Type 3)	Update to require all housing development projects submitted under state law to undergo a Housing Compliance Review
	22.130.030 (Definitions)	Update alley and driveway definitions to distinguish driveways from streets.

Need to amend the FBC

The second reason for recommending revisions is to update the FBC and implement the proposed Off-Site Objective Design and Development Standards (Off-Site ODDS). Currently, the FBC regulates on-site building and site design, with a few regulations pertaining to off-site infrastructure in Section 04.060. This section contains requirements for sidewalk and planting strip widths and configurations for public frontage along three different street types, and it references roadway regulations in Title 24, Chapter I (Roadways) which divides roadway types into six street classifications. To make these roadway regulations consistent between Titles within the Municipal Code, staff proposes removing, updating, and relocating the Public Frontage Standards from the FBC to Title 24, Chapter I.

Staff recommends the addition of a Stacked Flats building type to expand the palette of building types available under the Form-Based Code. This additional building type provides greater flexibility in building design while maintaining consistency with the Code's objective standards. Stacked flats are a multi-family housing form consisting of single-story apartment units constructed vertically on top of one another. Unlike traditional townhomes—which are multi-story units arranged side-by-side—or mixed-use buildings that incorporate commercial space at the ground floor, stacked flats consist exclusively of single-level residential units stacked vertically, typically accessed by a shared stairwell, elevator, or exterior walkway.

The stacked-flat building type was developed partly in response to the Planning Commission’s comments when the FBC was first adopted in 2023 and partly to address recently enacted state housing laws—particularly SB 35/423, AB 2011 and SB 6—which establish by-right height allowances for qualifying housing projects. The stacked-flat type is intended to augment the existing residential building typologies in the FBC, would apply only within the T5 transect, and would be available for projects submitted pursuant to state housing laws where the use of such a design is appropriate.

It is worth noting that several recently approved affordable multi-family housing projects—such as 825 Drake Avenue, 150 Shoreline Highway, and the Marinwood project—each consisting of five-story apartment buildings with no ground-floor commercial uses and units stacked vertically across all floors, modified the FBC because a “stacked-flat” design type was not yet available.

A summary of the proposed FBC edits is as follows:

Table 2: Proposed FBC Amendments

Title	Chapter/Section	Regulation
Form-Based Code	01.020 (Applicability)	Relocation of the Rules of Construction to new Section 10.020.
	01.020.2.E and 03.020.9 (Public Frontage Standards)	Reference added to Public Frontage Standards now in Title 24.
	Chapter 3 Zones (Building Placement)	Reduction to rear building setback adjacent to alleys.
	Chapter 3 Zones (Driveway)	Reference to compliance with fire code for min. driveway widths.
	Chapter 3 Zones (Frontages)	Reference to Title 24 for public frontage standards.
	04.030.4.B (Species Selection)	Reference changed from WUCOL species selection guidance to the County's Water Efficient Landscape Ordinance.
	04.040.4 (General Vehicular Parking Standards)	Reference parking dimensional standards in Title 24.
	04.060 (Standards for Public Frontages)	Delete section.
	05.140	Addition of the Stacked Flats building type
	09.030.1 (Existing Site Conditions)	List existing site conditions qualifying for adjustments.
	10.020 (Rules for Construction of Language)	Relocated from Applicability chapter.
	10.030 (Definitions)	Revisions to definitions.

The proposed Title 24 revisions are the subject of a separate Planning Commission hearing, as those regulations fall outside the Commission's formal purview. However, because these standards are integral to the FBC and to development review more broadly, they warrant Planning Commission consideration and feedback.

The proposed amendments to the Development Code and FBC are related to and integral to the implementation of the proposed Off-Site ODDS.

RECOMMENDATION

Review the proposed Development Code and Form Based Code amendments, receive public testimony, and recommend the attached draft Resolution recommending that the Board of Supervisors adopt Ordinances amending the Development Code and Form Based Code.

Attachments:

1. Draft Planning Commission Resolution (with Exhibit A: Draft Board of Supervisors Ordinance)
2. Proposed Dev Code, Title 22, amendments
3. PowerPoint Presentation