

NEWS

San Benito County's delayed housing element enables developments on rural and ag lands

Two 100-plus-unit projects are underway using the so-called 'builder's remedy.'

by **Juan Pablo Perez Burgos**

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	Natural and Cultural Resources Element			x	x				
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Abraham Prado, the county's director of planning, building, and code enforcement, in a housing element workshop in May. 22, 2024.

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For more than a year, the housing element of San Benito County’s General Plan—which California cities and counties must submit to address housing needs—has been out of compliance. That has triggered a provision in state law, known as “builder’s remedy,” which prevents jurisdictions from rejecting developments that provide affordable housing, even if they violate zoning rules.

Rosemerry Dere, the county’s public information officer, told BenitoLink that there are two ongoing projects that are proceeding under builder’s remedy. Both are planned for lands designated as agricultural and rural.

The county was supposed to submit its housing element by December 2023, but failed to do so. Today it's among 113 jurisdictions in the state—out of 539—without one. Officials submitted the fourth draft of the housing element on Feb. 3. It's now being reviewed by the California Department of Housing and Community Development (HCD).

In an email, Stephanie Reck, associate planner for the county, told BenitoLink that the county has been working on its housing element since January 2021. The delay, according to Reck, stems from the “long wait times” in dealing with the San Benito Council of Governments’ (SBCOG). She said that agency’s methodology for allocating state-mandated housing, known as Regional Housing Needs Allocation (RHNA), also delayed the process.

HCD assigned the county a total of 5,005 units, which SBCOG was in charge of distributing among the cities of Hollister and San Juan Bautista, and the unincorporated areas of the county. SBCOG submitted its proposal in Oct. 2021, which the state approved a year later.

Reck said other factors including “important outreach and public input timelines have drawn out the process more than anticipated.”

The first of the two projects taking advantage of the housing element’s delay is Chen Multifamily Housing, planned for Hwy 25 near Ridgemark, between Fairview and Best roads. Developer Emily Chen submitted the application in August 2024, proposing four apartment buildings with 586 parking spaces and 172 units. Of these, 63 would be low income units and the remaining 109 would be market rate.

The criteria for invoking the builder’s remedy changed this year. Previously, applicants could use the provision by planning for either 100% moderate income units or at least 20% of low income, very low income or extremely low income units.

Last year’s Housing Accountability Act (AB 1398), while maintaining the moderate income requirement, lowered the rest. As of Jan. 1, projects can qualify by including at least one of the following: 13% low income units, 10% very low income units or 7% extremely low income units.

The second project, near the intersection of Hwy 156 and Union Road, has a lower percentage of low income units. The developer, Ted Intravia, one of the owners of Premiere Cinemas in Hollister, submitted the application on Jan. 13. If approved, this development, known as The Ranch, would be built on a 32-acre property at 3291 Old San Juan Hollister Road. It would consist of 101 units and 186 parking spaces. The project designates 85 units as market rate and 16 as low income, exceeding the 13% threshold required under the new law.

Developers can use the builder's remedy provision until the county has a state-certified housing element. Although San Benito County's is in the final stages of approval, the cities of Hollister and San Juan Bautista are further behind, making them susceptible to builder's remedy projects.

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