

CULTURAL AND TRIBAL CULTURAL RESOURCES

4.5 CULTURAL AND TRIBAL CULTURAL RESOURCES

This chapter describes existing cultural and tribal cultural resources (TCRs) within the Environmental Impact Report (EIR) Study Area and evaluates the potential environmental consequences of future development that could occur by adopting and implementing the proposed project. A summary of the relevant regulatory framework and existing conditions is followed by a discussion of the proposed project and cumulative impacts.

This chapter is based on the following documents, which can be found in Appendix F, Cultural Resources Data, of this Draft EIR:

- *Cultural Resources Report*, Tom Origer & Associates, January 2020
- *Downtown San Rafael Precise Plan Historic Resources Inventory Summary Report*, City of San Rafael, December 2020.

4.5.1 ENVIRONMENTAL SETTING

4.5.1.1 REGULATORY FRAMEWORK

Federal Regulations

National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966 established the National Register of Historic Places (National Register) as the official designation of historical resources, including districts, sites, buildings, structures, and objects.

Sites less than 50 years in age, unless of exceptional importance, are not eligible for the National Register. Listing in the National Register does not entail specific protection for a property, but project effects on properties listed or eligible for listing in the National Register must be evaluated under the California Environmental Quality Act (CEQA).

For a property to be eligible for listing in the National Register, it must be significant and possess integrity. According to the National Register criteria for evaluation,¹ a property is significant in American history, architecture, archaeology, engineering, or culture if it is:

- A. associated with events that made a significant contribution to the broad patterns of our history; or
- B. associated with the lives of significant persons in our past; or
- C. embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. has yielded or may be likely to yield, information important in history or prehistory.

¹ Code of Federal Regulations, 36 CFR Part 60.4.

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Secretary of the Interior's Standards for the Treatment of Historic Properties

The Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards) promote responsible practices that help protect the nation's irreplaceable cultural resources. The Secretary of the Interior's Standards are neither technical nor prescriptive, and cannot, in and of themselves, be used to make essential decisions about which features of the historic building should be saved and which can be changed. But once a treatment is selected, the Secretary of the Interior's Standards provide for philosophical consistency in the work. An individual set of Secretary of the Interior's Standards has been formulated for each of four identified treatment approaches: Preservation, Rehabilitation, Restoration, and Reconstruction. The four approaches are defined below:

- *Preservation* requires retention of the greatest amount of historic fabric, along with the building's historic form, features, and detailing as they have evolved over time.
- *Rehabilitation* acknowledges the need to alter or add to a historic building to meet continuing or new uses while retaining the building's historic character.
- *Restoration* allows for the depiction of a building at a particular time in its history by preserving materials from the period of significance and removing materials from other periods.
- *Reconstruction* establishes a limited framework for re-creating a vanished or non-surviving building with new materials, primarily for interpretive purposes.

The Secretary's Standards for Rehabilitation—*Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (1995)—specifically address and encourage alterations or additions to a historic resource to allow new uses while retaining the resource's historic character and are particularly applicable in the Downtown Precise Plan Area. The Secretary of the Interior's Standards for Rehabilitation include the following:

1. A property will be used as it was historically or be given new use that requires minimal changes to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

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7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Secretary of the Interior's Standards for Architectural and Engineering Documentation

The Secretary of the Interior's Standards for Architectural and Engineering Documentation pertain to the development of documentation for historic buildings, sites, structures and objects. This documentation, which usually consists of measured drawings, photographs and written data, is intended to provide important information on a property's historic significance for use by researchers, preservationists, architects and others interested in preserving and understanding historic properties. Such documentation permits accurate repair or reconstruction of parts of a property, or may record and preserve information about a property that is to be demolished. These Standards are intended for use in developing documentation to be included in the Historic American Building Survey (HABS) and the Historic American Engineering Record (HAER) Collections in the Library of Congress. The requirements for content, quality, materials and presentation may also be applied to documentation for other purposes such as State or local archives.

Secretary of the Interior's Professional Qualifications Standards

The Secretary of the Interior's Professional Qualifications Standards define minimum education and experience required to perform historic resources identification, evaluation, registration, and treatment activities.²

Paleontological Resource Protection

Paleontological resources are classified as nonrenewable scientific resources and are protected by federal and state statutes, most notably the 1906 federal Antiquities Act. Professional standards for assessment and mitigation of adverse impacts on paleontological resources have been established by the Society for Vertebrate Paleontology.

² Code of Federal Regulations, 36 CFR Part 61.

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American Indian Religious Freedom Act

The American Indian Religious Freedom Act establishes, as national policy, that traditional Native American practices; beliefs; sites, including the right of access; and the use of sacred objects shall be protected and preserved. It does not include provisions for compliance.

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act of 1990 protects Native American remains, including Native American graves on federal and tribal lands, and recognizes tribal authority over the treatment of unmarked graves. This Act prohibits the selling of Native American remains and provides guidelines for the return of Native American human remains and cultural objects from any collection receiving federal funding, such as museums, universities, or governments. Noncompliance with this Act can result in civil and criminal penalties.

State Regulations

CEQA Guidelines

The state CEQA Guidelines pertaining to historic resources and archaeological resources are described below.

Archaeological Resources

Public Resources Code (PRC) Section 21083.2 (CEQA Statute) and California Code of Regulations (CCR) Section 15126.4 (CEQA Guidelines) specify lead agency responsibilities to determine whether a project may have a significant effect on archaeological resources.

CEQA Section 21083.2 sets out detailed requirements for projects for which it can be demonstrated will damage a unique archaeological resource. For such projects, the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state. Preservation in place is the preferred approach to mitigation. CEQA Section 21083.2 also details required mitigation if unique archaeological resources are not preserved in place.

CEQA Guidelines Section 15064.5 also specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures include the following provisions: (1) protect such remains from disturbance, vandalism and inadvertent destruction; (2) establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and (3) establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Historic Resources

CEQA Guidelines Section 15064.5 states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant impact on the environment.

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CEQA Guidelines Section 15064.5(a) states that, for purposes of CEQA, the term "historical resources" shall include the following:

- A resource listed in or determined to be eligible by the State Historical Resources Commission, for listing in the California Register (PRC Section 5024.1; Title 14 CCR, Section 4850 et seq.).
- A resource included in a local register of historical resources, as defined in PRC Section 5020.1(k) or identified as significant in an historical resource survey meeting the requirements PRC Section 5024.1(g), shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register (PRC Section 5024.1, Title 14 CCR, Section 4852) including the following:
 - Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
 - Is associated with the lives of persons important in our past;
 - Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
 - Has yielded, or may be likely to yield, information important in prehistory or history.

The fact that a resource is not listed in, or determined to be eligible for listing in the California Register, not included in a local register of historical resources (pursuant to PRC Section 5020.1(k)), or identified in an historical resources survey (meeting the criteria in PRC Section 5024.1(g)) does not preclude a lead agency from determining that the resource may be an historical resource as defined in PRC Sections 5020.1(j) or 5024.1.

For historic resources. CEQA Guidelines Section 15064.5(b)(3) indicates that a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), shall be considered as mitigated to a less-than-significant level on the historic resource.

California Register of Historic Resources

The California Register of Historic Resources (California Register) establishes a list of properties to be protected from substantial adverse change (PRC Section 5024.1). A historical resource may be listed in the California Register if it is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political or cultural annals of California, and meets any of the following criteria:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- is associated with the lives of persons important in California's past.

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- embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic value.
- has yielded or is likely to yield information important in prehistory or history.

The California Register includes properties that are listed or have been formally determined eligible for listing in the National Register, State Historical Landmarks and eligible Points of Historical Interest. Other potential resources require nomination for inclusion in the California Register.

For a property to be eligible for listing in the California Register, it must possess integrity as well as be significant. Integrity is the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period. Loss of integrity, if sufficiently great, will render a resource ineligible for the California Register. Integrity is determined through application of seven factors:

- *Location*. Location is the place where the historic property was constructed or the place where the historic event occurred.
- *Design*. Design is the combination of elements that create the form, plan, space, structure, and style of a property.
- *Setting*. Setting is the physical environment of the historic property.
- *Materials*. Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration form a historic property
- *Workmanship*. Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
- *Feeling*. Feeling is a property's expression of the aesthetic or historic sense of a particular period of time.
- *Association*. Association is the direct link between an important historic event or person and a historic property.

Health and Safety Code Section 7052 and 7050.5

Health and Safety Code Section 7052 states that the disturbance of Native American cemeteries is a felony. Health and Safety Code Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the county coroner can determine whether the remains are those of a Native American. If determined to be Native American, the coroner must contact the NAHC.

California Native American Historical, Cultural and Sacred Sites Act

The California Native American Historical, Cultural and Sacred Sites Act applies to both State and private lands. This Act requires that upon discovery of human remains, construction or excavation activity cease and the county coroner notified. If the remains are of a Native American, the coroner must notify the NAHC. The NAHC then notifies the persons most likely to be descended from the Native American remains. This Act stipulates the procedures the descendants may follow for treating or disposing of the remains and associated grave goods.

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Public Resources Code Section 5097

PRC Section 5097.5(a) specifies that a person shall not knowingly and willfully excavate upon, or remove, destroy, injure, or deface, any historic or prehistoric ruins, burial grounds, or archaeological sites, which can include fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over the lands.

California Code of Regulations

Archaeological resources, on lands administered by the California Department of Parks and Recreation, are addressed in Title 14, Division 3, Chapter 1 of the CCR. Section 4308 of this chapter addresses archaeological features and states that no person shall remove, injure, disfigure, deface, or destroy any object of archaeological or historical interest or value.

California Historical Building Code

The California Historical Building Code (CCR Title 24, Part 8) provides regulations for permitting repairs, alterations, and additions for the preservation, rehabilitation, relocation, reconstruction, change of use, or continued use of historical buildings, structures, and properties determined by any level of government as qualifying as an historical resource. An historical resource is defined in Sections 18950 to 18961 of Division 13, Part 2.7 of the Health and Safety Code and subject to rules and regulations set forth in CCR Title 24, Part 8.

California Health and Safety Code

Section 7050.5 of the California Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the County Coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the Coroner must contact the California NAHC.

Senate Bill 18

Senate Bill 18 (SB 18), signed into law in September 2004, requires that local governments consult with California Native American tribes in order to provide tribes an opportunity to participate in local land use decisions at the early planning stage for the protection or mitigation of impacts to tribal cultural places. The Governor's Office of Planning and Research is required to include the General Plan Guidelines Advice for how to conduct these consultations, which apply to adoption and amendment of general plans and specific plans, as defined in Government Code §65300 and §65450.

Assembly Bill 52

Assembly Bill 52 (AB 52), known as the Native American Historic Resource Protection Act, requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with a proposed project's geographic area, if they have requested to be notified, in order to include California Tribes in determining if a project may result in significant impacts to TCRs. TCRs may be undocumented or known only to the

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Tribe. AB 52 defines a TCR as a site, feature, place, or a cultural landscape that is geographically defined in terms of size and scope, sacred place, or object with cultural value to a California Native American tribe that is either included or eligible for inclusion in the California Register or included in a local register of historical resources, or that the lead agency chooses at its discretion to treat as a TCR. When a lead agency chooses to treat a resource as a TCR, that determination shall be supported with substantial evidence, applying the criteria in the historical register and considering the significance of the resource to a California Tribe. A project that may cause substantial adverse change in the significance of a TCR is a one that may have a significant effect on the environment.

Consultation with California tribes may include, but is not limited to, discussion of the type of environmental review necessary, the significance of TCRs, the significance of the proposed project impacts on the TCRs, and alternatives and mitigation measures recommended by the tribe. Mitigation measures agreed upon must be included in the environmental document. Consultation is considered concluded when the parties agree to measures to avoid or reduce a significant impact on a TCR, or when a party concludes that mutual agreement cannot be reached. If no formal agreement on the appropriate mitigation has been established, mitigation measures that avoid or substantially lessen potential significant impacts should be implemented.

Local Regulations

San Rafael General Plan 2020

The City of San Rafael General Plan 2020 goals, policies, and programs that are relevant to cultural resources are primarily in the Culture and Arts Element. As part of the proposed project, some existing General Plan policies would be amended, substantially changed, or new policies would be added. A comprehensive list of policy changes in General Plan 2040 is provided in Appendix B, Proposed General Plan Goals, Policies, and Programs, of this Draft EIR. Applicable goals, policies, and programs are identified and assessed for their effectiveness and potential to result in an adverse physical impact later in this chapter under Section 4.5.3, Impact Discussion.

San Rafael Municipal Code

The San Rafael Municipal Code (SRMC) includes various directives pertaining to cultural resources and TCRs. The SRMC is organized by title, chapter, and section. Provisions related to cultural resources and TCRs are included in Title 2, Administration, as follows:

- **Chapter 2.18, Historic Preservation.** Section 2.18.010, Purpose, states that the City Council of San Rafael finds that structures, sites and areas of special character or special historical, architectural or aesthetic interest or value have been and continue to be unnecessarily destroyed or impaired, despite the feasibility of preserving them. It is further found that the prevention of such needless destruction and impairment is essential to the health, safety, economy and general welfare of the public. The purpose of this chapter is to promote the health, safety, economy and general welfare of the public through:
 - The protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past or are landmarks in the history of

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architecture, or which are unique and irreplaceable assets to the city and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived;

- The development and maintenance of appropriate settings and environment for such structures, and in such sites and areas;
 - The stabilization and enhancement of property values, the stabilization of neighborhoods and areas of the city, the increase of economic and financial benefits to the city and its inhabitants, and the promotion of visitor trade and interest in the city of San Rafael;
 - The preservation and encouragement of a city of varied architectural styles, reflecting the distinct phases of its history: cultural, social, economic, political and architectural;
 - The enrichment of human life in its educational and cultural dimensions in order to serve spiritual as well as material needs, by fostering knowledge of and civic pride in the living heritage of the past; and
 - Tax reductions to owners of designated historic buildings and sites through appropriate state and federal laws.
- **Chapter 2.19, Archaeological Resources.** Section 2.19.010, Purpose, states that certain lands and geographic areas within the city of San Rafael contain significant archaeological resources, which include deposits and remains of the local Native Americans and other early inhabitants. These deposits and remains represent an important part of the early history of San Rafael and the culture of the Native American community. Without proper regulations and monitoring, continued excavation and grading activities within the city council significantly impact these resources.

In recognizing the importance of protecting significant archaeological resources, the city of San Rafael has determined to:

- Establish a procedure for identifying, when possible, archaeological resources and potential impacts to such resources prior to authorizing excavation and grading activities;
- Provide valuable information and direction to property owners in the community in order to make them aware of these resources;
- Implement measures that would preserve and protect valuable archaeological resources, when there is a potential for encountering such resources;
- Establish a procedure which would ensure that appropriate advisory agencies and organizations are contacted and consulted, when there is a probability that archaeological resources could be encountered during an activity involving grading, excavation, and/or construction;
- Establish and implement specific protection and preservation measure in the event archaeological resources are encountered during grading, excavation and/or construction.

Resolution 10980 – Procedures and Regulations for Archaeological Resource Protection

On December 3, 2001, the San Rafael City Council adopted Resolution 10980, which provides revised procedures and regulations for archaeological resource protection in the EIR Study Area. The intent of the Resolution is to ensure that archaeological resources are identified, and proper procedures are in place to treat the resource in accordance with State law, for activities that are non-discretionary or ministerial, that are considered discretionary but exempt from environmental review, and that are discretionary and subject to environmental review. As directed in the Resolution, the City maintains a data base and map of

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archaeological resources, including sensitivity ratings as the starting point for project review. The Resolution includes guidelines for the level of analysis required to make a significance determination under CEQA, even if projects are non-discretionary or ministerial or exempt from environmental review.

4.5.1.2 EXISTING CONDITIONS

EIR Study Area

Ethnographic and Historic Overview

The following sections summarize the ethnographic and historic overview of the EIR Study Area. Additional detail can be found in Appendix F, Cultural Resources Data, of this Draft EIR.

Ethnographic Overview

At the time of European settlement in the San Francisco Bay Area, the EIR Study Area was part of the Coast Miwok territory. The Coast Miwok were hunter-gatherers who lived in rich environments that allowed for dense populations with complex social structures. They settled in large, permanent villages about which were distributed seasonal camps and task-specific sites. Primary village sites were occupied throughout the year, and other sites were visited to procure resources that were especially abundant or available only during certain seasons. Sites often were situated near fresh water sources and in ecotones where plant life and animal life were diverse and abundant.

It is believed that members of the Coast Miwok were the Native Americans who met with both Sir Francis Drake and Sebastian Rodriguez Cermeño during their voyages to California. After those two contacts, the Coast Miwok were left alone for nearly 200 years until the construction of the San Francisco Presidio and Mission Dolores in 1776. Even then, Coast Miwok did not enter Mission Dolores in significant numbers until 1800.

Historic Overview

Euroamerican settlement in what would become the city of San Rafael began with the founding of an *asistencia*, or outpost of the Mission San Francisco de Assis in 1817. The *asistencia* served as a hospital for Native Americans who had been Christianized, and as a ranch in support of the San Francisco mission. In 1822, the *asistencia* became the Mission San Rafael Arcangel. The mission at San Rafael was the 20th of 21 missions established in California between 1769 and 1823. The chain of missions reached from San Diego to present-day Sonoma, and all but the last were founded under Spanish rule. The Mission San Francisco de Solano in Sonoma was erected in 1823, two years after Mexico gained independence from Spain.

Under Mexican rule, land grants were made more frequently and resulted in the unique pattern of land ownership in California. In 1834, Mexico ended the mission system in California, freeing additional lands for distribution. Mission San Rafael Arcangel was the first of the secularized missions. San Rafael lies within the Mexican land grant of Rancho San Pedro that Santa Margarita y Las Gallinas made to Timothy

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Murphy in 1844; the EIR Study Area includes a small portion of Rancho Punta de Quentin, an 1840 grant to John B.R. Cooper.

San Rafael grew gradually after California statehood in 1850, entering an accelerated period of commercial and residential growth over the next several decades. Spurred by advances in transportation and train service to San Rafael, hotels and saloons were constructed to host a modest hospitality industry of summer and weekend visitors. By 1900, Fourth Street had developed into a premier commercial corridor in Marin County and the greater San Francisco Bay Area.

An influx of new residents came to San Rafael following the 1906 San Francisco earthquake and fire, triggering new residential development surrounding the downtown. The expansion of these neighborhoods created a foundation for the mixed residential/commercial areas in San Rafael and the need for additional civic services.

The opening of the Golden Gate Bridge in 1937 and the increasing popularity of the automobile created a new connectivity between Marin County and San Francisco, stimulating a period of increasing prosperity with the San Rafael's first high-rise building. By this time, San Rafael was also home to several theaters and venues to entertain the growing and diversifying population.

During World War II the San Francisco Bay Area became a major hub for wartime industry, bringing waves of migration to San Rafael. This stark increase in population necessitated a new type of housing development, resulting in the construction of housing tracts and subdivisions outside of downtown and into the eastern and northern portions of San Rafael. These events refocused downtown development to provide locally oriented goods and services to many working families now residing in San Rafael. In the years immediately after the war, San Rafael's downtown continued to prosper as department stores, restaurants, civic buildings, medical services, and institutions emerged.

From the mid-twentieth century to the present, San Rafael's downtown has continued to be centered on the Fourth Street and B Street commercial corridor. Initially centered on the Mission and maritime routes to San Francisco, San Rafael became, in turn, a railroad depot, a regional wartime economic center, an auto-oriented county seat, and the commercial and cultural center of Marin County and the greater San Francisco Bay Area.

Prehistoric and Historic Resources

Prehistoric and historic resources in the EIR Study Area are recorded on the California Historic Resources Information System (CHRIS) database, which keeps a log of all prehistoric and historic resources in the State. The State Historic Preservation Office defines cultural resources under the following categories:³

- **Site.** A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure.

³ Office of Historic Preservation, March 1995. *Instructions for Recording Historical Resources*. (<http://scic.org/docs/OHP/manual95.pdf>).

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- **Building.** A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. A building may also refer to a historically or functionally related unit such as a courthouse and jail, or a house and barn.
- **Structure.** The term structure is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter.
- **Object.** The term object is used to distinguish from buildings and structures. These constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.
- **District.** A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Prehistoric Resources

Since 1906, 86 prehistoric sites have been documented within the EIR Study Area and are on file at the Northwest Information Center of the CHRIS.⁴ A total of 67 of these sites were documented following archaeological inventories in the early 1900s. The remaining 19 sites were identified through mandated cultural resource surveys following passage of the NHPA in 1966 and CEQA in 1970. While the required archaeological resources sensitivity mapping program described in Section 4.5.1.1 provides a partial inventory of cultural resource sites, there are sections within the EIR Study Area that have not been surveyed or evaluated for resource potential. Therefore, there is potential that additional, not-yet-identified archaeological resources exist within the EIR Study Area.

Historic Resources

The Northwest Information Center of the CHRIS database includes documentation for 12 historic sites within the EIR Study Area. These include archaeological deposits associated with Euroamerican settlement and exploration, and historic buildings and structures.

As the oldest city in Marin County, San Rafael contains numerous individual properties as well as several potentially eligible districts that meet the CEQA definition of a “historical resource” (CEQA Guidelines Section 15064.5 (a)). In 1977, the San Rafael City Council adopted a citywide survey of older, architecturally interesting buildings and structures known as the Historical/Architectural Survey. The survey was last updated in 1986 and included nearly 305 properties, primarily built environment resources. Of the nearly 320 historic resources tabulated in the 1986 survey, the City recognized 16 City Landmarks and three Historic Districts. Four of the resources are listed on the California Register and ten resources are listed on the National Register. The remaining properties listed in the 1986 Survey are considered potential historic resources but are not formally listed or landmarked. Together, these surveys are referred to as the 1977/86 Survey. The properties identified on the National Register, the California Register, and as City Landmarks and Historic Districts that are not in the Downtown Precise Plan Area are shown on Table 4.5-1.

⁴ The locations of prehistoric sites are kept confidential to protect the integrity of archaeological sites, therefore the location of the archaeological resources are not identified in this report.

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TABLE 4.5-1 HISTORIC LANDMARKS AND DISTRICTS OUTSIDE OF THE DOWNTOWN PRECISE PLAN AREA

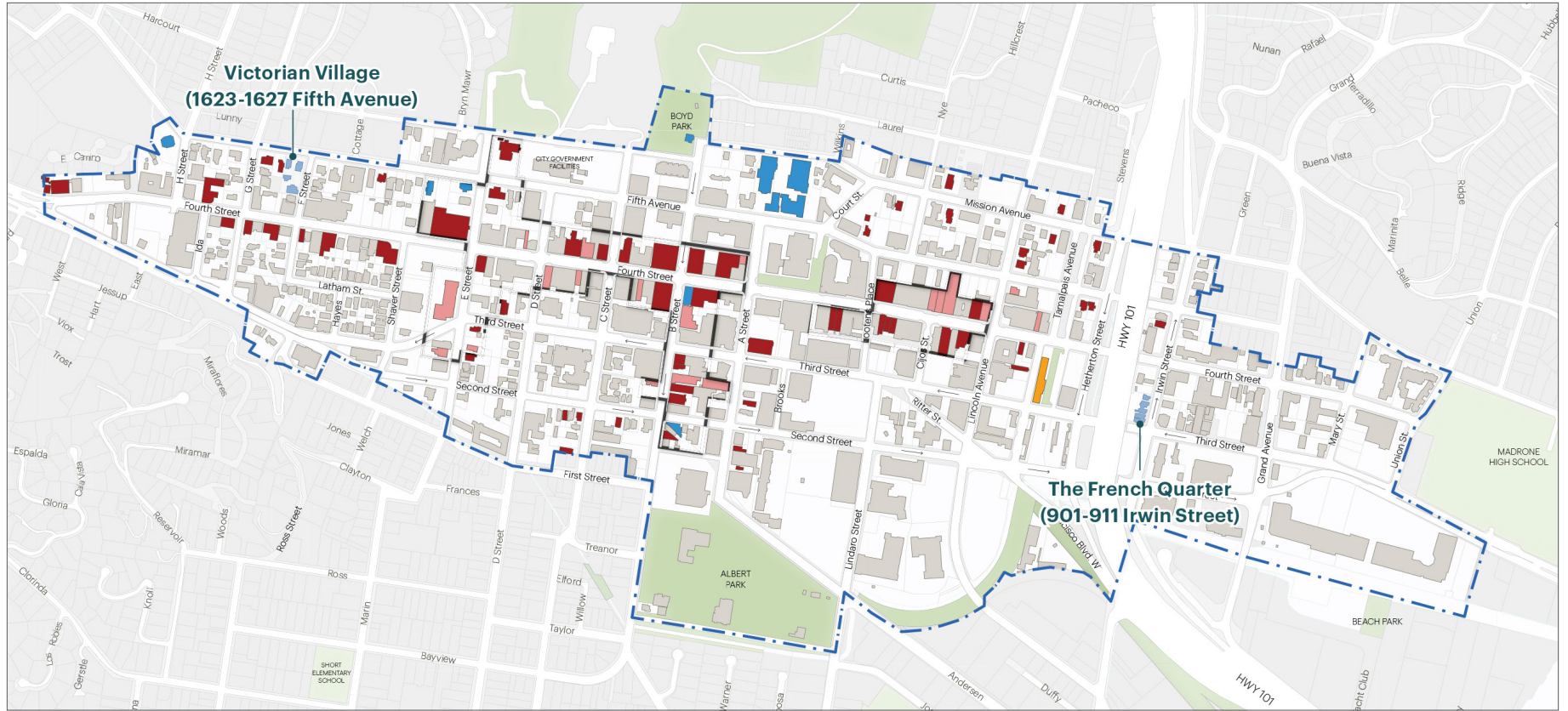
Name	Address	Type of Listing and Year Listed		
		National Register	California Register	Local Landmark
<i>Historic Landmarks</i>				
Marin County Civic Center	3501 Civic Center Drive		1991	
Marin County Civic Center	N. San Pedro Road and Civic Center Drive	1991		
St. Vincent's School for Boys	1 St. Vincent Drive		1958	
China Camp	100 China Camp Village Road		1978	
China Camp	247 N. San Pedro Drive	1979		
Bradford House	333 G Street	1980		1980
Dixie Schoolhouse	2255 Las Gallinas Avenue	1972		
Robert Dollar Estate /Falkirk Mansion	1408 Mission Avenue	1972		
Robert Dollar House	115 J Street	1991		
Erskine B. McNear House	121 Knight Drive	1982		
Miller Creek School Indian Mound	Restricted	1971		
Holtwood	510 Belle			1981
The McNear Brick Barn	525-569 Biscayne Drive			1982
The Robert Dollar House	115 J Street			1984
The McNear Residence	121 Knight Drive			1981
Dr. Hawkins' Residence	418 Mission Avenue			1978
The Robert Dollar Estate/Falkirk Mansion	1408 Mission Avenue			1976
The Isaac Jessup House	10 Sentinel Court/241 West End Avenue			1978
The Jessup/Dunand House	14 Sentinel Court			1979
The Litchfield Sign	737 E. Francisco Blvd			1998
<i>Historic District</i>				
Grand Avenue Historic District	1811-1817 Grand Avenue			1979

Sources: City of San Rafael, 2020; National Park Service National Register of Historic Places Program, 2019; Office of Historic Preservation California Historical Resources, 2019. Note: Some resources appear more than once in this table because they are listed by more than one entity.

Downtown Precise Plan Area

This section describes the existing historic resources in the Downtown Precise Plan Area. Information in this section is based on the 1977/86 Survey and the 2019/20 Survey that was completed as part of the proposed Downtown Precise Plan. The 2019/20 Survey builds on the 1977/86 Survey, as well as research by individuals and organizations completed between 1986 and 2019. The principal findings are based on field surveys and archival research of the 2019/20 Survey, including the completion of Department of Parks and Recreation (DPR) 523 Forms for 36 eligible historic properties and two eligible historic districts. The 2019/20 Survey was completed by a team that included City staff, consultants, and volunteers from the San Rafael Heritage Commission. Figure 4.5-1 provides an overview of historic resources within the Downtown Precise Plan Area.

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Source: Garavaglia Architecture.



- Existing historic landmarks designated prior to 2019-20 survey [10]
- Existing historic districts designated prior to 2019-20 survey [2]
- Eligible as an individual resource in 2019-20 survey [70]
- Eligible as a contributing resource in 2019-20 survey [19]
- Additional research needed [1]
- Newly identified eligible historic districts [2]

Figure 4.5-1

Existing Historic Resources in the Downtown Precise Plan Area

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1977/86 Survey Historic Resources

Table 4.5-2 lists Historic Landmarks and Historic Districts in the Downtown Precise Plan Area designated as part of the 1977/86 Survey. There are two properties on the National Register of Historic Places and one that is a designated California Historic Landmark. Four other Downtown Precise Plan properties were listed by the City in the 1970s and 1980s but are not formally listed at the state or national levels.

TABLE 4.5-2 1977/86 SURVEY HISTORIC LANDMARKS AND DISTRICTS IN THE DOWNTOWN PRECISE PLAN AREA

Name	Address	Type of Listing and Year Listed		
		National Register	California Register	Local Landmark
<i>Historic Landmarks</i>				
Boyd House	1125 B Street	1974		1974
San Rafael Improvement Club	1801 Fifth Avenue ^a	1984		1980
Mission San Rafael Arcangel	1100 -1104 Fifth Avenue		1935	Not Listed
Mulberry House/McDermott	1149 Fourth Street ^b			1984
Chisolm Residence	1505 Fifth Avenue ^b			1979
Flatiron Building	724 B Street ^b			1982
<i>Historic Districts</i>				
The Victorian Village Historic District	1623-1627 5th Avenue ^a			1979
The French Quarter Historic District	901-911 Irwin			1978

Notes: APN = Assessor's Parcel Number

a. These locations are in the West End Village Sub-Area of the proposed Downtown Precise Plan.

b. These locations are in the West Downtown Eligible Historic District identified in the 2019/20 Survey.

Source: City of San Rafael, 1977/86 Survey.

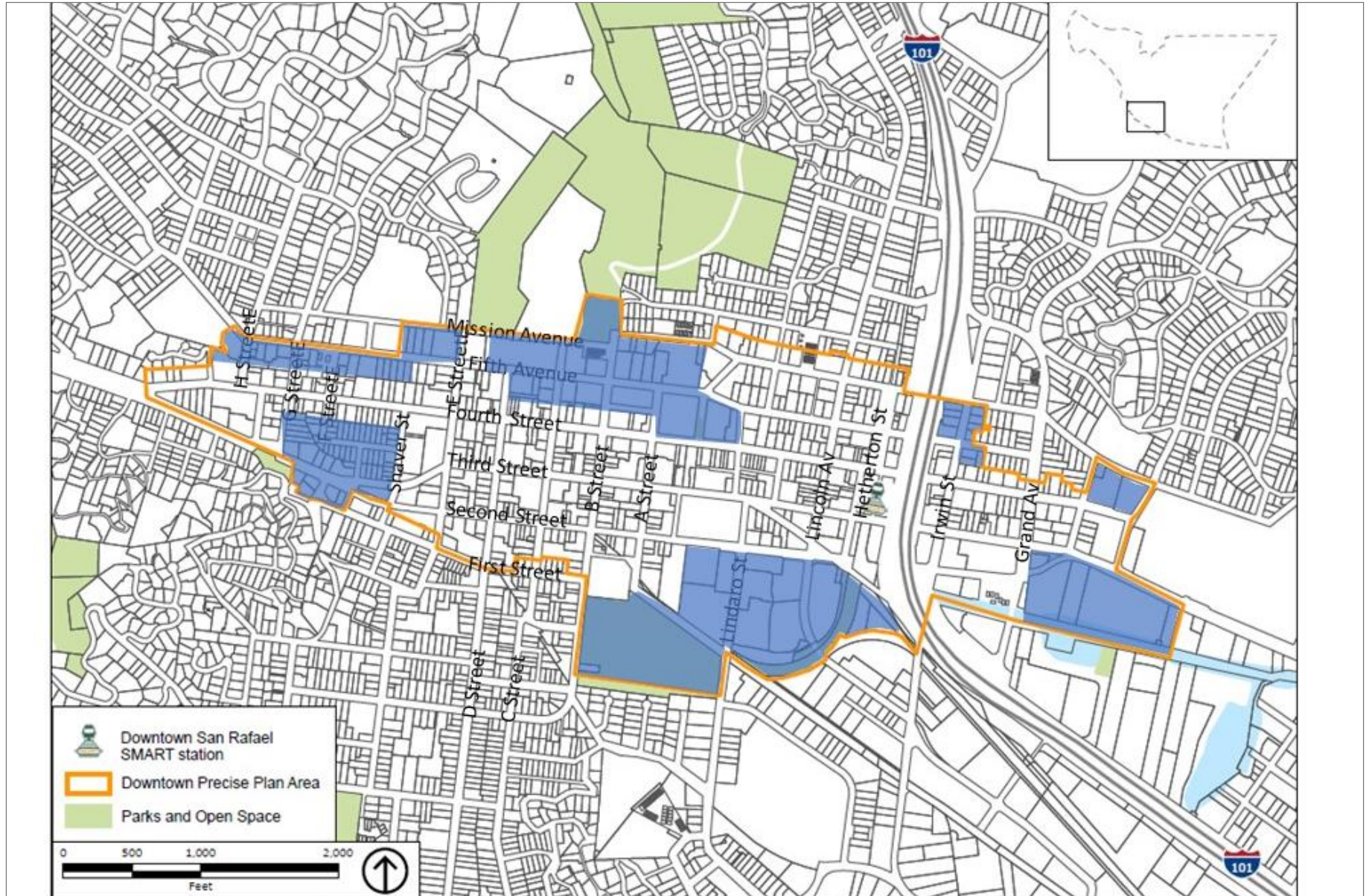
As shown in Table 4.5-2, two locally designated Historic Districts in the Downtown Precise Plan Area were identified in the 1977/86 Survey. Each Historic Districts is assigned a single Assessor's Parcel Number (APN) with multiple structures:

- **The Victorian Village Historic District.** This district consists of two listed structures (originally addressed as 1623 and 1627 Fifth Avenue but subsequently re-addressed as 1623, Units 1 to 4 through a condominium map filing). As part of the 1977/86 Survey, the structures were observed as being in excellent condition.
- **The French Quarter Historic District.** This district consists of five listed structures (901, 903, 905, 907-09, 911 Irwin Street) assigned APN 014-122-14. As part of the 1977/86 Survey, the structures were observed as being in good condition.

2019/20 Survey Historic Resources

This section summarizes the existing conditions inventory of historic resources from the 2019/20 Survey. As shown on Figure 4.5-2, not all of the properties in the Downtown Precise Plan Area were surveyed.

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Source: ESRI, 2017; County of Marin, 2009; City of San Rafael, 2019; PlaceWorks, 2020.

Figure 4.5-2

Area not surveyed

Areas Excluded from the 2019/20 Survey

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Areas excluded from the 2019/20 Survey contain historic resources but are not expected to experience significant changes during the time horizon of the proposed Downtown Precise Plan. Resources located in the excluded areas that were catalogued in the 1977/86 Survey are described in this chapter. However, there may be additional resources in these areas. In the event alterations are proposed in an excluded area, additional research may be needed to determine if the structure is a historic resource.

As described in the following sections, the results of the 2019/20 Survey found that two areas in the Downtown Precise Plan Area meet eligibility criteria for Historic Districts. These are described in the context of the west and east sides of the proposed Downtown Core sub-area for the Downtown Precise Plan (see Figure 3-9 in Chapter 3, Project Description, of this Draft EIR).

Eligible Historic Districts

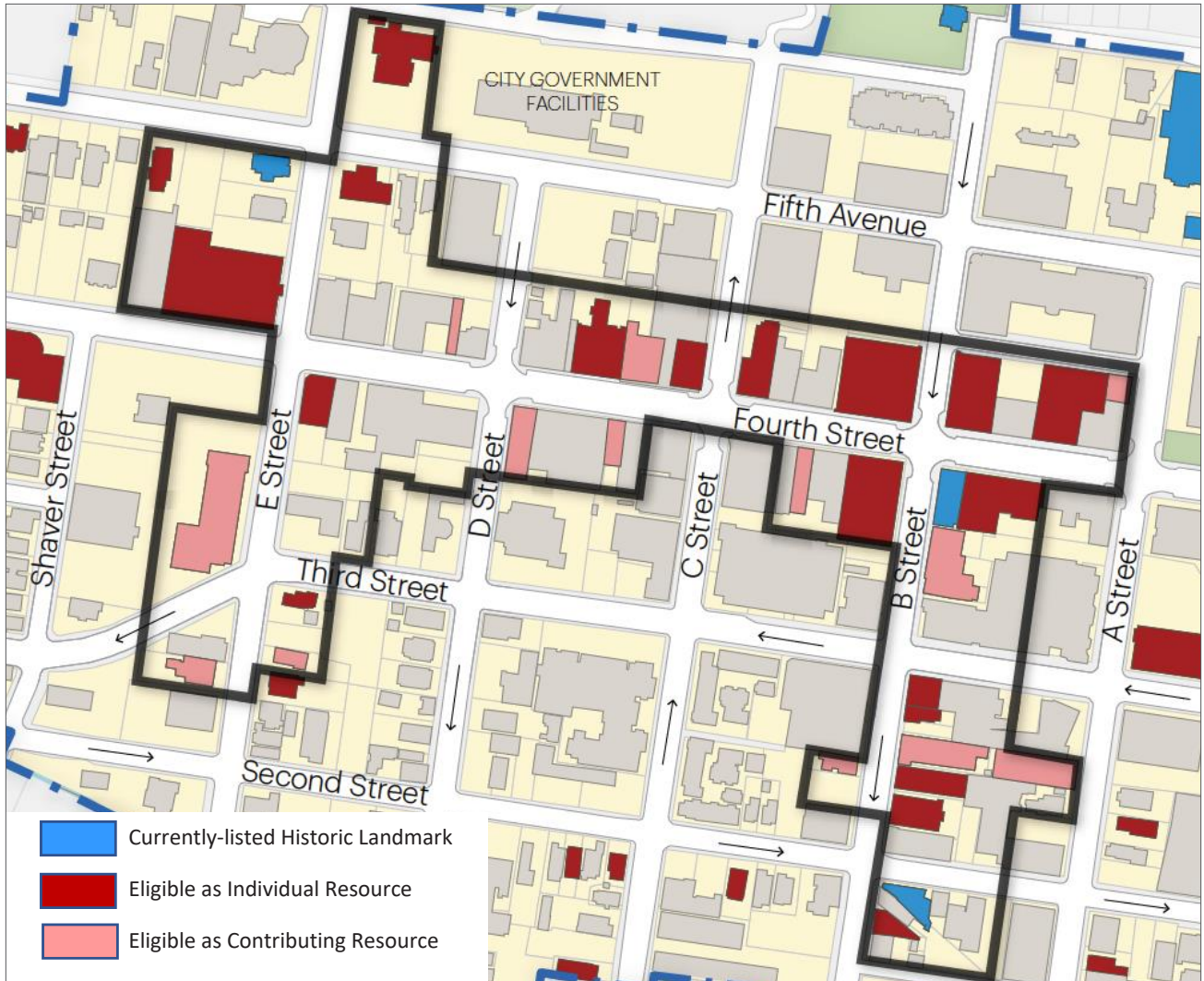
Potentially Eligible West Downtown Core Historic District

Through the 2019/20 Survey, a concentrated area of historic resources was identified in an irregularly shaped area of the west side of the Downtown Core sub-area that roughly extends from Second and B Street to Fifth Avenue and E Street. This area is referred to as the potential West Downtown Core Historic District and is shown on Figure 4.5-3. The West Downtown Core Sub-Area Historic District includes 87 parcels:

- 4 existing landmarked buildings (see Table 4.5-2)
- 18 individually eligible resources
 - 13 initially identified in the 1977/86 Survey
 - 5 newly identified as eligible in the 2019/20 Survey
- 16 contributing resources
 - 7 identified in the 1977/86 Survey
 - 9 newly identified as eligible in the 2019/20 Survey
- 8 identified as good or excellent in 1977/86 Survey, but no longer meet eligibility criteria
- 42 noncontributing resources or are undeveloped

The potential West Downtown Core Historic District was determined to be eligible as a Commercial/ Civic Historic District under Secretary of the Interior Criterion 1/A for its historical associations and under Criterion C/3 for its architecture. Its “Period of Significance” spans a period of seven decades beginning in the mid-1880s, when construction began on its Victorian-era commercial buildings as well as substantial nearby residences. These buildings were frequently architect-designed and were both larger and more impressive than San Rafael’s earliest stores and houses. Commercial buildings were usually designed with two stories and features like corner towers and main facade parapets to make them appear taller. Decorative elements such as cornices with elaborate brackets and dentil molding and expensive materials like brick conveyed San Rafael’s regional importance. The buildings in the potential West Downtown Core Historic District reinforced the city’s position as the county seat to residents who traveled there from all over Marin County to shop and conduct official business. San Rafael’s predominance among other nearby towns created wealth, allowing merchants, hoteliers, and saloon-keepers to construct large, architecturally significant residences on the edges of the Downtown Precise Plan Area.

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Source: PlaceWorks, 2020.

Figure 4.5-3
Eligible West Downtown Core Historic District

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San Rafael retained a position of regional importance in the early 20th Century. Architectural styles changed, while the city’s growth accelerated after an influx of refugees from the San Francisco Earthquake of 1906. Important early twentieth-century commercial buildings include the four-story Classical Revival Albert Department Store, the first high-rise in San Rafael. Substantial residential buildings from the period are as carefully designed as their Victorian-period counterparts while exhibiting new residential styles such as Craftsman.

San Rafael became more automobile oriented and connected to San Francisco with the opening of the Golden Gate Bridge in 1937. Notable buildings from the post-bridge era include the Art Deco Rafael Theater. Modernist commercial buildings of the early postwar era convey Downtown San Rafael’s transition to a more localized center as its residential neighborhoods expanded and the County Courthouse and administrative functions moved to North San Rafael.

Table 4.5-3 indicates the status of parcels in the potential West Downtown Core Historic District. Where appropriate, Table 4.5-3 shows where a DPR 523 form has been prepared as part of the 2019/20 Survey.

TABLE 4.5-3 STATUS OF PARCELS IN THE POTENTIALLY ELIGIBLE WEST DOWNTOWN CORE HISTORIC DISTRICT

Name	Address	Rating in 1977/86 Survey	Added through 2019/20 Survey? ^a
<i>Eligible as Individual Resource</i>			
Keaton's Funeral Home	1022 E Street	Good	--
Retail Fourth and E NW corner	1504-1512 Fourth/ 1009 E Street	*	Yes, with DPR
Public Library	1100 E Street Avenue	*Good	Yes
Gathering Thyme/ Tam Vista Dentistry	1447 Fourth Street	Good	--
Mahon House (retail@ground)	1330 Fourth Street	Exceptional	--
Bank of Italy/Tam Commons	1300 Fourth Street	Exceptional	--
Amicis/ Peters Bldg	1000-1016 C Street, 1240-44 Fourth Street	Exceptional	--
Scandinavian Design	1200-1212 Fourth Street/1009 B Street	Good	DPR Prepared
Wells Fargo	1203 Fourth Street	*	Yes, with DPR
Albert Building	1130-1136 Fourth Street/1010-1018 B Street	Good	--
Rafael Theater	1118 Fourth Street	Exceptional	--
Wilkins Hotel/ retail	1121-1139 Fourth Street	*	Yes
Spitfire/ Mini-Market	842-848 B/ 1117 Third Street	Excellent	DPR Prepared
Players Guitars	836-840 B Street	Excellent	--
St. Vincent De Paul	820-822 B Street	Good	--
Amber Kitchen/Antiques	810-816 B Street	Excellent	--
Saigon Village	720 B Street	*	Yes, with DPR
Polaris Greystone Financial	824 E Street	Excellent	--
<i>Eligible as a Contributing Resource</i>			
Café del Soul/ Office	1408 Fourth Street	*	Yes
Converted School/Office	901 E Street	*	Yes
Residential	807-811 E Street	Good	--
Residential	814 E Street	Excellent	--
T&B Sports	1345 Fourth Street	*	Yes
Folk Art Gallery	1321 Fourth Street	Exceptional	--
Shoe repair/Coffee roaster	1314-1318 Fourth Street	*	Yes

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TABLE 4.5-3 STATUS OF PARCELS IN THE POTENTIALLY ELIGIBLE WEST DOWNTOWN CORE HISTORIC DISTRICT

Name	Address	Rating in 1977/86 Survey	Added through 2019/20 Survey? ^a
Mulberry House (Winton’s Liquors)	936 B Street (same parcel as 1149 Fourth Street)	Excellent	Yes
Garzoli Gallery	930 B Street	Good	--
Libation Taproom	920-924 B Street	Good	--
El Perol Restaurant	916 B Street	*	Yes
Uchiwa Ramen	821-823 B Street	Good	--
Haircuts/ Residential	826-832 B Street	Good	--
Foam Store	813-819 A Street	*	Yes
Gamescape, etc. (multiple buildings on parcel. 1219-1221 not included)	1219-1225 Fourth Street	Good	--
Office/ spa (multiple buildings on parcel; this is the A St structure only)	1007-1011 A Street	Good	--
<i>Listed as Eligible in 1977/86 Survey but not in the 2019/20 Survey</i>			
House converted to office	1018 E Street	Good	Rated “E”
Belrose Theater	1415 Fifth Avenue	Good	Rated “E”
Artworks/former Gordon Opera	1325-1335 Fourth Street	Exceptional	Rated “D”
Pleasures of the Heart Retail	1310 Fourth Street	Excellent	Rated “E”
Central Hotel/MyThai	1222-1230 Fourth Street	Good	Rated “E”
BBC Construction	1115 Second Street	Good	Rated “E”
Tenkuyu Restaurant	1313-1315 Fourth Street	Good	Bldg Replaced
Law offices	802-804 B Street	Demolished	Bldg Replaced

Notes: (*) = Not shown as eligible in 1977/86; APN = Assessor’s Parcel Number.

a. The Department of Parks and Recreation (DPR) 523 is a series of forms used for recording and evaluating resources and for nominating properties as California Historical Landmarks, California Points of Historical Interest, and to the California Register of Historical Resources.

Source: City of San Rafael, 2020

Potentially Eligible East Downtown Core Historic District

Through the 2019/20 survey, a second concentrated area of historic resources was identified in a rectangular shaped area of the proposed Downtown Core sub-area that roughly extends from Court Street to Lincoln Avenue along both sides of Fourth Street. This area is referred to as the potential East Downtown Core Historic District and is shown on Figure 4.5-4. The potential East Downtown Core Historic District includes 26 parcels, including:

- 10 individually eligible resources
 - 6 initially identified in the 1977/86 Survey
 - 4 newly identified as eligible in the 2019/20 Survey
- 4 contributing resources
 - 1 initially identified in the 1977/86 survey
 - 3 newly identified as eligible in the 2019/20 Survey
- 1 resource identified in 1977/86 Survey that no longer meets eligibility criteria
- 11 non-contributing resources

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Source: PlaceWorks, 2020.

Figure 4.5-4
Eligible East Downtown Core Historic District

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The potential East Downtown Core Historic District is eligible under Secretary of the Interior Criterion 1/A for its historical associations and under Criterion C/3 for its architecture. Its “Period of Significance”—1898 to 1930—reflects the gradual expansion of San Rafael as commercial activity radiated outward from the Mission and Courthouse areas. Commercial buildings in this area were frequently architect designed; they are one or two stories and occupy their entire lots. Several late-Victorian-era storefront buildings are interspersed with more numerous examples of early twentieth century styles, predominantly Mission and Art Deco. Some of the later buildings feature built-in garage doors reflecting San Rafael’s shift toward the automobile after 1920.

Table 4.5-4 indicates the status of parcels in the potential East Downtown Core Historic District. Where appropriate, Table 4.5-4 indicates where a DPR 523 form has been prepared as part of the 2019/20 Survey.

TABLE 4.5-4 STATUS OF PARCELS IN THE POTENTIALLY ELIGIBLE HISTORIC EAST DOWNTOWN CORE DISTRICT

Name	Address	Rating in 1977/86 Survey	Added through 2019/20 Survey? ^a
<i>Eligible as an Individual Resource</i>			
Masonic Building	1010 Lootens Street, 882-890 Fourth Street	Needs Study	DPR Prepared
Former Pizza Orgasmica	812 Fourth Street	Good	--
Theresa and Johnny’s	813-819 Fourth Street	Good	--
Fencing Academy/Jewelers	827-831 Fourth Street	Good	DPR Prepared
Angel Antiques/Sacred Tibet	877 Fourth Street	*	Yes, with DPR
Vin Antico	881-883 Fourth Street	Good	DPR Prepared
Zhu Restaurant	885-887 Fourth Street	*	Yes, with DPR
Fenix Nightclub	917-921 Fourth Street	Good	Yes
Boiadeirus Brazilian Steakhouse	923-925 Fourth Street	Good	DPR Prepared
San Rafael Joe’s	931-941 Fourth Street	*	Yes
<i>Eligible as a Contributing Resource</i>			
Glazed and Confused Gallery	846-850 Fourth Street	*	Yes, with DPR
George’s Nightclub	842 Fourth Street	*	Yes, with DPR
Mikes Bikes	836 Fourth Street	*	Yes, with DPR
Residential above market	806 Fourth/1001-1005 Lincoln Avenue	Good	DPR Prepared
<i>Listed as Eligible in 1977/86 but not in 2019</i>			
All Season Soccer/ Double Rainbow	854-866 Fourth Street	Good	Rated “E”

Notes: (*) = Not shown as eligible in 1977/86; APN = Assessor’s Parcel Number.

a. The Department of Parks and Recreation (DPR) 523 is a series of forms used for recording and evaluating resources and for nominating properties as California Historical Landmarks, California Points of Historical Interest, and to the California Register of Historical Resources.

Source: City of San Rafael, 2020.

Individual Eligible Resources

This section describes the properties that are eligible for listing that are not located in either the existing districts (The Victorian Village Historic District or The French Quarter Historic District) or the eligible districts (West Downtown Core Historic District or East Downtown Core Historic District). Like the eligible Historic Districts, these properties are described in the context of the proposed West End Village,

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Downtown Core, Downtown Gateway sub-areas for the Downtown Precise Plan (see Figure 3-9 in Chapter 3, Project Description, of this Draft EIR).

West End Village Sub-Area

The West End Village sub-area includes a National Register Historic Landmark and a designated local historic district (see Table 4.5-2). The 2019/20 Survey identified 13 additional individually eligible historic resources in the West End Village sub-area. Of this total, four had been previously identified in the 1977/86 survey and nine are newly identified. The West End Village sub-area also includes four properties that were listed in the 1977/86 Survey that were excluded from the 2019/20 Survey. Table 4.5-5 summarizes historic resource in the West End Village sub-area, including properties for which DPR forms were prepared in 2019. Figure 4.5-5 below shows the location of these resources.

TABLE 4.5-5 WEST END VILLAGE SUB-AREA HISTORIC RESOURCES OUTSIDE OF ELIGIBLE DISTRICTS

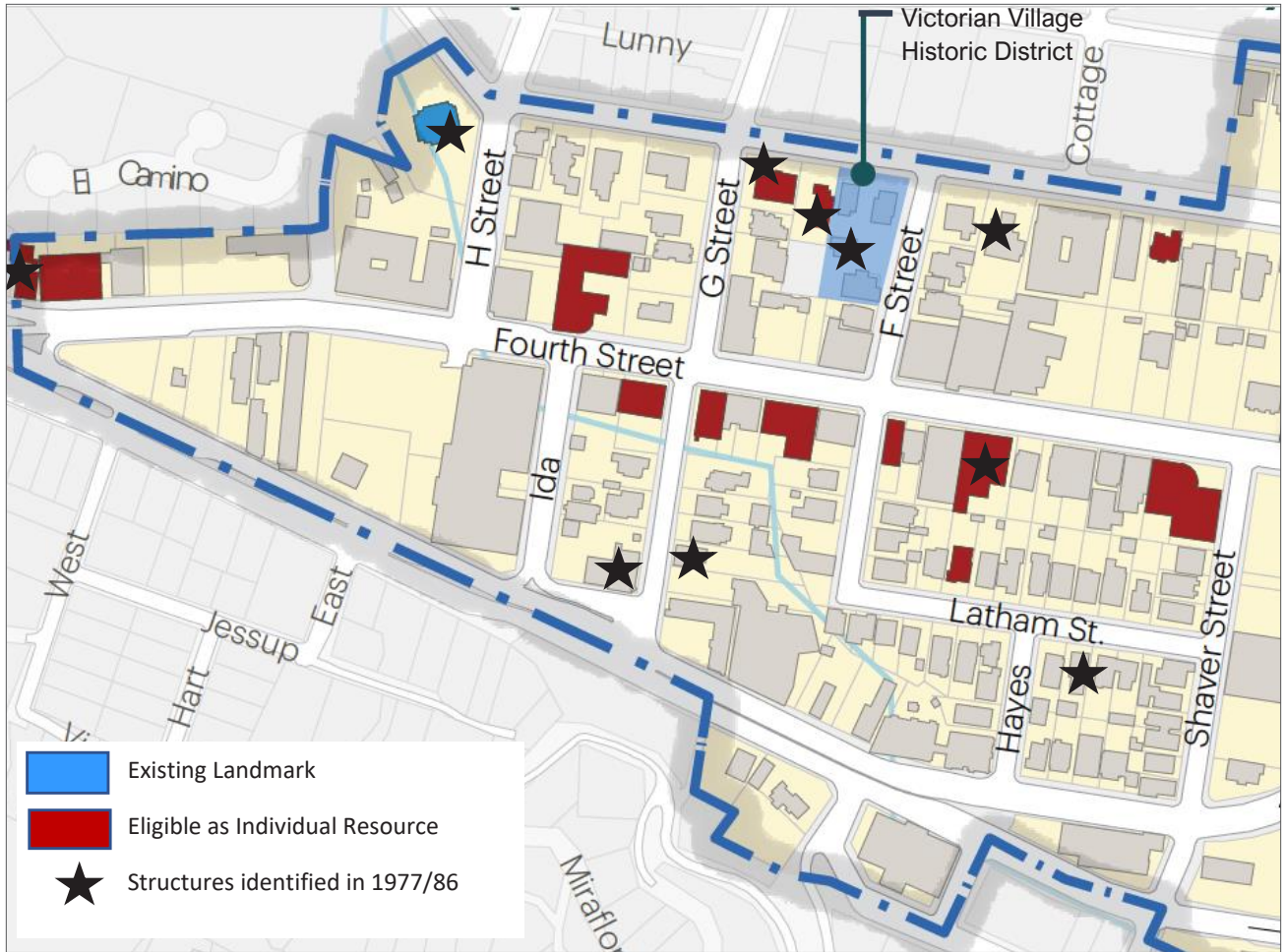
Name	Address	Rating in 1977/86 Survey	Added Through 2019/20 Survey? ^a
Residence	1629 Fifth Avenue	Good	--
Residence	1637 Fifth Avenue	Excellent	--
Residence	1539 Fifth Avenue	*	Yes, with DPR
Residence	1517 Fifth Avenue	Good	--
Cains Tire	1531 Fourth Street	*	Yes, with DPR
Mayflower Pub	1533 Fourth Street	*	Yes, with DPR
Retail/ Residential	1553-57 Fourth Street	Good	DPR Prepared
LaCrosse, Flooring, Salon	1605-09 Fourth Street	*	Yes, with DPR
Johnny's Doughnuts	1617 Fourth Street	*	Yes, with DPR
Red Dragon Yoga	1701 Fourth Street	*	Yes, with DPR
Jack Hunt Auto	1714 Fourth Street	*	Yes, with DPR
Pond Farm	1848 Fourth Street	*	Yes, with DPR
Office / ground floor store	1850-1852 Fourth Street	Good	DPR Prepared
Residence	30 Latham Street	*	Yes, with DPR
<i>Properties Inventoried in 1977/86 Survey but not in 2019/20 Survey</i>			
Residence	11 Latham Street	Good	Not Listed
Residence	6 G Street	Good	Not Listed
Arriverdici Restaurant	11 G Street	Good	Not Listed
Residence	1607 Fifth Avenue	Good	Not Listed

Notes: (*) = Not shown as eligible in 1977/86; APN = Assessor's Parcel Number; Table excludes properties outside of the Downtown Precise Plan Area, including north side of Fifth Avenue.

a. The Department of Parks and Recreation (DPR) 523 is a series of forms used for recording and evaluating resources and for nominating properties as California Historical Landmarks, California Points of Historical Interest, and to the California Register of Historical Resources.

Source: City of San Rafael, 2020.

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Source: PlaceWorks, 2020.

Figure 4.5-5
Historic Resources in West End Village Sub-Area

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Southern Downtown Core Sub-Area

The 2019/20 Survey identified ten individually eligible resources in the southern portion of the Downtown Core sub-area which are located outside of the eligible historic districts. These properties are all located between E Street on the west, A Street on the east, Fourth Street on the north, and First Street on the south. Resources in this area are shown on Figure 4.5-6 and are listed in Table 4.5-6. Most of these properties are residences and a few are commercial buildings.

TABLE 4.5-6 SOUTHERN DOWNTOWN CORE SUB-AREA HISTORIC RESOURCES OUTSIDE OF ELIGIBLE DISTRICTS

Name	Address	Rating in 1977/86 Survey	Added Through 2019/20 Survey? ^a
Residence	1301 Second Street	*	Yes, with DPR
Residence	1215 Second Street	*	Yes, with DPR
Drummers Tradition (store)	740 A Street	*	Yes, with DPR
Residence	808 A Street	*	Yes, with DPR
Residence	810 E Street	*	Yes, with DPR
Residence	707 C Street	*	Yes, with DPR
First Federal Savings Bank	1030 Third Street	*	Yes, with DPR
Residence	1410 Third Street	*	Yes, with DPR
Relocated NWP rail depot	720 (728) A Street	Good	--
Residence	1307 Second Street	Good	--
<i>Downtown Core Sub-Area Historic Resources Outside of Eligible Districts Inventoried in 1977/86 Survey but Not Eligible in 2019/20 Survey</i>			
Residence	1416-20 Second Street	Good	Rated "E"
Le Comptoir Wine Bistro; Hayes Building (identified as not original)—	1301-1311 Fourth Street	Good	Rated "E"
Prandi Property Management; also known as Guenther Bldg	1321-1325 Third Street/ 822 D Street	Good	Not Listed
Pacifics Baseball Club/ Cosmopolitan Hotel	1201 Second / 747 B Street	Good	Rated "D"

Notes: (*) = Not shown as eligible in 1977/86; APN = Assessor's Parcel Number.

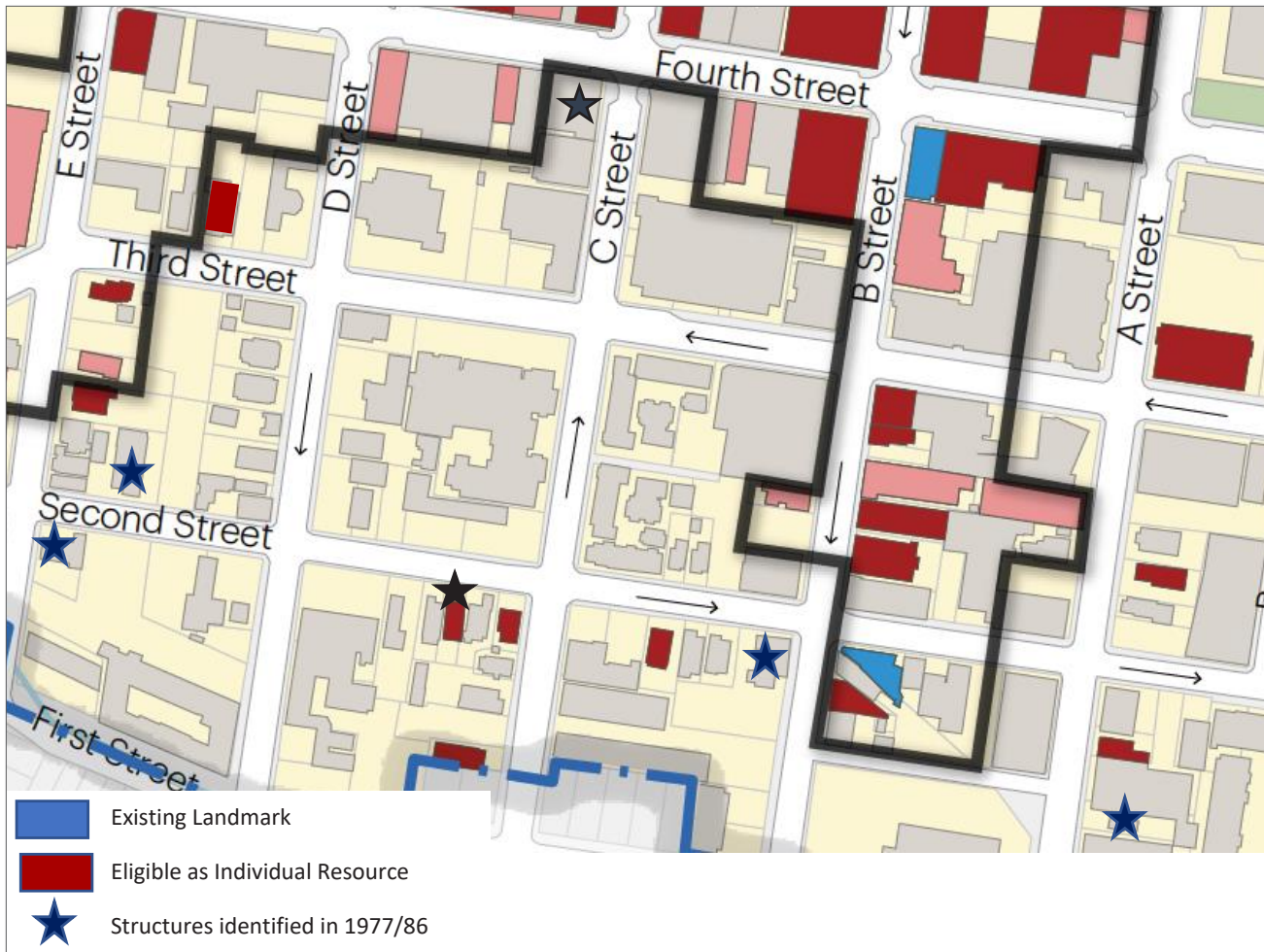
a. The Department of Parks and Recreation (DPR) 523 is a series of forms used for recording and evaluating resources and for nominating properties as California Historical Landmarks, California Points of Historical Interest, and to the California Register of Historical Resources.

Source: City of San Rafael, 2020.

Downtown Gateway Sub-Area

The 2019/20 Survey identified 15 individually eligible resources in the Downtown Gateway sub-area that are generally located along Fifth Avenue and Mission Avenue east of the Mission San Rafael Arcangel, and in the area around the Downtown San Rafael SMART Station. This area is shown on Figure 4.5-7. Individual historic resources within this area are listed in Table 4.5-7. Twelve of the resources in the Downtown Gateway sub-area were also identified in the 1977/86 Survey. Three structures were added through the 2019/20 Survey including properties for which DPR forms were prepared in 2019.

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Source: PlaceWorks, 2020.

Figure 4.5-6
Historic Resources in Southern Downtown Core Sub-Area

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TABLE 4.5-7 DOWNTOWN GATEWAY SUB-AREA HISTORIC RESOURCES OUTSIDE OF ELIGIBLE DISTRICTS

Name	Address	Rating in 1977/86 Survey	Added Through 2019/20 Survey? ^a
Tavern on Fourth	709 Fourth Street	Excellent	--
Residential Conversion	633 Fifth Avenue	Good	--
Residential Conversion	637 Fifth Avenue	Good	--
Residence	918 Fifth Avenue	Good	--
Residence	637 Mission	*	Yes, with DPR
Residential Conversion	710 Mission	*	Yes, with DPR
Residential Conversion	705 Mission	Good	--
Residence	823-25 Mission	Exceptional	--
Residential Conversion	828 Mission	Exceptional	--
Residential Conversion	907 Mission	Excellent	--
Trevors Pub	927 Tamalpais	Good	--
Residential Conversion	1016 Lincoln	Good	--
Residence	1104 Lincoln	Good	--
Residence	1110 Lincoln	Good	--
Residence	1011 Irwin	*	Yes, with DPR
<i>Downtown Core Properties Outside Districts Inventoried in 1977/86 Survey, not Listed in 2019/20 Survey</i>			
Whistlestop	930 Tamalpais Ave	Good	Rated "E"
St Paul's Episcopal	1123 Court Street	Good	Rated "D"
DeCourtiex House	1135 Mission	Good	Rated "Not Individually Eligible"
Luna Travel/Boost Mobile/Office above	801 Fourth Street	Good	Rated "E"

Notes: (*) = Not shown as eligible in 1977/86; APN = Assessor's Parcel Number

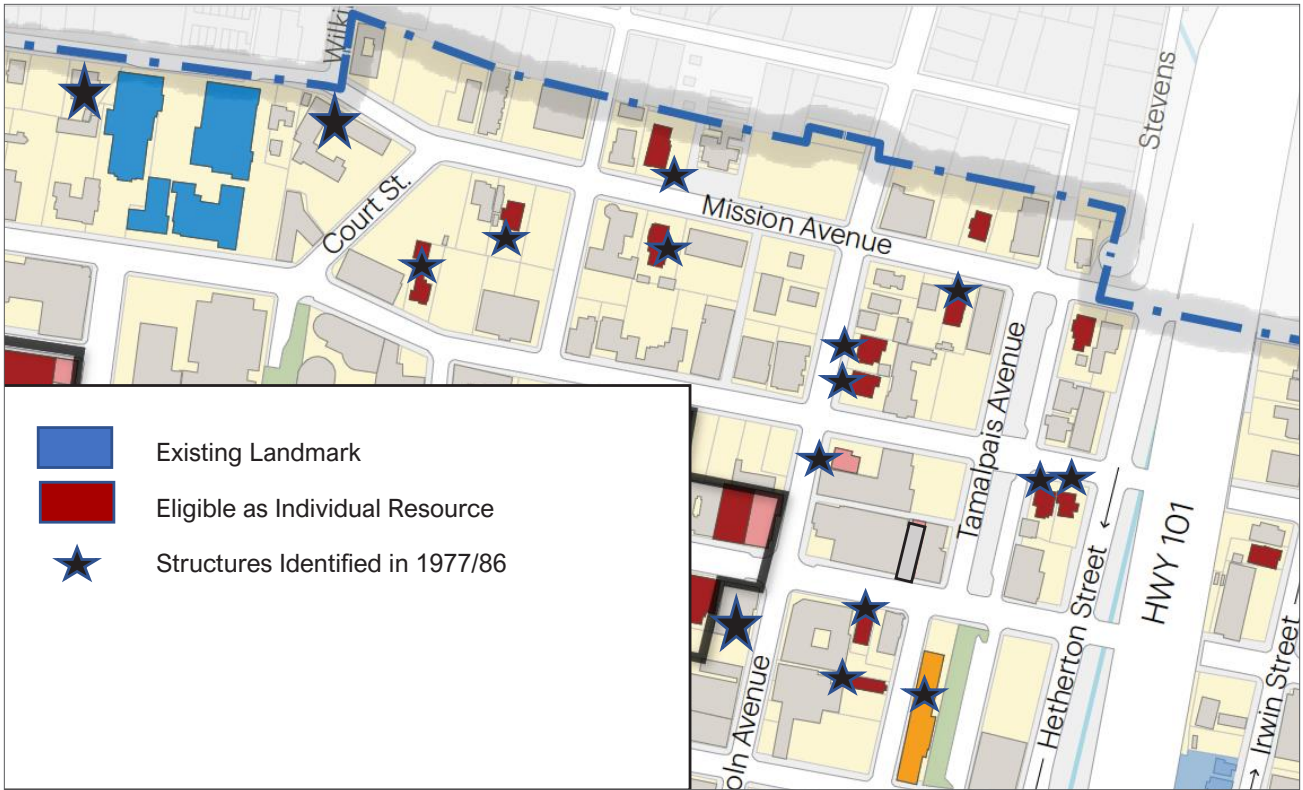
a. The Department of Parks and Recreation (DPR) 523 is a series of forms used for recording and evaluating resources and for nominating properties as California Historical Landmarks, California Points of Historical Interest, and to the California Register of Historical Resources.

Source: City of San Rafael, 2020.

Preliminary Assessment of Architectural Significance

When a proposed project may adversely affect a historical resource, CEQA requires the lead agency to carefully consider the possible impacts before proceeding (PRC Section 21084.1). CEQA equates a substantial adverse change in the significance of a historic resource with a significant effect on the environment (PRC Section 21084.1). The following discussion focuses on a preliminary evaluation of properties in the Downtown Precise Plan Area for their potential to be landmarked as a significant historical resource under the federal, state or local criteria discussed in Section 4.5.1.1, Regulatory Framework, of this Draft EIR.

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Source: PlaceWorks, 2020.

Figure 4.5-7
Historic Resources in Downtown Gateway Sub-Area

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Based on archival records and field survey records, a shortlist of 159 properties in the Downtown Precise Plan Area were identified as warranting further assessment of their potential to be historic landmarks or district contributors. The field survey was used to determine which properties were potentially eligible as landmarks and which were likely ineligible, based on the Secretary of the Interior’s Standards. Notable concentrations of historic resources in geographic proximity to each other were evaluated for their eligibility as historic “districts.” Where a potential district was identified, properties within that district were identified as individual resources, contributing resources, or noncontributing resources. Contributing resources fall within the period(s) of significance identified for the district and present character-defining features unique to the property and district.

Table 4.5-8 summarizes the results of the preliminary assessment for the 159 properties identified in the 2019/20 Survey. As shown on Table 4.5-8, each property was rated for eligibility as a historic resource at either the Federal, state or City of San Rafael levels, using letter rating of “A” through “E,” as described below, along with the total number of parcels in each category:

- A. **Eligible Landmark.** Eligible for consideration as a historic landmark (37 parcels).
- B. **Eligible Contributor, Not Landmark.** Buildings would likely not be eligible individually but could be considered eligible as contributing resources in a historic district (37 parcels).
- C. **May be Eligible.** Needs Research. Require additional research for eligibility determination (15 parcels).
- D. **Probably Ineligible.** Require additional research for conclusion. (10 parcels).
- E. **Ineligible.** Buildings determined to be ineligible as landmarks. (60 parcels).

The survey forms used for the evaluation can be found in the *Downtown San Rafael Precise Plan Historic Resources Inventory Summary Report*, in Appendix F, Cultural Resources Data, of this Draft EIR.

TABLE 4.5-8 DOWNTOWN PRECISE PLAN AREA PROPERTIES DOCUMENTED IN DETAILED FIELD SURVEY

Name	Address	Classification ^a
NW Pacific Rail (relocated)	720 (728) A Street	A
Drummers Tradition	740 A Street	B
Residence	808 A Street	B
Residence	812 A Street	E
Foam Store	813 A Street	B
Saigon Village Restaurant	720 B Street	C
Flatiron Building	724 B Street	A
Cosmopolitan Hotel (Pacific)	747 B Street/ 1201 Second Street	D
Worldwide Antiques/Grocery	810-814 B Street	A
Albion House/Hotel Carmel	826 B Street	C
Players Guitars	834-840 B Street	A
Milani Building	844-848 B Street	A
Garatti Grocery	926-930 B Street	D
Aileen Apts./ Scandinavian Design	1009 B Street / 1200-1212 Fourth Street	A
Albert Building	1010 B Street / 1138-1146 Fourth Street	A
McDermott Bldg./ Mulberry House	938 B Street/ 1143 Fourth Street	B+
offices	707 C Street	A-

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TABLE 4.5-8 DOWNTOWN PRECISE PLAN AREA PROPERTIES DOCUMENTED IN DETAILED FIELD SURVEY

Name	Address	Classification ^a
offices	710-714 C Street	E
Youth in Arts	917 C Street	E
St Paul's Episcopal	1123 Court Street	D
Marin Medical Ctr	711 D Street	C
Residence	812 D Street	E
Residence	813 D Street	C
Residence	817 D Street	C
Post Office	910 D Street	E
Residence	809-11 E Street	C
Residence	810 E Street	A
E Street Grammar School	901 E Street	C
Keaton's Funeral Home	1022 E Street	A-
Residence	105 F Street	E
Residence	633 Fifth Avenue	A
Residence	637 Fifth Avenue	A
	634 Fifth Avenue	E
	638 Fifth Avenue	E
Juice Beauty	709 Fifth Avenue	E
Merrill's Drugs	835 Fifth Avenue	D
Apartments	845 Fifth Avenue	D
Residence	918 Fifth Avenue	A
Residence	1409 Fifth Avenue	E
Residence	1517 Fifth Avenue	A
Residence	1539 Fifth Avenue	B+
Victorian Village	1623-1627 Fifth Avenue	B
Residence	1637 Fifth Avenue	A
Thomas Morris House	1629 Fifth Avenue	A
Offices	1721 Fifth Avenue	E
San Rafael Impr. Club	1800 (01) Fifth Avenue	A
	712 Fifth Avenue	E
	455 1st Street/ 1621 Second Street	E
	505 Fourth Street	E
Thai Smile	532 Fourth Street	E
Extreme Pizza	705 Fourth Street	E
Marin Center for Independent Living	710 Fourth Street	E
Tavern on Fourth	709-11 Fourth Street	A
	716 Fourth Street	E
Bayside Marin	718-24 Fourth Street	E
Old San Rafael Mall	801-05 Fourth Street	E
	807 Fourth Street	E

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TABLE 4.5-8 DOWNTOWN PRECISE PLAN AREA PROPERTIES DOCUMENTED IN DETAILED FIELD SURVEY

Name	Address	Classification ^a
Pizza Orgasmica/Redhill Imports	812 Fourth Street	B
Rafael Florist/Gold Rush Jewelers	827-831 Fourth Street	A
Mikes Bikes	836 Fourth Street	B
Glaze and Confused Pottery	846 Fourth Street	B
George's Night Club	842 Fourth Street	B
	866 Fourth Street	E
MMWD with new façade	874 Fourth Street	E
Masonic Bldg.	882-84 Fourth Street/ 1010 Lootens Street	B
	881-883 Fourth Street	A
Vin Antico	885-87 Fourth Street	A
	889-91 Fourth Street	E
Former EL Camino Theater	900 Fourth Street	E
California Bakery/Fenix	917 Fourth Street	A
Boiadeirus Steakhouse	925 Fourth Street	B
Rafael Theater	1118 Fourth Street	A
State Room	1122-1132 Fourth Street	E
Wilkins Hotel	1125-1139 Fourth Street	C
Rare Coin/ Cherry Blossom Salon	1219-1223 Fourth Street	E
Gamescape	1225 Fourth Street	A
Central Hotel	1222-1230 Fourth Street	E
Peters Bldg.	1242-1244 Fourth Street	A
Bank of Italy	1300 Fourth Street	A
Hayes Bldg. (replica)	1301 Fourth Street	E
Tenkuyu (replica)	1313-1317 Fourth Street	E
Pleasures of the Heart	1310 Fourth Street	E
Folk Art Gallery	1321 Fourth Street	B
Artworks/Gordon Opera House	1327-1337 Fourth Street	D
Mahon House/ Butchart Bldg.	1322-1328 Fourth Street	A
T&B Sports	1345 Fourth Street	B
	1344-46 Fourth Street	E
	1350 Fourth/ 1040 D Street	D
	1400 Fourth Street	E
	1414 Fourth Street	E
Bombay Grill	1444-1446 Fourth Street	E
Former Redwood Bank	1447 Fourth Street	A
Former Istanbul Rug	1504-1512 Fourth Street	B
	1508-1522 Fourth Street	E
Cains Tire	1531 Fourth Street	B+
Mayflower	1533 Fourth Street	B
	1538 Fourth Street	E

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TABLE 4.5-8 DOWNTOWN PRECISE PLAN AREA PROPERTIES DOCUMENTED IN DETAILED FIELD SURVEY

Name	Address	Classification ^a
	1545 Fourth Street	E
	1553-1555 Fourth Street	B
	1560 Fourth Street	E
	1569 Fourth Street	E
	1605-1611 Fourth Street	B
	1617 Fourth Street	B
	1701 Fourth Street	C
	1714 Fourth Street	C
Pond Farm	1848 Fourth Street	B
	1850-52 Fourth Street	A
	963-977 Grand Avenue	D
	1H St/ 1820 4th Street	D
	914 Irwin Street	E
Residence	1011 Irwin Street	B
	1015 Irwin Street	E
Residence	30 Latham Street	B
Sol Food	901 Lincoln Avenue	E
	1016 Lincoln Avenue	C
	1103 Lincoln Avenue	D
San Rafael House	1104 Lincoln Avenue	B
Residence	1110 Lincoln Avenue	B
Residence	1116 Lincoln Avenue	E
Residence	1118 Lincoln Avenue	C
Residence	1120 Lincoln Avenue	B
	633 Mission Avenue	E
	637 Mission Avenue	B
	705 Mission Avenue	A
	710 Mission Avenue	A
	823-25 Mission Avenue	A
Residence	828 Mission Avenue	A
Residence	907 Mission Avenue	A-
Residence	1012 Mission Avenue	E
De Courtiex House	1135 Mission Avenue	B
Residence	1145 Mission Avenue	E
	16 Ritter Street	E
	826 Second Street	E
Mackey Frames	1115 Second Street	E
	1209 Second Street	E
	1211 Second Street	C
Residence	1215 Second Street	B

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TABLE 4.5-8 DOWNTOWN PRECISE PLAN AREA PROPERTIES DOCUMENTED IN DETAILED FIELD SURVEY

Name	Address	Classification ^a
Residence	1301 Second Street	B+
	1305 Second Street	E
Residence	1307 Second Street	B
Residence	1309 Second Street	E
	1315 Second Street	E
Residence	1416-1420 Second Street	E
Residence	3 Stevens Place	C
Barrel House	927 Tamalpais Avenue	B
NWP Rail Depot/ Whistlestop	930 Tamalpais Avenue	E
French Quarter	610 Third Street	E
First Federal Savings and Loan	1030 Third Street	A
	1410 Third Street	A
Residence	1414 Third Street	E
Residence	1532 Third Street	B
Marin Shakespeare	514 Fourth Street	E
Lotus Restaurant	704 Fourth Street	E
Wells Fargo	1203 Fourth Street	C
	1001 Lincoln Avenue	B
Chisolm Residence	1505 Fifth Avenue	B
San Rafael Public Library	1100 E Street	A
Victorian Village	1623 Fifth Avenue, Building C	B
Victorian Village	1623 Fifth Avenue, Building D	B

Notes: Classification categories are as follows:

- A. Eligible Landmark. Eligible for consideration as a historic landmark (37 parcels).
- B. Eligible Contributor, not Landmark. Buildings would likely not be eligible individually, but could be considered eligible as contributing resources in a historic district (37 parcels).
- C. May be Eligible. Needs Research. Require additional research for eligibility determination (15 parcels).
- D. Probably Ineligible. Require additional research for conclusion. (10 parcels).
- E. Ineligible. Buildings determined to be ineligible as a landmark. (60 parcels).

Source: City of San Rafael, 2020.

Native American Consultation

Pursuant to SB 18 and AB 52, requests were sent to the NAHC for a search of the Sacred Lands File and a Tribal Consultation List. The City sent letters to representatives of the Federated Indians of Graton Rancheria listed on the NAHC Native American Contacts list in November 2018.. The City received a request for Tribal Consultation from the Federated Indians of Graton Rancheria, dated November 16, 2018.

4.5.2 STANDARDS OF SIGNIFICANCE

Pursuant to Appendix G, Environmental Checklist Form, of the CEQA Guidelines, implementation of the proposed project would result in significant cultural resources and tribal resources impacts if it would:

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1. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5.
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.
3. Disturb any human remains, including those interred outside of dedicated cemeteries.
4. Cause a substantial adverse change in the significance of a Tribal Cultural Resource, defined in PRC Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: i) Listed or eligible for listing in the California Register, or in a local register of historical resources as defined in PRC Section 5020.1(k), or ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of the PRC Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.
5. Result in a cumulative impact related to cultural or tribal cultural resources.

4.5.3 IMPACT DISCUSSION

CULT-1	Implementation of the proposed project could cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5.
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General Plan 2040

Section 4.5.1.1, Regulatory Setting, under the subheading “Historic Resources” describes the types of cultural resources that meet the definition of historical resources under CEQA Section 15064.5. Under CEQA, both prehistoric and historic archaeological sites may qualify based on historical associations.⁵ The following Impact Discussion focuses on impacts to historical architectural resources. Impacts to archaeological resources are described in Impact Discussion CULT-2, and human remains are addressed in Impact Discussion CULT-3.

As stated above in Section 4.5.1.2, Existing Conditions, there are numerous individual properties as well as several districts within the EIR Study Area that meet the CEQA definition of historical resource, including 16 City historic landmarks and three City historic districts, four California Historical Landmarks, and ten resources listed on the National Register. In establishing a policy framework to guide new development in areas where future development under the proposed General Plan 2040 could either directly or indirectly adversely affect an historic resource, the proposed General Plan 2040 would have the potential to impact historic resources.

⁵ California Code of Regulations, Title 14, Chapter 3, Section 15064.5(c), Determining the Significance of Impacts on Historical and Unique Archaeological Resources.

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Future development under the proposed General Plan 2040 would be required to comply with existing Federal, state, and local laws and regulations that protect historical resources. On a project-by-project basis, CEQA requires the evaluation and disclosure of significant effects on properties on historical resources listed in the National Register, California Register, or local register, and on properties determined to be significant by the lead agency or eligible for listing on the California Register. The California Historical Building Code provides standards for rehabilitating, preserving, restoring, and relocating historical resources. SRMC Chapter 2.18, Historic Preservation, includes regulations for the recording, designation, and alterations to the historic resources within the city, as well as procedures for the demolition, destruction, relocation, or removal of a designated historic resource. Compliance with these existing regulations and procedures would help to reduce the effects from potential future development on a historical resource.

Even if the historical resources were retained as potential future development and redevelopment occurs, potential future development could cause a significant impact on historical resources if the new building were incompatible with existing historic properties (for example, by introducing new construction that extends to all property lines in an area where the historical pattern is to have setbacks), or if the massing (height and bulk) or design details (materials and features) of the new building were incompatible with existing historical resources. In this sense, implementation of the proposed General Plan 2040 could impair the historic integrity of important resources with larger and denser new construction.

The proposed Community Design and Preservation (CDP) Element contains goals, policies, and programs that require local planning and development decisions to consider key characteristics that contribute to San Rafael's identity and image, and that positively reinforcing its visual character and relationship to its natural setting and cultural context. The following goal, policies, and programs would serve to minimize impact to historic resources:

Goal CDP-5: Protected Cultural Heritage. Protect and maintain San Rafael's historic and archaeological resources as visible reminders of the city's cultural heritage.

- **Policy CDP-5.1 Historic Buildings and Areas.** Preserve buildings and areas with special and recognized historic, architectural or aesthetic value, including but not limited to those on the San Rafael Historical/ Architectural Survey. New development and redevelopment should respect architecturally and historically significant buildings and areas.
 - **Program CDP-5.1A: Preservation Ordinance.** Continue to implement the City's Historic Preservation Ordinance. The Ordinance should be reviewed at least once every 10 years to ensure that its criteria, classifications, and procedures provide the most effective measures to assess proposed changes to historic properties and are consistent with Secretary of the Interior standards.
 - **Program CDP-5.1B: Oversight Responsibilities.** Create a more formal means of oversight for review of planning and building applications affecting historic resources. This could include a contract with an architectural historian, or an advisory committee convened as needed to advise the Planning Commission and Design Review Board on matters and policies related to preservation or the modification of historic structures. If an oversight body is created, it should represent diverse perspectives and interests.

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- **Policy CDP-5.2 Inventorying Historic Resources.** Maintain and periodically update inventories of local historic resources, using methods that are consistent with state and federal criteria, reflect local values, and do not unreasonably constrain property rights and interests. Historic resources may include sites associated with important historic events or people, archaeological resources, and landscape elements, in addition to older buildings.
 - **Program CDP-5.2A: Context Statement.** Prepare a citywide historic context statement to provide the framework for evaluating a property's historic significance and integrity.
 - **Program CDP-5.2B: Inventory Update.** Continue to update the City's Historical/ Architecture Survey, which is an inventory of buildings of architectural value, historic buildings and/or districts and historic elements such as signs, monuments, and gates. A priority should be placed on neighborhoods with large concentrations of older structures, as well as areas most likely to experience development pressure in the future.
 - **Program CDP-5.2C: Criteria for Designation.** Review and adjust the criteria for designation of historic resources so they align with those of state and federal preservation agencies.
 - **Program CDP-5.2D: Additional Landmarking.** Based on updated historic preservation data, identify additional structures or sites for local and/or state landmark status and/or potential nomination to the National Register of Historic Places.
- **Policy CDP-5.3: Districts.** Encourage the formation of historic or architectural conservation districts in areas where important historic resources are concentrated and where there is property owner and community support for such designations. Such districts should provide for preservation, restoration, and greater awareness of the resources they contain, while providing financial and property tax incentives for property owners.
 - **Program CDP-5.3A: Downtown Districts.** Consider the designation of an additional historic district in Downtown San Rafael based on the 2019 Downtown Precise Plan field survey of Downtown properties.
- **Policy CDP-5.4: Preservation Incentives.** Create innovative incentives that encourage stewardship of San Rafael's historic resources. Incentives should be enacted before (or concurrently with) placing additional restrictions on historic properties, to ensure that preservation makes economic sense.
 - **Program CDP-5.4A: Zoning and Development Incentives.** Support the use of transfer of development rights and façade easements to encourage preservation of historic buildings.
 - **Program CDP-5.4B: Local Financial Incentives.** Pursue development of a local Mills Act program to allow contracts with the owners of historic properties meeting criteria to be defined by the City. The contracts allow for reduced property taxes in exchange for an agreement to maintain the historic integrity and visibility of the structure. In addition, enact reductions or waivers of local permitting fees for qualifying historic preservation projects.
 - **Program CDP-5.4C: Non-Local Financial Incentives.** Support financial assistance for preservation through state and federal grants and loans, tax credits, National Trust Preservation funds, the Federal Historic Preservation Tax Incentives Program, and similar programs.
- **Policy CDP-5.5: Adaptive Reuse.** Encourage the adaptation and reuse of historic and older buildings as a way to preserve San Rafael's heritage, especially where the original use of the building is no longer viable.
 - **Program CDP-5.5A: California Historic Building Code.** Use the State historic building code to relieve historic buildings from modern code requirements, thus making it easier to reuse the

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building. Explore other incentivizes or code changes that allow interior spaces in older buildings to be more easily and affordably updated.

- **Program CDP-5.5B: Zoning.** Investigate zoning exceptions for historic structures, such as reduced on-site parking, setback, and driveway width requirements. The range of permitted or conditionally permitted uses in historic structures should be expanded to make them more viable for reuse.
- **Policy CDP-5.6: Protecting the Integrity of Historic Properties.** Ensure that modifications to designated historic properties, including additions, alterations, and new structures, are visually compatible with the property's contributing features, as defined by the San Rafael Municipal Code.
 - **Program CD-5.6A: Certificates of Appropriateness.** Continue existing requirements for "Certificates of Appropriateness" (COA) for alterations to designated historic resources. Criteria for COAs should be consistent with State and federal standards.
 - **Program CDP-5.6B: Design Guidelines.** Address historic preservation in the City's design guidelines, including successful examples of (a) adaptive reuse, alterations, and other changes; and (b) new infill development in the context of an older neighborhood, including examples of contemporary architecture. Infill development in older areas does not need to mimic historic development but should acknowledge and respect its context.
 - **Program CDP-5.6C: Landscapes and Natural Features.** Consider landscapes, gardens, mature trees, and natural features as contextually relevant when defining historic value. Encourage the preservation of such features when they are determined to be significant.
- **Policy CDP-5.7: Maintenance of Historic Properties.** Strongly support the maintenance of historic properties and avoid their deterioration to the point where rehabilitation is no longer feasible (e.g., "demolition by neglect").
 - **Program CDP-5.7A: Incentives.** Support property owner efforts to maintain and restore historic properties through fee reductions, tax credits, and Code exceptions.

As previously indicated, under CEQA, conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties will normally mitigate impacts to a less-than-significant level.

While implementation of the goals, policies, and programs identified above, as well as compliance with federal and State laws and the SRMC, would minimize potential impacts to historical architectural resources, future development in San Rafael that is on, or adjacent to, historical architectural resources could lead to:

- Demolition, which by definition results in the material impairment of a resource's ability to convey its significance.
- Inappropriate modification, which may use incompatible materials, designs, or construction techniques in a manner that alters character-defining features.
- Inappropriate new construction, which could introduce incompatible new buildings that clash with an established architectural context.

As previously indicated, under CEQA, conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties will normally mitigate impacts to a less-than-significant level. For the proposed General Plan 2040, which is a broad-based policy plan, it is not possible to determine whether individual projects would be able to attain the Secretary of Interior's Standards. Therefore, any of these

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scenarios described above, but especially demolition and alteration, have the potential to change the historic fabric or setting of an architectural resource such that the resource's ability to convey its significance may be materially impaired, which would result in a *significant* impact.

Impact CULT-1: Future development in San Rafael on sites that contain a historic resource may cause the demolition, destruction, or alteration of a historic resource such that the significance of the resource is "materially impaired." Such adverse changes or potential adverse changes in the significance of a CEQA-defined historic resource would constitute a significant impact.

Mitigation Measure CULT-1: To ensure sites that contain a historic resource that are subject to demolition, destruction, or alteration, are mitigated to an acceptable level, the City shall amend Program CDP-5.1A (Preservation Ordinance).

- **Modify Program CDP-5.1A: Update Historic Preservation Ordinance.** The City of San Rafael shall modify the City's Historic Preservation Ordinance to include updated procedures to mitigate impacts from the demolition, destruction, or alteration of historic resources.

Procedures could include the following:

For any discretionary project involving a property that contains a historic resource, the City shall make a preliminary determination as to whether or not the project may have a potentially significant adverse effect on the historic resource. If the City determines that the project may have a potentially significant effect, the City shall require the applicant to implement, to the extent feasible, the following mitigation measures.

- (a) If feasible, the applicant shall, to City satisfaction, ensure that the project adheres to one or both of the following standards:
 - Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings; or
 - Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer.

The project shall be reviewed by a qualified architect or architectural historian approved by the City and meeting the Secretary of the Interior's Professional Qualifications Standards published in the Code of Federal Regulations (36 CFR part 61), who shall make a recommendation to the decision-making body as to whether the project fully adheres to the Secretary of the Interior's Standards for Rehabilitation, as well as to whether any specific modifications are necessary to do so. The final determination as to a project's adherence to the Standards for Rehabilitation shall be made by the or the body with final decision-making authority over the project.

- (b) If measure (a) is not feasible, and if relocation of the historic resources is a feasible alternative to demolition, the historic resource shall be moved to a new location compatible with the original character and use of the historical resource, and its historic features and compatibility in orientation, setting, and general environment shall be retained, such that the resource retains its eligibility for listing on the California Register of Historic Resources.

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If neither measure (a) nor measure (b) is feasible, the City shall, as applicable and to the extent feasible, implement the following measures in the following order:

- Document the historic resource before any changes that would cause a loss of integrity and loss of continued eligibility. The documentation shall adhere to the Secretary of the Interior's Standards for Architectural and Engineering Documentation. The level of documentation shall be proportionate with the level of significance of the resource. The documentation shall be made available for inclusion in the Historic American Building Survey (HASS) or the Historic American Engineering Record (HAER) Collections in the Library of Congress, the California Historical Resources Information System, and the Bancroft Library, as well as local libraries and historical societies.
- Retain and reuse the historic resource to the maximum feasible extent and continue to apply the Standards for Rehabilitation to the maximum feasible extent in all alterations, additions, and new construction.
- Through careful methods of planned deconstruction to avoid damage and loss, salvage character-defining features and materials for educational and interpretive use on-site, or for reuse in new construction on the site in a way that commemorates their original use and significance.
- Interpret the historical significance of the resource through a permanent exhibit or program in a publicly accessible location on the site or elsewhere within the city limits.

Significance with Mitigation: Significant and unavoidable. Although the preceding mitigation measures are intended to mitigate impacts on historic resources from potential future development in San Rafael to the extent feasible, the impacts to historic resources may nonetheless remain significant and unavoidable at the program level because project-level details of future development proposals are unknown. This program-level impact does not preclude the finding of less-than-significant impacts for subsequent development projects that comply with Secretary of the Interior's Standards. However, due to the programmatic nature of the proposed project, no additional mitigation measures are available, and the impact is considered *significant and unavoidable*.

DOWNTOWN PRECISE PLAN

Same as potential future development in the remainder of the city, the potential future development in the Downtown Precise Plan Area has the potential to cause the demolition, destruction, or alteration of a historic resource such that the significance of the resource is materially impaired. The proposed Downtown Precise Plan addresses the regulation of historic resources in Chapter 3, Design Principles and Guiding Policies; Chapter 5, Historic Resources; Chapter 8, Implementation; and Chapter 9, Downtown Form Based Code.

Chapter 3, Design Principles and Guiding Policies, includes the following guiding policies, which are intended to provide guidance in evaluating strategies and actions for implementing the Plan vision.

- **Guiding Policy 6A.** Protect historic and cultural landmarks and celebrate them in the design of the built form and public realm.
- **Guiding Policy 6B.** Use appropriate historic preservation tools to safeguard the built character of historic resources while accommodating sensitive modifications and additions as needed.

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- **Guiding Policy 6C.** Maintain and regularly update the inventory of notable historic and cultural resources in Downtown.
- **Guiding Policy 6D.** Employ the Form-Based Code to guide the physical form of new development on sites adjacent to Downtown's historic resources.
- **Guiding Policy 6E.** Utilize preservation and adaptive use strategies, and incentivize private developers to reinvest in existing buildings and redevelop sites with historic or cultural resources.
- **Guiding Policy 6F.** Plan activities and events focused on raising awareness about Downtown's history and cultural heritage.

Chapter 5, Historic Resources, of the Downtown Precise Plan provides an overview of historic resources in the DTPP area, including the historical context, existing preservation policies and regulations, a summary of the 2019/20 survey and inventory of historic resources (described in detail below), identification of two new historic districts, recommendations for a historic preservation ordinance, and procedures for additions, alterations, and demolition. Section 5.6, Procedures for Additions, Alterations, and Demolition, lists the criteria used to determine if a rehabilitation project qualifies as a “certified rehabilitation” under the Secretary of the Interior’s Standards for Rehabilitation, as listed above in Section 4.5.1.1 under Federal Regulations. Section 5.6 of the proposed Downtown Precise Plan also includes regulating tables to provide guidance for future modifications and alterations to historic resources in the Downtown Precise Plan Area. Table 5A lists the allowed modifications to historic structures based on their status, and Table 5B lists allowed modifications for structures adjacent to historic resources. Table 5C lists procedures to be followed for modifications and alterations for different types of resources in the Downtown Precise Plan Area.

Chapter 8, Implementation, of the Downtown Precise Plan, includes Section 8.3, Recommended Actions. Subsection A., Historic Resources Management, lists the following actions for protecting historic resources in the Downtown Precise Plan Area:

1. Refine "Chapter 2.18- Historic Preservation" in the San Rafael Municipal Code. Refer to Section 5.5: Recommendations for Historic Preservation Ordinance for additional details.
 - **Action 1A.** The Plan recommends that the City appoint one of the following, as feasible:
 - A full Historic Preservation Commission as is recommended by the California Office of Historic Preservation (OHP)—note that the OHP recognizes this option may not be feasible in all cases; or
 - An advisory committee made up of a Design Review Board member, a Planning Commission member and an architectural historian who has up-to-date training on current preservation standards; or
 - An on-call professional Architectural Historian familiar with CEQA compliance.
 - **Action 1B.** Align with CA OHP procedures for evaluating and designating individual historic resources and Historic Districts, including industry accepted definitions.
 - **Action 1C.** Create a full suite of historic preservation economic and feasibility incentives.
 - **Action 1D.** Establish a clear process for local designation.
 - **Action 1E.** Add guidelines to relocate designated resources per Criteria Consideration B ("Moved Properties of the National Register of Historic Places Criteria for Designation") to avoid demolition when feasible.

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TABLE 5A. ALLOWED MODIFICATIONS TO DOWNTOWN HISTORIC RESOURCES BASED ON HISTORIC STATUS

	National/ State/ Local Landmark	Individual Resource	Contributing Resource
<i>House-Form Historic Resource</i>			
Demolition	Not permitted	Not permitted	Permitted. Must avoid a cumulative or significant impact to the district, determined by a qualified architectural historian.
Relocation	Not permitted unless under threat of demolition in current location and with qualified historian’s approval.	Not permitted unless under threat of demolition in current location and with qualified historian’s recommendation.	Not permitted unless under threat of demolition in current location and with qualified architectural historian’s recommendation.
Additions	Permitted up to 10 feet *, following Downtown Form-Based Code standards including Supplemental Standards complying with SISR #9.	Permitted up to 10 feet *, following Downtown Form-Based Code standards including Supplemental Standards complying with SISR #9.	Permitted up to 10 feet *, following Downtown Form-Based Code standards including Supplemental Standards complying with SISR #9.
Alterations	Permitted. Must comply with SISR #2: avoid altering defining features.	Permitted. Must comply with SISR #2: avoid altering defining features.	Permitted. Must comply with SISR #2: avoid altering defining features.
Repairs	Permitted. Must comply with SISR #6: maintain Integrity and be compatible/ differentiated.	Permitted. Must comply with SISR #6: maintain integrity and be compatible/ differentiated.	Permitted. Must comply with SISR #6: maintain integrity and be compatible/ differentiated.
<i>Block-Form Historic Resource</i>			
Demolition	Not permitted	Not permitted	Permitted. Must avoid a cumulative or significant impact to the district, determined by a qualified architectural historian.
Relocation	Not permitted unless under threat of demolition in current location and with qualified historian's recommendation.	Permitted only if under threat of demolition in current location.	Relocation
Additions	Permitted up to 20 feet following Downtown Form-Based Code standards including Supplemental Standards complying with SISR #9.	Permitted up to 20 feet *, following Downtown Form-Based Code standards including Supplemental Standards complying with SISR #9.	Additions
Alterations	Permitted. Must comply with SISR #2: avoid altering defining features.	Permitted. Must comply with SISR #2: avoid altering defining features.	Alterations
Repairs	Permitted. Must comply with SISR #6: maintain integrity and be compatible/ differentiated.	Permitted. Must comply with SISR #6: maintain integrity and be compatible/ differentiated.	Repairs
* Guidelines for the historic district apply to the district as a whole and as it’s own resource being made up of all contributors and individually eligible buildings within it, not the individual buildings, which are discussed in subsequent portions of the chart. The recommendations for the number of additional stories allowed as stated in this table are as per industry best practices. In cases where this may not be a viable solution, the recommendation of a qualified historian may be considered as an alternative.			

TABLE 5B. ALLOWED MODIFICATIONS TO DOWNTOWN NON-HISTORIC STRUCTURES ADJACENT TO HISTORIC RESOURCES

	Non-Historic House-Form Structures Adjacent to a Historic Resource	Non-Historic Block-Form Structures Adjacent to a Historic Resource
Demolition	Permitted, but must avoid potential damage through vibration or otherwise.	Permitted, but must avoid potential damage through vibration or otherwise.
Relocation	Permitted, but must avoid potential damage.	Permitted, but must avoid potential damage.
Additions	Permitted up to 1 story*, following Downtown Form-Based Code standards including Supplemental Standards.	Permitted up to 2 stories*, following Downtown Form-Based Code standards including Supplemental Standards.
Alterations	Permitted. Must comply with Downtown Form-Based Code including Supplemental Standards.	Permitted. Must comply with Downtown Form-Based Code including Supplemental Standards.
Repairs	Permitted.	Permitted.

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TABLE 5C. PROCEDURAL OPTIONS FOR DIFFERENT CATEGORIES OF PROJECTS IN THE PLAN AREA

Category 1 Non-resource with no adjacency		Category 2 Non-resource with adjacency	
<ul style="list-style-type: none"> - Not a historic resource - Outside historic district - Not adjacent to a historic resource 		<ul style="list-style-type: none"> - Not a historic resource but inside a historic district - Adjacent to a historic resource or historic district boundary (outside boundary) 	
Downtown Form-Based Code applies		Downtown Form-Based Code applies (step-backs or setbacks according to Code's Supplemental Standards)	
Staff review and approval			
Category 3 Contributing Resources		Category 4 Individual Resources + Landmarks	
<p>Contributing resource inside historic district: addition/ alteration</p> <p style="text-align: center;">↓</p> <p>Downtown Form-Based Code applies (step-backs or setbacks according to Code's Supplemental Standards)</p> <p style="text-align: center;">↓</p> <p>Additional Historic Preservation impact analysis if potential or cumulative impacts on District are possible</p> <p style="text-align: center;">↓</p> <p>If no impact: Staff/ Planning Commission approval (depending on project complexity)</p>	<p>Contributing resource inside historic district: demolition*</p> <p style="text-align: center;">↓</p> <p>Additional Historic Preservation impact analysis on historic district including cumulative impacts</p> <p style="text-align: center;">↓</p> <p>If no significant impact: Planning Commission approval</p> <p style="text-align: center;">↓</p> <p>If impact: CEQA/ EIR process to be followed</p>	<p>Individual resource: addition/ alteration</p> <p style="text-align: center;">↓</p> <p>Downtown Form-Based Code applies (step-backs or setbacks according to Code's Supplemental Standards)</p> <p style="text-align: center;">↓</p> <p>If addition/ alteration exceeds Code's Supplemental Standards, additional Historic Preservation impact analysis for potential or cumulative impact on historic district or resource</p> <p style="text-align: center;">↓</p> <p>If no impact: Planning Commission discretionary review</p>	<p>Individual resource or individual resource which is also a contributor: demolition*</p> <p style="text-align: center;">↓</p> <p>CEQA/ EIR analysis to assess impacts to an individual resource or to the individual resource and historic district</p> <p style="text-align: center;">↓</p> <p>If impact: no project without overriding consideration</p> <p style="text-align: center;">↓</p> <p>If no impact on individual resource and meets Code's Supplemental Standards and SISR standards but may impact historic district, additional Historic Preservation impact analysis</p> <p style="text-align: center;">↓</p> <p>Planning Commission discretionary review and approval</p>

* Demolitions must be tied to a specific project

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2. Maintain Inventory and Map of Historic Resources
 - **Action 2A.** Maintain the City's recently prepared historic context statement by updating it every five years.
 - **Action 2B.** Maintain an inventory and map of the historic resources in Downtown, informed by a field survey and updated every five years.
 - **Action 2C.** Maintain the inventory of historic resources in the City's Geographic Information Systems (GIS) database.
3. Streamline Permitting Processes and Procedures. Refer to Section 5.6: Procedures for Additions, Alterations and Demolition for additional details.
 - **Action 3A.** Assess and streamline planning procedures and permitting processes for review of projects involving historic resources, and eliminate possible redundancies and extraneous processes. Adopt the guidance and procedures described in Section 5.6 and illustrated in Tables 5A and 5B. Establish clear procedures compliant with The Secretary of the Interior's Standards for the Treatment of Historic Properties for individual properties, and in identified eligible historic districts.
4. Develop Educational Materials for Historic Resources
 - **Action 4A.** Develop educational materials for building owners (and potential owners) of historic resources, including information on grants and other sources of funding for maintaining the properties. This will further the preservation and development goals of San Rafael and provide factual info about the opportunities, benefits, and responsibilities for historic building ownership.
5. Offer Design Guidance
 - **Action 5A.** To create efficiencies early on in the development of a project, design guidance should be provided to current and potential owners of historic resources in Downtown. This should be done in advance of design guidelines.
6. Preservation Recognition and Education Programs
 - **Action 6A.** Develop programs to celebrate and educate the citizens about their City's history and built environment.
 - **Action 6B.** Provide information about the sustainability of preservation and rehabilitation of older structures, as compared to new construction.

Chapter 9, Form Based Code, contains regulatory standards intended to guide future development near historic resources in the Downtown Precise Plan Area. Section 3.2.070 Historic Resource Adjacency Standards requires that:

- The massing of any new building or proposed modification on or immediately adjacent to a historic resource, as identified in the Regulating Plan, reflect the scale of the adjacent historic resource by matching the ceiling heights of the first and second floor with that of the resource.
- Where new development is immediately adjacent to a "house-form historic resource," a minimum 20-foot forecourt is required immediately adjacent to the historic resource, and that the new development be setback from the sidewalk to match the setback of the historic resource.
- For additions to existing historic resources, the additions must be set back from the historic façade as determined by the City's Architectural Historian and Design Review; be limited to one or two stories,

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depending on the zone, and must be in compliance with all standards of the zone and Secretary of the Interior's Standards for Rehabilitation #9 (New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.)

The Downtown Precise Plan includes a set of Procedures for Additions, Alterations, and Demolition (Section 5.6) to allow a level of modification to a structure, that are based on the Secretary of the Interior's Standards for a "Certified Rehabilitation." The Downtown Precise Plan also includes Form Based Code regulatory standards that regulate building massing, height, and setbacks for new projects adjacent to landmarked buildings, and for alterations to landmarked buildings.

As previously indicated, under CEQA, conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties will normally mitigate impacts to a less-than-significant level. Within the Downtown Precise Plan, only the Procedures for Additions, Alterations, and Demolition allow alterations or additions to a historic resource to allow new uses. Under the Standards for Rehabilitation, new additions, alterations, or adjacent new construction must not destroy character-defining features, spaces and spatial relationships. New work must be differentiated from the old and must be compatible with the historic materials, features, size, scale, proportion, and massing. New additions, alterations and new construction must be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Through approval of the Downtown Precise Plan, the City is directing future infill growth through higher density development into an area with a high concentration of historic resources. As shown in Table 4.5-8, Downtown Precise Plan Area Properties Documented in Detailed Field Survey, of the 159 sites surveyed, 37 parcels were found to be eligible for consideration as a historic landmark; 37 parcels were found likely not to be eligible individually, but could be considered eligible as contributing resources in a historic district; 15 parcels require additional research for eligibility determination; 10 parcels were found to be likely ineligible, but require additional research for conclusion; and 60 parcels were found to be ineligible as a landmark.

In some cases, it can be very challenging to accommodate the needs of new uses while fully adhering to the Standards for Rehabilitation and, in many situations, it can be altogether infeasible. In addition, changes to the condition of historic resources and their surroundings between now and the time that individual development proposals are received for specific properties could affect the extent to which the DTPP's historic resource protection provisions can effectively mitigate potential impacts on historic resources.

As a result, for all but the 60 parcels identified in the 2019/20 Survey as ineligible for landmarking status, it cannot be determined at this time, without consideration of a specific development proposal, whether it would be feasible to mitigate to a less than significant level the impacts of any given subsequent development project under the Downtown Precise Plan involving properties that contain historic resources. Accordingly, like the General Plan 2040, impacts would be *significant and unavoidable*.

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Significance with Mitigation: Significant and unavoidable. An evaluation of project-specific details for future development could demonstrate future projects meet the Secretary of Interior’s Standards; therefore, this program-level conclusion does not prohibit a less-than-significant conclusion at the project level in the future.

CULT-2 Implementation of the proposed project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.

General Plan 2040

Archaeological deposits that meet the definition of historical resource under CEQA Section 21084.1 or CEQA Guidelines Section 15064.5 could be present within the study area and could be damaged or destroyed by ground-disturbing construction activities (e.g., site preparation, grading, excavation, and trenching for utilities) associated with development allowed under the General Plan. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, or as possessing traditional or cultural significance to Native American or other descendant communities, would be materially impaired.

The proposed Community Design and Preservation (CDP) Element contains goals, policies, and programs that require local planning and development decisions to consider impacts to cultural resources, including archaeological resources. The following General Plan goals, policies, and programs would serve to minimize potential adverse impacts on archaeological resources:

Goal CDP-5: Protected Cultural Heritage. Protect and maintain San Rafael’s historic and archaeological resources as visible reminders of the city’s cultural heritage.

- **Policy CDP-5.13: Protection of Archaeological Resources.** Protect significant archaeological resources by:
 - Consulting the City’s archaeological resource data base prior to issuing demolition or construction permits in known sensitive areas.
 - Providing information and direction to property owners to make them aware of these resources and the procedures to be followed if they are discovered on-site.
 - Identifying, when possible, archaeological resources and potential impacts on such resources.
 - Implementing measures to preserve and protect archaeological resources, including fines and penalties for violations.
 - **Program CDP-5.13A: Archaeological Resources Ordinance.** Continue to implement the existing Archaeological Resources Ordinance and the City’s Archaeological Resources data base.
- **Policy CDP-5.14: Tribal Cultural Resources.** Coordinate with representatives of the Native American community to protect historic Native American resources and raise awareness of San Rafael’s Native American heritage.
 - **Program CDP-5.14A: AB 52 Compliance.** Implement the requirements of Assembly Bill 52 by providing opportunities for meaningful input from Native American representatives in the development review process.

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- **Program CDP-5.14B: Protection of Tribal Resources.** Incorporate standard approval conditions in future development projects that ensure that Native American resources are protected during construction. In the event tribal resources are discovered, earth-disturbing work must be temporarily suspended pending evaluation by a qualified archaeologist and an appropriate Native American representative. Where appropriate, a mitigation plan shall be developed in accordance with state guidelines and tribal input.

As discussed in Section 4.5.1.2, Existing Conditions, 86 prehistoric archaeological sites have been documented within the EIR Study Area. There could be not-yet-identified archaeological resources within the EIR Study Area.

As discussed in Chapter 3, Project Description, of this Draft EIR, the proposed project would increase future development in existing urban areas within the EIR Study Area, half of which growth would occur in the Downtown Precise Plan Area. Compliance with existing federal, State, and local laws and regulations, and the proposed General Plan 2040 goals, policies, and programs listed above would protect recorded and unrecorded archaeological deposits in the greater EIR Study Area by providing for the early detection of potential conflicts between development and resource protection, and by preventing or minimizing the material impairment of the ability of archaeological deposits to convey their significance through excavation or preservation. However, some future projects could result in substantial excavation at significant depths below the ground surface where no such excavation has previously occurred. Such excavation activities could disturb unidentified subsurface materials that have the potential to contain prehistoric archaeological resources, including unrecorded Native American prehistoric archaeological sites. In such a case, without proper consultation with Native American Tribes, impacts to archaeological resources would be *significant*.

Impact CULT-2: Implementation of the proposed project could have the potential to cause a significant impact to an archaeological resource pursuant to CEQA Guidelines Section 15064.5.

Mitigation Measure CULT-2: To ensure sites where archaeological resources are unearthed during the construction phase of development projects are mitigated to an acceptable level, the City shall amend Program CDP-5.13A (Archaeological Resources Ordinance).

- **Modify Program CDP-5.13A: Update Archaeological Resources Ordinance.** The City of San Rafael shall modify the City's Archaeological Resources Ordinance to include construction best management practices to follow if a potentially significant archaeological resource is encountered during ground disturbing activities.

Best management practices could include:

- All construction activities within a 100-foot radius of the find shall cease until a qualified archaeologist determines whether the resource requires further study.
- All developers in the study area shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement.
- Any previously undiscovered resources found during construction activities shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated for significance in terms of the California Environmental Quality Act (CEQA) criteria by a qualified archaeologist.

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- If the resource is a tribal resource, the consulting archaeologist shall consult with the appropriate tribe to evaluate the significance of the resource and to recommend appropriate and feasible avoidance, testing, preservation or mitigation measures, in light of factors such as the significance of the find, proposed project design, costs, and other considerations.
- If avoidance is infeasible, other appropriate measures (e.g., data recovery) may be implemented.
- If the resource is a nontribal resource determined significant under CEQA, the qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant.
- The archaeologist shall also perform appropriate technical analyses; prepare a comprehensive report complete with methods, results, and recommendations; and provide for the permanent curation of the recovered resources.
- The report shall be submitted to the City of San Rafael, Northwest Information Center, and State Historic Preservation Office, if required.

Significance with Mitigation: Less than significant.

Downtown Precise Plan

Same as potential future development in the remainder of the city, the potential future development in the Downtown Precise Plan Area could unearth unknown archaeological resources. The proposed Downtown Precise Plan has no specific policies, and the Downtown Code has no specific regulations related to archaeological resources; therefore, the impacts and mitigation described for the proposed General Plan 2040 would also apply in the Downtown Precise Plan Area. Accordingly, like the General Plan 2040, impacts would be *less than significant*.

Significance with Mitigation: Less than significant.

CULT-3 **Implementation of the proposed project would not disturb any human remains, including those interred outside of dedicated cemeteries.**

General Plan 2040

Human remains associated with precontact archaeological deposits could exist in the EIR Study Area and could be encountered at the time potential future development occurs. The associated ground-disturbing activities, such as site grading and trenching for utilities, have the potential to disturb human remains interred outside of formal cemeteries. Procedures of conduct following the discovery of human remains have been mandated by Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98 and the California Code of Regulations Section 15064.5(e) (CEQA). According to the provisions in CEQA, if human remains are encountered at the site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken. The Marin County Coroner shall be notified immediately. The Coroner shall then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner shall notify the NAHC within 24 hours, who will, in turn, notify the person the NAHC identifies as the Most Likely Descendant

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(MLD) of any human remains. Further actions shall be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. If the NAHC is unable to identify a MLD, the MLD fails to make a recommendation within 48 hours after being notified, or the landowner rejects the recommendation of the of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance.

Descendant communities may ascribe religious or cultural significance to such remains and may view their disturbance as an unmitigable impact. Disturbance of unknown human remains would be a *significant* impact.

Impact CULT-3: Ground-disturbing activities as a result of future development in the EIR Study Area could encounter human remains, the disturbance of which could result in a significant impact under CEQA.

Mitigation Measure CULT-3: To ensure human remains that are unearthed during the construction phase of development projects are protected, the City shall adopt a new Program to support Policy CDP-5.13 (Protection of Archaeological Resources).

- **New Program: Human Remains.** Any human remains encountered during ground-disturbing activities would be required to be treated in accordance with California Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, and the California Code of Regulations Section 15064.5(e) (CEQA), which state the mandated procedures of conduct following the discovery of human remains.

Significance with Mitigation: Less than significant.

Downtown Precise Plan

Same as potential future development in the remainder of the city, the potential future development in the Downtown Precise Plan Area could unearth human remains. The proposed Downtown Precise Plan has no specific policies, and the Downtown Code has no specific regulations related to the protection of human remains; therefore, the impacts and mitigation described for the proposed General Plan 2040 would also apply in the Downtown Precise Plan Area. Accordingly, like the General Plan 2040, impacts would be *less than significant with mitigation*.

Significance with Mitigation: Less than significant.

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CULT-4 Implementation of the proposed project would not cause a substantial adverse change in the significance of a TCR, defined in PRC Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: i) Listed or eligible for listing in the California Register, or in a local register of historical resources as defined in PRC Section 5020.1(k), or ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of the PRC Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.

General Plan 2040

As previously described in Section 4.5.1.1, Regulatory Framework, a TCR is defined under AB 52 as a site, feature, place, cultural landscape that is geographically defined in terms of size and scope, sacred place, or object with cultural value to a California Native American tribe that is either included or eligible for inclusion in the California Register or included in a local register of historical resources, or if the City of San Rafael, acting as the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a TCR.⁶

As discussed under impact discussions CULT-2 and CULT-3, impacts from potential future development in the EIR Study Area could impact unknown archaeological resources, including Native American artifacts and human remains.

Compliance with existing federal, State, and local laws and regulations, and the General Plan goals, policies, and programs listed under CULT-2 would protect unrecorded TCRs in the EIR Study Area by providing for the early detection of potential conflicts between development and resource protection, and by preventing or minimizing the material impairment of the ability of archaeological deposits to convey their significance through excavation or preservation. Furthermore, implementation of Mitigation Measures CULT-2 and CULT-3 would reduce any impacts to a TCR discovered in the EIR Study Area as a result of future development under the proposed project.

Impact CULT-4: Ground-disturbing activities as a result of future development under the proposed project could encounter Tribal Cultural Resources, the disturbance of which could result in a significant impact under CEQA.

Mitigation Measure CULT-4: Implement Mitigation Measures CULT-2 and CULT-3.

Significance with Mitigation: Less than significant.

⁶ Public Resources Code Sections 21074(a)(1) and (2).

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Downtown Precise Plan

Same as potential future development in the remainder of the city, the potential future development in the Downtown Precise Plan Area could unearth unknown TCRs. The proposed Downtown Precise Plan has no specific policies, and the Downtown Code has no specific regulations related to TCRs; therefore, the impacts and mitigation described for the proposed General Plan 2040 would also apply in the Downtown Precise Plan Area. Accordingly, like the General Plan 2040, impacts would be *less than significant with mitigation*.

Significance with Mitigation: Less than significant.

CULT-5	Implementation of the proposed project would cause impacts that are cumulatively considerable when viewed in connection with the effects of past, present, and reasonably foreseeable projects.
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The impacts of potential future development under implementation of the proposed project on cultural resources and TCRs tend to be site specific, and cumulative impacts would occur when a series of actions leads to the loss of a substantial type of site, building, or resource. For example, while the loss of a single historic building may not be significant to the character of a neighborhood or streetscape, continued loss of such resources on a project-by-project basis could constitute a significant cumulative effect. This is most obvious in historic districts, where destruction or alteration of a percentage of the contributing elements may lead to a loss of integrity for the district overall. For example, changes to the setting or atmosphere of an area by adding modern structures on all sides of a historically significant building, thus altering the aesthetics of the streetscape, would create a significant impact. Destruction or relocation of historic buildings would also significantly impact the setting.

Future development planned for under the General Plan 2040 would be primarily located within the developed portions of the EIR study area, this, in conjunction with buildout of the city and the region, has the potential to cumulatively impact historical resources. As previously discussed, impacts to historic architectural resources would be mitigated with implementation of Mitigation Measure CULT-1 on a project-level, but would be significant and unavoidable at the program level due to the lack of development level details. Impacts to archaeological resources, human remains, or TCR's identified within the areas of potential development in the EIR study area and implementation of Mitigation Measures CULT-2, CULT-3, and CULT-4 would reduce these impacts to a less-than-significant level. Additionally, the existing federal, State, and local regulations and General Plan goals, policies and programs described throughout this chapter serve to protect cultural resources in San Rafael. Continued compliance with these regulations substantially decrease potential impacts to historical resources, archaeological resources, human remains, and TCRs to the maximum extent practicable.

Significance with Mitigation: Significant and Unavoidable. While implementation of Mitigation Measures CULT-2, CULT-3, and CULT-4 would reduce impacts to archaeological resources, human remains, and TCRs to a less-than-significant level, it is unknown if future projects that are proposed on sites or adjacent to sites with historic buildings would be able to achieve the Secretary of Interior's Standards at the program level. Therefore, this impact remains *significant and unavoidable*.