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Affordable Housing + Anti-Displacement

CHAPTER
7

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7.1 Introduction

The Bay Area is facing a housing crisis, and San Rafael is not an exception. Homelessness has been and continues to be an issue of concern, particularly in Downtown. This chapter assesses housing needs and includes recommendations to achieve the Plan goals of increasing housing affordability and preventing gentrification. The complete Affordable Housing and Anti-Displacement Strategy is available in Appendix VII.

Background

The Downtown Precise Plan Area (Plan Area) is currently home to approximately 2,300 residents (2018 figures). The one-half mile radius around the SMART station and Transit Center has been designated a Priority Development Area (PDA) by the City Council, with recognition by the Association of Bay Area Governments (ABAG). As a PDA, the area has been identified as an infill development opportunity where there is both a local and regional commitment to developing more housing, along with amenities and services to meet the needs of residents in a pedestrian-friendly environment served by transit. This projected growth has implications for existing and future affordable housing within the Plan Area.

General Plan context

The City's Housing Element provides the policy framework for establishing the Precise Plan Affordable Housing and Anti-Displacement Strategy. San Rafael's Housing Element sets forth housing policies to incentivize both market-rate and affordable development in Downtown, and to address

displacement of existing residents. Some of the relevant policies and programs are:

Policy H-7. Protection of the existing housing stock.

Continue to protect existing housing from conversion to non-residential uses. Ensure that affordable housing provided through government subsidy programs, incentives, and deed restrictions remains affordable over the required time period, and intervene when possible to help preserve such housing.

Policy H-15. Infill near transit.

Encourage higher densities on sites adjacent to a transit hub, focusing on the Priority Development Area surrounding the San Rafael Transit Center and future Downtown SMART station.

■ **H-15a. Downtown Station Area Plan.** *The extension of SMART rail service to Downtown is an opportunity to create a variety of transportation and housing options, economic stability, and vibrant community gathering places in the heart of San Rafael. General Plan 2020, adopted in 2004, allowed for higher residential densities and reduced residential parking standards to encourage*

housing development within the heart of Downtown that would support local businesses and allow people to live close to their place of work. The Downtown Station Area Plan, accepted by City Council in June 2012, establishes a series of implementing actions, the following of which specifically serve to facilitate higher density residential and mixed-use infill in the area.

Similarly, General Plan 2040 includes an Equity, Diversity, and Inclusion Element that addresses housing and anti-displacement issues, and a Neighborhoods Element that recognizes displacement as an issue in certain parts of San Rafael, including Downtown and the Canal neighborhood. Relevant policies include:

Policy EDI-3.1. Preventing displacement

Prevent the displacement of lower income residents from their homes due to rising costs, evictions without cause, and other economic factors that make it difficult for people to stay in San Rafael.

Program EDI-3.1a. Anti-displacement strategies.

Evaluate anti-displacement strategies in future plans or programs that could result in the direct removal of affordable housing units, the displacement of tenants, or economic hardships due to rapid rent increases.

Program EDI-3.1b. Renter protection measures.

Continue to explore and promote measures to protect San Rafael renters and facilitate positive communication between landlords and tenants.

Program EDI-3.1c. Climate-related displacement.

Consider measures to address the potential for loss or displacement of affordable or lower cost housing in the City’s climate change adaptation planning.

Regional Housing Needs Allocation (RHNA)

Under California State Housing Law, each city and county is required to adopt a Housing Element that demonstrates how the jurisdiction plans to meet existing and projected housing needs during the Housing Element cycle. The projected housing need is identified through the Regional Housing Needs Allocation (RHNA) process, which specifies the quantity of housing units needed distributed among four income levels.

Through the Housing Element update process, each jurisdiction must show that it has zoned sufficient sites to provide the development capacity necessary to accommodate its RHNA. This “fair share” allocation concept seeks to ensure that each jurisdiction accepts

Table 7A. San Rafael Regional Housing Needs Allocation (RHNA) 2015-2023

| Income Level | Percent of AMI* | Units | Permits Issued 2015-2019 | Pipeline Residential Units | Remaining RHNA Need |
|----------------|-----------------|--------------|--------------------------|----------------------------|---------------------|
| Very Low | 0-50% | 240** | 3 | 88 | 149 |
| Low | 51-80% | 148 | 52 | 98 | 0 |
| Moderate | 81-120% | 181 | 11 | 18 | 152 |
| Above Moderate | 120%+ | 438 | 171 | 322 | 0 (exceeded by 5) |
| Total | | 1,007 | 237 | 526 | 301 |

Source: Association of Bay Area Governments (ABAG) 5th Cycle RHNA.

* AMI: Area Median Income for Marin County

** Of San Rafael’s allocated 240 Very Low Income units, half is allocated to Extremely Low Income households and half to Very Low Income households

responsibility for the housing needs of not only its resident population (i.e., young adults leaving home and forming new households, or larger households splitting up to form smaller ones), but also for the jurisdiction's projected share of regional household growth across all income categories. Such non-resident household growth occurs primarily when new job opportunities attract new residents to the region.

The Association of Bay Area Governments (ABAG) has adopted RHNA for San Rafael for the 2015-2023 Housing Element cycle. San Rafael was allocated 1,007 total new housing units, of which 24 percent are Very Low Income and 15 percent are Low Income, as shown in Table 7A on the previous page. These RHNA figures are linked to San Rafael's allocation of regional housing growth under the Sustainable Communities Strategy (tied to SB 375), and are influenced by factors including planned employment growth and proximity to transit. While the current RHNA allocation runs through 2023, the next allocation covers 2023-2031 and is substantially higher. San Rafael's RHNA for 2023-2031 is increasing by 220 percent to 3,220 units, making it much more critical to provide housing opportunities in Downtown.

The City prepares an Annual Housing Element Progress Report (APR) for submittal to the State which includes an assessment of progress towards meeting the RHNA allocation. Based on the APR for calendar year 2019, San Rafael issued a total of 237 residential building permits during the first four years of the current Housing Element cycle (2015-2019), including 45 accessory dwelling units that help to address the City's low and moderate income housing needs.

Relative to the eight year RHNA goal of 1,007 units, construction was modest, particularly in the Very Low and Moderate Income categories. However, between 2017 and 2020, San Rafael saw an uptick in development

activity, including several residential projects. As of 2020, a number of projects need to be considered when evaluating San Rafael's progress towards meeting its RHNA allocation within the current Housing Element cycle.

These are projects that are either entitled or under construction in Downtown. Some of the major developments are described in Figure 7.1 on the facing page.

San Rafael is currently lagging behind its housing goals. These projects would contribute an additional 526 units city-wide towards San Rafael's RHNA goals, including 88 Very Low Income and 98 Low Income units. As presented in the final column of Table 7A, adding these proposed projects to the 237 building permits already issued puts the City on track to be able to address most of its RHNA goals during the planning period.

Although Table 7A still shows the City underperforming in its future production of Moderate Income units, the affordability analysis in the following section (refer to Table 7C) shows that many market-rate apartments are in fact affordable to Moderate Income households without subsidy.

Figure 7.1

Major residential and mixed-use projects in the Downtown development pipeline in 2020



1. 815 B Street is a four-story, mixed-use building with 41 apartments above approximately 1,900 sq. ft. of commercial retail space located on four adjacent Downtown lots. The project was granted a 35 percent density bonus, and includes six below-

market rate (BMR) units: three Very Low Income and three Low Income.
Project status (2020): Under construction



2. BioMarin and Whistlestop/Eden Housing (999 Third Street) has two, four-story buildings for laboratory/R&D and general office space, with a third building housing a "healthy aging" center on the first two floors and 67 affordable senior housing units above, to be constructed by Whistlestop/

Eden Housing. The project will allow Whistlestop to provide affordable housing to seniors and continue to offer a wide array of services (fitness classes, health screenings, etc.) in a central Downtown location.
Project status (2020): Approved

3. 1628 Fifth Avenue: 9 units
Project status (2020): Approved

4. 104 Shaver Street: 7 units
Project status (2020): Approved



5. Aegis San Rafael (800 Mission Avenue) is a four-story assisted living facility building with 77 assisted living suites (studio and one-bedroom units) over a 40 space subterranean garage. The building will house 25 units dedicated to memory care and

52 assisted living units. While none of the units in the project are affordable, a commercial in-lieu fee of approximately \$500,000 was paid to the City's Affordable Housing In-Lieu Fee Fund.

Project status (2020): Approved, submitted for building permits



6. Seagate at 703 Third Street is a six-story, mixed-use project with ground level retail and apartments above. It includes a total of 120 studio, one and two-bedroom units, including nine BMR units (five Very Low Income and four Low Income). The project is seeking a density bonus above the

35 percent by-right density increase under State statutes based on proximity to transit and to increase the project's economic viability.

Project status (2020): Approved

7. 21 G Street: 9 units
Project status (2020): Under construction

8. Wilkens Hotel, Fourth Street: 12 units (rehabilitated)
Project status (2020): Under construction

7.2 Existing Housing Characteristics

The majority of the existing housing units in Downtown are renter-occupied. Several approved and pipeline projects will deliver additional housing units in the near future.

According to the Downtown Economic and Market Profile (included in Appendix II: Downtown Area Profile Report), there are approximately 1,250 existing housing units in the Plan Area. 89 percent of the housing stock is renter-occupied, significantly higher than the corresponding city-wide figure of 50 percent. The risk of economic displacement from redevelopment tends to be higher in areas with high numbers of households in rental housing.

Table 7B summarizes the 329 housing units in the Plan Area currently in the development pipeline.

San Rafael is expected to experience a steady increase in population resulting from regional employment growth trends and housing demand. The Precise Plan recommends 2,200 new housing units (including pipeline projects that have been approved). According to the 2018 market analysis, the demand for all residential

Table 7B. Downtown Precise Plan pipeline residential projects

| Address | Project Type | Housing Units | Status |
|---------------------------------------|--|--|---|
| 815 B Street | Mixed-use (residential over retail) | 41 condominiums (3 VL/ 3 L when rented, 6 L when sold) | Under construction |
| 1628 Fifth Avenue | Condominiums | 9 units (1 VL/ 1 L) | Approved |
| 104 Shaver Street | Apartments | 7 units (1 VL) | Approved |
| 703 Third Street (Seagate) | Apartments | 120 apartments (5 VL, 4 L) | Approved |
| 800 Mission Avenue (Aegis San Rafael) | Senior assisted living | 77 suites with 88 beds | Approved (planning entitlements approved, in building permit submittal stage) |
| 999 Third Street (Whistlestop/ Eden) | Senior housing above new senior center | 67 low income apartments | Approved (planning entitlements approved, in building permit submittal stage) |
| 21 G Street | Townhomes | 8 condos (1 L) | Under construction |

Source: City of San Rafael, Planning Division of the Community Development Department, April 2019.
VL = Very Low Income, L = Low Income, M = Moderate Income

development types is high, and overall build-out is likely be constrained by the availability and cost of buildable sites more than by market demand.

Rental costs and affordability

Rental costs in the Plan Area (and for comparison purposes, San Rafael and Marin) were obtained from CoStar, a real estate service that provides information on asking rents in properties containing five or more units. A total of 545¹ units were included in CoStar's Q1 2019 rent survey within the Plan Area, documenting average asking rents of \$2,605, and reflecting rents higher than both the city-wide average (\$2,194) and Marin County as a whole (\$2,492). Vacancy rates for rental units in Downtown were documented at 4.2 percent. Typically, a vacancy rate of 5 percent is considered "healthy" as it indicates that the market is evenly balanced between landlords and renters, and there is mobility of renters within the market.

Table 7C presents the maximum affordable rents for Very Low, Low and Moderate Income households by household size, and compares this with average apartment rents in the Plan Area, the City, and the County. The Marin County

Housing Authority defines a Very Low Income household as one earning less than \$69,600 a year for a two-person household. Using this definition and recent Census data, the data in Table 7C indicates that more than half of all Downtown households are Very Low Income. Market rate rents for a one-bedroom apartment in Downtown San Rafael are 63 percent higher than the amount considered "affordable" for Very Low Income households. Plan Area rents are well above the level of affordability for Very Low and Low Income households, with the affordability gap increasing with household size. In contrast, households earning moderate incomes are still able to afford average market rents in Downtown. The 2013 city-wide rent survey conducted for San Rafael's Housing Element presents similar results. Increasing rents, combined with low vacancy rates, indicate a strong demand for multifamily rental units in Downtown.

At-Risk affordable housing

San Rafael has facilitated the development of affordable and special needs housing using a variety of public financing mechanisms from federal, state, and local

Figure 7.2 Summary of affordable housing units in Downtown (2018)

- 286 publicly-assisted affordable rental units
- 228 BMR rental units (inclusionary program)

¹ The actual number of multifamily rental units in Downtown is higher than the 545 units tracked by CoStar, and includes subsidized units, smaller market-rate projects (<5 units) and rental units built above ground floor retail.

Table 7C. Comparison of affordable rents with Downtown rents

| Income Level | Maximum Affordable Rent After Utilities Allowance | | |
|---|---|----------------------|----------------------|
| | Studio (1 person) | 1 Bedroom (2 person) | 2 Bedroom (3 person) |
| Very Low Income (50% AMI) | \$1,320 | \$1,511 | \$1,683 |
| Low Income (80% AMI) | \$2,170 | \$2,483 | \$2,775 |
| Moderate Income (120% AMI) | \$2,781 | \$3,181 | \$3,563 |
| Downtown Precise Plan Area Average Rents | \$2,003 | \$2,467 | \$3,259 |
| San Rafael Average Rents | \$1,499 | \$1,997 | \$2,473 |
| Marin County Average Rents | \$1,514 | \$2,138 | \$2,726 |

Sources: HCD Income Limits 2018; CoStar Q1 2019 (rentals 5 units and above); BAE, 2019. Utility costs based on Marin Housing multifamily utility allowance schedule: \$91 for studios, \$101 for 1 bedrooms, \$131 for 2 bedrooms.

resources. Table 7D presents an inventory of publicly assisted rental housing within the Plan Area to evaluate whether any of the current supply is at risk of transitioning to market-rate housing. The Plan Area currently contains 286 publicly assisted affordable rental units within 12 residential developments. Most of these properties have long-term affordability controls, though four properties - Carmel Hotel, Marin Center for Independent Living, Fourth Street Center, and One H Street Apartments, are potentially at risk of conversion during the next 10 years.

Fortunately, the actual risk of conversion seems low, as they are owned and managed by non-profit organizations that have a public purpose to develop and maintain affordable housing for low income and special needs populations. Potentially at more imminent risk of conversion to market-rate are privately owned rent-restricted units produced under the City's inclusionary program. The Marin Housing Authority monitors these below-market rate (BMR) units on behalf of the City, and has identified a total of 228 BMR rental units in San Rafael (source: Marin County Affordable Housing Inventory, February 2019).

When the City started its program in 1986, BMR units were required to be affordable for a 30-year term, meaning that affordability controls on many of these earlier projects may expire soon. At present, under AB 2222 (effective since January 2015) the City requires BMR projects to be affordable for 55 years, or in some cases in perpetuity. In addition to the rent-subsidized units, there is also a supply of market-rate units which are priced at levels making them affordable "by design." Some of the occupants of these units could be displaced as private redevelopment occurs.

Displacement may also occur if redevelopment increases the market value of the existing housing stock, and rents become unaffordable. Rents have increased rapidly in the

City and throughout the Bay Area in recent years, and a significant amount of economic displacement has already occurred within and beyond the Plan Area.

| Table 7D. Publicly assisted affordable rental housing within Downtown Precise Plan Area | | | |
|--|------------------|---------------------------------------|---|
| Project | BMR Units | Housing Type | Potential Conversion Date |
| 1103 Lincoln Avenue | 12 | Disabled | Perpetuity |
| Apartments at 822 B Street | 6 | Permanent Supportive Housing | 2041 |
| Carmel Hotel at 831 B Street | 36 | 26 Supportive / 10 Transitional units | 2028 |
| Centertown at 855 C Street | 60 | Family | 2064 |
| Gordon's Opera House at 1137 Fourth Street | 17 | General | 2039 |
| Lone Palm Apartments at 840 C Street | 24 | Family | 2047 |
| Marin Center for Independent Living at 710 Fourth Street | 5 | Disabled | 2027 |
| Fourth Street Center (Marin Hotel) at 111 Fourth Street | 20 | Permanent Supportive Housing | Perpetuity as long as owned by Homeward Bound |
| One H Street Apartments | 20 | Family | 2028 |
| San Rafael Commons at 302 Fourth Street | 83 | Senior | Sec 236: 2056 Sec 8: 2031 |
| 1700 Fourth Street | 1 | Family | 2071 |
| 1200 Irwin Street | 2 | Student Housing/Family | 2071 |
| Total Units | 286 | | |
| Source: Marin County Affordable Housing Inventory, December 2019 | | | |

7.3 Existing City Programs and Resources

San Rafael currently implements a number of city-wide programs intended to support the production of affordable housing and to protect existing tenants from displacement.

Existing City programs for production of affordable housing

Between 2018 and 2021, the San Rafael City Council convened a number of special meetings to address obstacles to housing production and ways to remedy those obstacles through revised regulations and programs. There were several public meetings and workshops on the topic, culminating in specific recommendations to encourage housing development and streamline the approval process. Among the proposed changes were reducing inclusionary housing requirements and providing more flexibility in how and where those requirements were met; updating the density bonus laws; modifying the role of the Design Review Board; streamlining the appeals process; and modifying regulations for small lots. At the time the Draft Downtown Precise Plan was published, the City had adopted some of these regulations.

■ Inclusionary Housing Program

San Rafael began implementing its inclusionary requirements in 1986 (codified in Section 14.16.030 of the Zoning Code), and the program has become one of the City's most successful methods to create permanent affordable housing. The City's primary intent is the

construction of below-market rate (BMR) units on-site so that the inclusionary units are integrated within the project and throughout the community. In February 2021, City Council expanded options for meeting the affordable housing obligation beyond on-site development, including off-site development, land donations, or payment of a housing in-lieu fee (see Resolution 14890).

The changes established a “primary” requirement for all projects with two units or more and a “secondary” requirement only applicable to projects with 15 units or more. The net effect would be a reduction in the affordable set-aside from 20 percent to either 10 percent or 15 percent for larger projects, depending on the affordability level of the units.

From the inception of the BMR program, a number of BMR rental and for-sale units have been developed city-wide. Because the structure of the City's inclusionary requirements almost always trigger eligibility for some level of a State housing density bonus, a significant number of development applicants elect to take advantage of density bonus incentives.

| Table 7E. Inclusionary requirement by project size | |
|--|--|
| Project size | % BMR units required |
| 2 – 15 housing units* | Primary requirement: 10% of proposed units** |
| 15 or more housing units* | Primary requirement: 5% of proposed units** |
| Secondary requirement for projects with 15 or more units: | |
| Additional on-site affordable units | Provide 5% of the proposed units** as Low Income affordable units in addition to the primary requirement; or 10% of the proposed units** as Moderate Income affordable units in addition to the primary requirement. |
| In-lieu fee option | Equivalent to 5% of the total proposed units**, paid prior to the issuance of building permits. |
| Off-site affordable units | Must be provided within a half-mile of the market rate project and provide the same level of public benefit as an on-site project; should include a partnership with an experienced affordable housing developer; and must provide a cash deposit or equivalent guarantee to the City. |
| Donation of land to the City | The land must be appraised to be at a value equal or greater than the in-lieu parameters, should be located in an area of high need for affordable housing, and be suitably zoned. |
| * Refer to Section 14.16.030 of the San Rafael Municipal Code for allowed exemptions. Refer also to Resolutions 14890 and 14891. | |
| ** Excluding density bonus units | |

Density bonus and affordable housing incentives

As with Inclusionary Housing requirements, density bonus regulations were amended by City Council in February 2021. Pursuant to State Density Bonus law (Government

Code Section 65915), developers of residential projects may apply for a density bonus and additional incentive(s) if the project includes one or more of the following:

- At least 10 percent of the units for lower income (up to 80 percent AMI) households;
- At least five percent of the units for Very Low Income (up to 50 percent AMI) households;
- A senior citizen housing development or mobile home park that limits residency based on age requirements for housing for older persons;
- At least 10 percent of the total dwelling units in a condominium development for Moderate Income (up to 120 percent AMI) households.

The amount of density bonus varies according to a sliding scale set forth in State law, depending on the level of affordability and percentage of affordable units proposed of total residential units (see Resolution 14891).

In addition to the density bonus, eligible projects in the City of San Rafael may receive one to four additional development incentives, depending on the proportion of affordable units and level of income targeting. Among these additional incentives is a height bonus program allowing additional building height ranging from six to 24 feet, that has been used in several recent projects. Applicants are also eligible to utilize the State’s parking ratio (inclusive of handicapped and guest parking), which requires one space for studios and one-bedroom units, and two spaces for units with two or more bedrooms.

In addition, pursuant to AB 744, density bonus projects which include the maximum percentage of Very Low or Low Income units and units located within one-half mile of a major transit stop with unobstructed access are eligible for further parking reductions. According to City staff, the majority of recent housing projects reviewed by the City

have included the approval of a density bonus, with most of the bonuses granted ranging between 20-35 percent. However, the Planning Division recently processed and approved two projects with considerably higher bonus requests than the 35 percent established by the State: the Whistlestop/EDEN housing project at 999 Third Street, and the 703-723 Third Street housing development.

The City has also adopted requirements established by AB 1763, which extends the density bonus to 80 percent for 100 percent affordable residential and mixed-use projects. It also provides a fourth concession in addition to the three allowed under the State density bonus law. If the project is located within half a mile of a major transit stop, it eliminates any restrictions on density and allows an additional height of 33 feet. For housing projects that qualify as a special needs or supportive housing development. This law is anticipated to influence development in Downtown in the coming years.

■ In-lieu fees for affordable housing

Effective February 2021, San Rafael allows the payment of fees equivalent to five percent of the total proposed units (excluding density bonus units) in lieu of providing those units on-site. The amount may be amended in the future. In-lieu fees are also collected for fractional units. In other words, if the number of units required is not a whole number, the share below 0.5 (i.e., the "fractional" unit) is covered by a fee. If the fraction is above 0.5, the number of affordable units is rounded up to the next whole number.

Affordable Housing In-Lieu fees generated from non-residential development and fees generated from residential developments pursuant to San Rafael Zoning Code Section 14.16.030 are placed in a city-wide housing in-lieu fee fund to be used to increase the supply of

housing affordable to Very Low, Low, and Moderate Income households². As of the end of 2018, San Rafael's Housing In-Lieu Fee Fund had a balance of approximately \$1.3 million, with several pipeline projects to generate additional funds. Given this relatively limited amount of funding, the City intends to focus these resources on projects which emphasize leverage with outside funds and maximize the number and affordability of units provided. Funded activities may include acquisition and rehabilitation of housing through non-profits, new construction of affordable housing, and provision of rehabilitation funds to privately owned rental housing in exchange for affordability covenants. Pursuant to the City's Housing Element, a portion of these in lieu fees is used for housing Extremely Low and Very Low Income households to help address its unmet RHNA needs.

■ First-Time Home Buyer program

The below-market rate (BMR) ownership housing program is administered by Marin Housing Authority with assistance and policy direction from City staff. The program offers low and moderate income, first-time home buyers the opportunity to purchase specified new and previously owned condominium units in Marin County at less than market value. Since the inception of the program, over 150 San Rafael households have been assisted with first-time home purchases at affordable prices, with a current inventory of 117 BMR ownership units within the City. All of the units have long-term "resale restrictions" that restrict the sale price to keep the unit affordable to low and moderate income buyers. The Marin Housing Authority also assists BMR purchasers in obtaining Federal Mortgage Credit Certificates (MCCs) to further reduce homeownership costs.

² In-lieu fees are charged based on an individual project's affordable housing unit requirement, and are \$334,967.47 (as of February 2019) per affordable unit. The fee amount is adjusted annually, taking into consideration inflation, the local median sales price for a home, and average annual building cost index.

■ Accessory Dwelling Units (ADUs) and Junior Second Units (JSUs)

Accessory dwelling units (ADUs), also referred to as second units and "in-law" units, have been regulated and encouraged in San Rafael since 1983. ADUs typically rent for less than apartments of comparable size, and can offer affordable rental options for seniors and single persons. They can also be a source of supplementary rental income, enabling elderly homeowners and those with modest incomes to be able to remain living in their homes. In 2016, the City adopted regulations to support in the creation of "junior second units" (JSU) of less than 500 square feet in size, created through the repurposing of existing space, such as a bedroom, within a single-family home to create a semi-private living situation for a renter or caregiver in conjunction with the owner-occupied unit. Up until recently, the City received approximately four to six ADU applications per year. In 2017, the State adopted several new pieces of legislation designed to further promote the production of ADUs, including ministerial review requirements, elimination of parking requirements for properties near transit, and elimination of utility connection fees for attached ADUs. Since operating under the State model ADU ordinance, the number of ADU applications in San Rafael has increased significantly, with 30 applications in 2017, 30 in 2018, 18 in 2019, and 36 in 2020.

■ Minimum densities

To encourage the efficient and sustainable use of land, the City prohibits residential development below minimum designated General Plan densities, unless physical or environmental constraints preclude its achievement. Residential projects are to be approved at the mid- to high-range of the zoning density. If development on a site is to occur over time, the applicant must show that the proposed development does not prevent subsequent

development of the site to its maximum density and guarantees that the remaining phases will be developed.

Existing tenant protection programs

■ Condominium conversion regulations

Apartment projects proposed for conversion to condominium ownership are subject to the City's Condominium Conversion regulations (Section 15.12.080 of the Zoning Code). These regulations set forth a series of tenant protections, including noticing requirements and relocation provisions, and prohibit conversions unless the City's rental vacancy rate is above five percent (as determined by the State of California Finance Department's annual population estimates). San Rafael's rental vacancy rate has remained below five percent, and thus the City has not received any Condominium Conversion applications in recent years. Should the rental vacancy rate increase, any proposed condominium conversion would be required to comply with the City's affordable housing (inclusionary) requirements, meet current zoning and building codes, and meet other requirements of the Condominium Conversion ordinance.

■ Fair housing program

As part of the Cooperative Agreement with the County on Community Development Block Grant (CDBG) funding, San Rafael directs a portion of the City's allocation to Fair Housing of Marin and Marin Mediation Services, and refers discrimination and tenant/landlord complaints to these agencies. The City provides written materials regarding fair housing law and posts information about fair housing agencies and phone numbers on the City's website, at City Hall, the Public Library, and other public places. The City is currently assessing and pursuing adoption of renter protection policies, practices and programs.

■ Source of Income Discrimination Ordinance

State law prohibits housing discrimination based on a person's source of income, but does not protect individuals or families who rely on rental subsidies paid by a third party directly to the landlord rather than the tenant for payment to the landlord. Examples of such rent subsidies include Housing Choice Vouchers (Section 8) and Veterans Affairs Supportive Housing (VASH) Vouchers. Every year more than 100 voucher holders are not able to find a unit in Marin because they cannot find a landlord willing to accept a voucher. In November 2016, the Marin County Board of Supervisors adopted a Source of Income Fair Housing Ordinance intended to eliminate this limitation in State law by recognizing these third-party housing subsidies as a source of income and prohibiting rental discrimination against persons relying on them. The ordinance does not, however, prevent property owners from screening renters and retaining freedom of choice based on other factors, such as total income, credit scores, rental history, references, etc. December 2018, the San Rafael City Council passed a Source of Income Discrimination Ordinance.

■ Relocation assistance

Section 14.16.279 of the San Rafael Municipal Code requires applicants to provide certain limited relocation assistance for low income tenants displaced by new development or property improvements that require vacating the unit. A notice of displacement must be given at least 60 days before the property is to be vacated.

■ Mandatory mediation

Mediation is a process in which a neutral third party facilitates mutually acceptable resolution to a dispute between parties. With “mandatory” mediation, if a triggering event occurs (e.g. rent is increased above a certain percentage), then the tenant is able to request

mediation services and the landlord needs to participate in the mediation process, though the parties cannot be compelled to reach a resolution. San Rafael has adopted a Mandatory Mediation program under which mediation can be requested for rent increases of greater than five percent during a 12-month period.

■ Just Cause eviction

Under California law, landlords have the legal right to terminate a rental agreement without reason so long as they furnish the tenant proper written notice: 30 days for tenants residing in a unit for less than one year, and 60 days for tenants residing in a unit for one year or more. Just Cause ordinances state that renters can only be evicted for a certain list of pre-established “causes” (failure to pay rent, nuisance behavior, etc.), or other reasons that are “no cause” of the tenant (unit being removed from rental market, substantial rehabilitation, etc.). Just Cause ordinances retain the rights of landlords to terminate a lease for valid reasons, but they also help prevent evictions of responsible tenants. In conjunction with its Mandatory Mediation Program, the City's Just Cause for Eviction Ordinance went into effect on July 17, 2019.

Existing social services

There are approximately 15 social service institutions within Downtown that serve the Greater San Rafael area, 10 of which fall within the Plan Area (Figure 7.3); providing services related to Aging, Disability, Disaster, Domestic Violence, Employment, Food, Health, Homelessness, Housing, Rehabilitation, and Youth. Downtown San Rafael has more homelessness-related services than most Marin communities. A full list of these institutions is included in Appendix VII: Affordable Housing and Anti-Displacement Strategy.

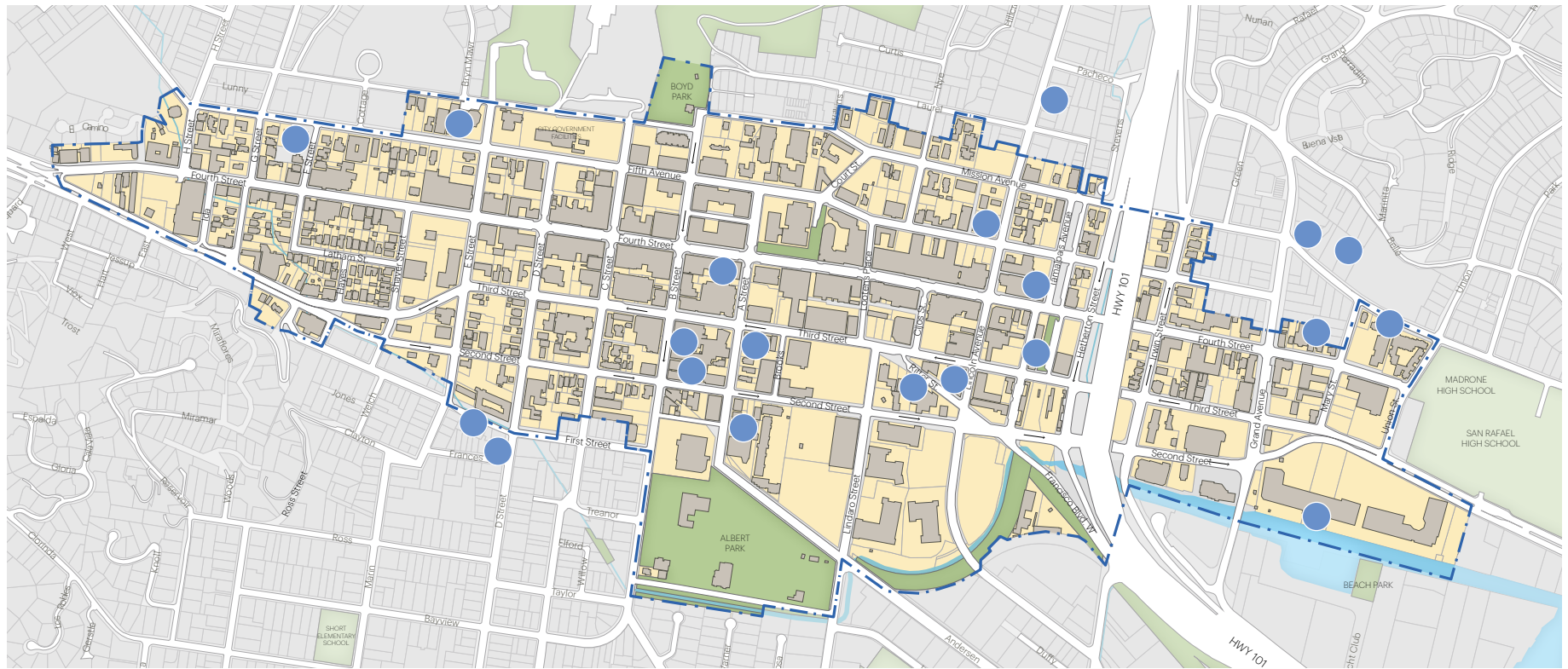


Figure 7.3 Social service institutions within the Precise Plan Area

Source: Plan to Place, 2020.

● Existing social service institutions

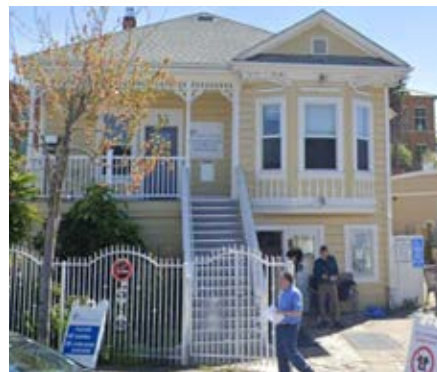


Figure 7.4 Examples of social service institutions within or near the Plan Area: (from left to right) Ritter Center [image source: www.marinij.com]; Center for Domestic Peace, Canal Alliance, Community Action Marin

7.4 Implementation Strategies

Building upon San Rafael's existing programs and initiatives, this section identifies additional new strategies to promote affordable housing production and anti-displacement in the Plan Area.

As discussed in the previous section, San Rafael has implemented a number of successful programs to facilitate the production of affordable housing and protect existing tenants from displacement. In addition, several new strategies can be implemented in Downtown, summarized in Table 7F, and discussed below.

| Table 7F. Potential affordable housing production and anti-displacement strategies for San Rafael | |
|---|--|
| Housing Production Strategies | Tenant Protection Strategies |
| Downtown Height Bonus | Tenant Relocation and Protection Ordinance |
| Potential zoning strategies | No Net Loss/ One-for-One replacement |
| Parking reductions | Preservation of affordable housing |
| Streamlined development Review | |
| Air rights development/Land write-downs | |
| Outside funding resources and applications | |
| Community Land Trusts/ Cooperatives | |

Housing production strategies

■ Downtown Height Bonus

As discussed in Section 7.3: Existing City Programs and Resources, San Rafael implements a successful height bonus program. As of January 2021, State density bonus law allows jurisdictions the discretion to grant bonuses of up to 50 percent for mixed income projects. Recent projects in the Plan Area have availed of state density bonuses and allowed concessions.

Through adoption of the Downtown Precise Plan, the City is creating its own "local" density bonus program to further incentivize affordable housing production and creation of other community benefits. In this case, the "density" bonus is expressed as a height bonus and it is available to all residential and mixed use projects meeting the City's inclusionary housing requirements on-site. The local height bonus may only be used by applicants who do not use the State density bonus - the two programs may not be combined. Projects that exceed the City's inclusionary housing requirements and are located in the Tier 2 area shown on Figure 4.8 of this Plan are granted a 20-foot height bonus. Also, as noted earlier, AB 1763 allows even higher bonuses (33 feet) for 100 percent affordable projects within half a mile of the San Rafael Transit Center/ SMART station.

Since the Precise Plan uses height and form-based standards and not Floor Area Ratio (FAR) as a metric to measure intensity of development, projects seeking to apply a density bonus under the state density bonus law can utilize the resultant FAR of the base zoning envelope defined in the Downtown Plan and Form-Based Code to calculate the additional floor area to be accommodated in the bonus envelope prescribed by the Downtown Code. The City has developed administrative procedures (i.e not formally adopted) explaining how these calculations are made.

AB 2222 (effective January 2015) made important changes to the State Density Bonus law in an effort to help address potential displacement of existing tenants and the City has incorporated relevant provisions into its density bonus regulations. The City's new regulations now prohibit an applicant from receiving a density bonus (and related incentives and waivers) unless the proposed housing development or condominium project would, at a minimum, maintain the number and proportion of any existing affordable housing units located within the proposed development site, including affordable dwelling units that have been vacated or demolished in the five-year period preceding the application. The City also increases the required affordability from 30 years or longer to 55 years or longer for all affordable rental units that qualified an applicant for a density bonus, and requires replacement rental units to be subject to a recorded affordability restriction for at least 55 years.

■ Potential zoning strategies

As part of the General Plan process, several strategies were evaluated to increase densities in the Plan Area. One proposal was to eliminate residential density standards within the Precise Plan and instead use building height limits as the metric for evaluating residential and mixed-use development. Regulating development through

height provides greater flexibility in the design and use of buildings, and the number of units that can be achieved. The General Plan includes a "Downtown Mixed-Use" zone as a land use designation that corresponds to the Plan Area, and has allocated a sliding scale for maximum FAR ranging from 3.0 to 6.0 that corresponds to Precise Plan height limits, exclusive of density bonuses. The Downtown Form-Based Code organizes this "Downtown Mixed-Use" zone into form-based zones with clear expectations for new development. It sets overall height limits for each form-based zone depending on its location within Downtown, and clarifies allowed maximum heights as a base case and with height bonuses. Switching to these standards is expected to yield more housing units in Downtown.

■ Parking reductions

To reduce development costs, the City could consider reducing parking requirements for projects in the Plan Area, with deeper reductions for affordable projects eligible for alternative parking standards under State density bonus law. With typical podium parking costing approximately \$60,000 per space, a project that provides 100 spaces would save at \$2.5 million over one that provides 150 spaces.

The City adopted a Downtown Parking and Wayfinding Study in early 2018. The study recommended a 20 percent reduction in current parking requirements for non-residential uses in Downtown, allowing developers to pursue more shared parking; and incorporating other strategies, such as automated parking lifts, to maximize the efficient use of public parking. The City has recently adopted some of these recommendations, and is evaluating areas within Downtown potentially suitable for parking reduction. It has recently allowed projects to be submitted with a 20 percent reduction in parking requirements subject to a provision for monitoring.

To help make reduced parking a viable alternative for developers and residents, it may be advisable to encourage new housing projects to incorporate parking and travel demand management techniques. For example, some cities have required “unbundling” of parking so that occupants must pay separately for a parking space, but can achieve lower rents or sales prices if they require less parking. Similarly, projects that provide residents with transit passes or incorporate carshare programs can yield lower parking demands, and may be encouraged through a density bonus program.

Market forces will determine whether units with reduced parking availability can be competitive for renters, but providing an option for developers to reduce development costs and/or increase densities in exchange for affordable housing units is a proven approach to realizing affordability. The Downtown Form-Based Code sets parking requirements that align with the recommendations of the Downtown Parking and Wayfinding Study. For additional information, refer to Chapter Nine: Downtown Form-Based Code.

■ Streamlined development review

Lengthy permit processing can add substantial costs to development, constraining production of both market-rate and affordable housing. San Rafael has been awarded an SB 2 Planning Grant from the State, and will be undertaking the following activities in an effort to streamline the development review process:

- **Objective design and development standards.** Staff has been working on the development of an objective design and development standards toolbox and manual to allow for “by right” development in compliance with the SB 35 law.
- **By-right affordable housing overlay zone.** The City plans to develop a “by-right” zoning process and

overlay zone for the review and approval of affordable housing development projects located within the HR-1 (High Density Residential) Zoning District. The intent is to streamline the review of such projects, which will significantly reduce soft costs and the process timing for developers/applicants.

- **Online permit guide.** The City will be developing an online portal which will guide residents and contractors through a customized application checklist of steps and forms required for their specific project. This guide will help add transparency to permitting requirements and expedite the time it takes to complete an application.
- **Permit management system.** The City intends to develop a web-based permit management system to streamline approvals for Planning, Building, and Code Enforcement Division projects, and make housing and mixed-use development easier.

■ Air rights development/land write-downs

One of the primary constraints to the provision of affordable housing in the Plan Area is the lack of access to suitable sites for redevelopment by housing developers. In addition, when privately-owned development sites do come on the market, non-profit developers are often unable to compete with market-rate developers, who can pay higher prices for land and/or close on deals faster.

To address this issue, San Rafael has had a policy on the books to encourage developers of affordable housing to utilize air rights, such as above public parking lots or commercial uses in Downtown. The City had its first inquiry for an air rights development in 2018 and is currently working with the applicant. In addition, the City has identified six Downtown public parking lots as potential candidate sites for mixed-income and affordable housing, shown in Figure 7.5.

- Fifth Avenue at Lootens Street;
- Third and Cijos Streets;
- Second Street between D and E Streets;
- Menzies Lot - Mission Avenue north of E Street;
- Fifth Avenue and Garden Lane; and
- 519 Fourth Street between Irwin Street and Grand Avenue (temporary Fire Station 52).

The City plans to conduct a feasibility study of these six parking lots for potential development, retaining the ground floor parking for public use (either retained by the City or privatized). The feasibility study will also explore, as an incentive for the developer, the City offering the site free of charge and possibly a waiver of parking requirements for housing.

■ Outside funding resources and applications

San Rafael's Housing Element includes programs to identify potential funding resources for affordable housing, and as funding becomes available, to support applicants in preparing competitive funding submittals.

In 2017, the State Legislature passed and Governor Brown signed into law two key new funding measures in support of affordable housing: SB 2 and SB 3.

- **SB 2 (Atkins)** imposes a new \$75-\$225 real estate recording fee to fund affordable housing-related activities on a permanent, ongoing basis. First year proceeds are to be split evenly between planning grants to local governments to streamline housing production, and HCD's programs that address homelessness. Thereafter, 70 percent of the proceeds will be allocated to local governments to support affordable housing, home-ownership opportunities, and other housing-related programs. The fee is estimated to generate \$200 to \$300 million annually.
- **SB 3 (Beall)** placed a \$4 billion general obligation bond on the November 2018 general election ballot, which was subsequently passed by voters. The bill allocates \$3 billion in bond proceeds among existing state affordable housing programs, including programs that assist affordable multifamily

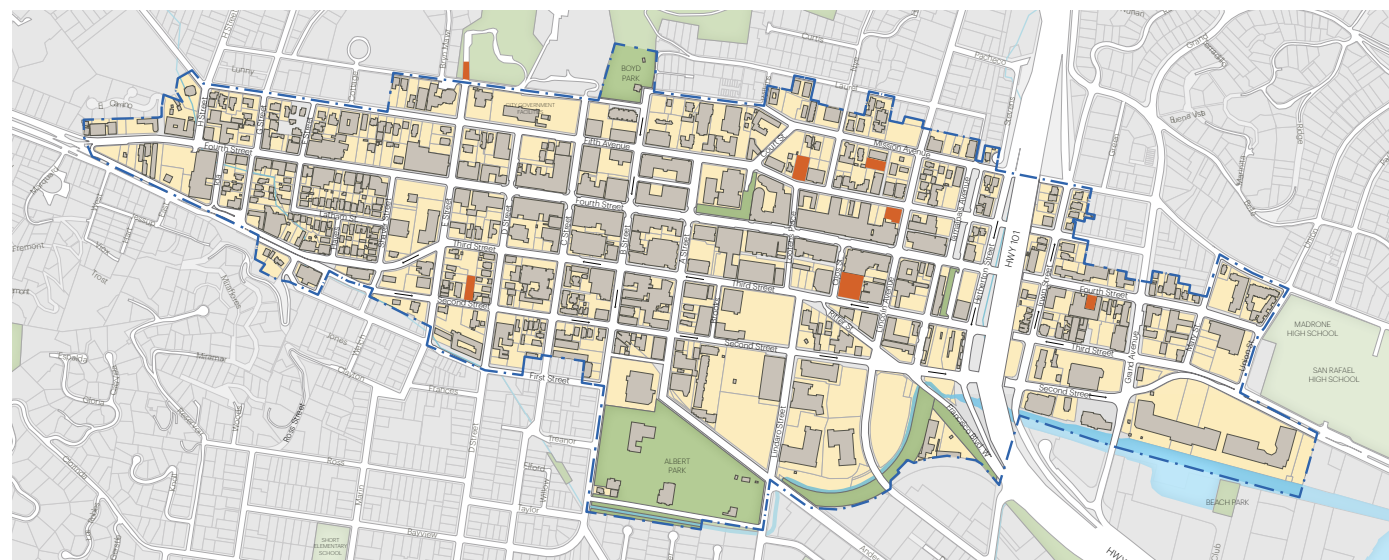


Figure 7.5 Downtown public parking lots being evaluated as potential sites for affordable and mixed-income housing sites.

Orange square icon: Potential sites for affordable and mixed-income housing projects

developments, housing for farmworkers, transit-oriented development, infrastructure for infill development, and homeownership. The bond also funds matching grants for Local Housing Trust Funds and homeownership programs. \$1 billion in bond proceeds will be allocated to CalVet for home and farm purchase assistance for veterans.

- **Multifamily acquisition/rehabilitation.** In addition to new construction, many communities also provide affordable housing through the acquisition and rehabilitation of aging and/or deteriorating multifamily housing. Under such a program, the City acquires or assists in the acquisition of a problem apartment complex and then works with a development partner to coordinate the rehabilitation, maintenance and management of the project as long-term affordable housing. In instances where units have been determined to be uninhabitable, housing element statutes establish specific criteria for acquisition/rehabilitation in which

regional housing needs (RHNA) credit may be obtained. As part of the land use analysis conducted for the Precise Plan, the City has the opportunity to begin developing an inventory of older, under-maintained apartment complexes for potential future acquisition and rehabilitation.

■ Innovative housing approaches: Community Land Trusts and Cooperatives

San Rafael's Housing Element includes the following policy to encourage innovative housing approaches to broaden the types of housing available:

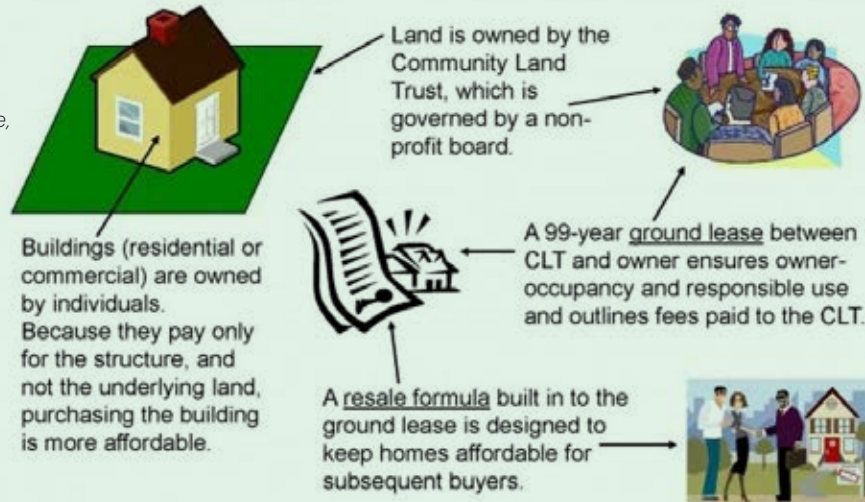
Provide opportunities and facilitate innovative housing approaches in financing, design and construction of units to increase the availability of low and moderate income housing and especially for housing that meets the City's housing needs.

Two types of non-traditional housing that may have particular relevance in Downtown as a means of increasing the supply of affordable housing and minimizing future displacement include Community Land Trusts and Cooperative Housing Developments.

- **Community Land Trusts (CLTs).** These are non-profit organizations that buy and hold land, permanently removing it from the speculative real estate market. CLTs may build new ownership or rental housing on land they purchase, or may purchase existing housing, provide rehabilitation improvements and offer it at affordable rents. The CLT makes the land available to residents through a 99-year ground lease. In some cases, residents purchase the home, which is well below market-rate, as land cost is not part of the purchase. In other cases, the lease goes to a cooperative which owns the building collectively, and provides affordable housing to its shareholders. Figure 7.6 illustrates how a CLT works.

Figure 7.6 A visual depicting how a Community Land Trust works

Source: Plan to Place, 2019



- **Cooperative housing development.** A limited equity cooperative is a model in which low and moderate income residents purchase ownership shares in a building at below market prices, subject to limitations on the amount of equity or profit they can receive on the resale of their units. Cooperatives are governed by an elected board of directors whose responsibilities include establishing resale controls. Co-op ownership helps to allow residents to remain in place in the face of rising market pressures that can lead to displacement.

Tenant protection strategies

The Precise Plan recommends a development program of 2,200 new housing units and 2,020 new jobs. This level of development demand will place significant pressure to redevelop existing uses in the Plan Area. The following

measures may serve both to minimize the loss of existing housing, and to assist tenants who are displaced to find suitable replacement housing.

■ Tenant Relocation and Protection Ordinance

With significant demand for multifamily development in the Plan Area and elsewhere in the City, some of which may be accommodated through redevelopment of existing residential uses, an effective anti-displacement program for rental property tenants is essential to stemming future gentrification. Several Bay Area communities have adopted Tenant Relocation Assistance Ordinances (refer Table 7G below) in response to the number of low-rent apartments being lost to redevelopment and the associated displacement of lower income tenants. With rents continuing to rise, displaced

Table 7G. Examples of tenant relocation ordinances in Bay Area cities

| Ordinance provisions | Menlo Park (2019) | Mountain View (2010, 2018 amendments) | San Leandro (2017) |
|---|---|---------------------------------------|---|
| Ordinance applicability | Landlord actions (demolitions, condo conversions, renovations) resulting in the removal of rental units and requiring tenants to vacate their apartments. | | |
| Additional applicability | NA | NA | Rent increase of >12% within 1 year, and tenant intends to vacate unit |
| Project size threshold | 5 or more rental units | 4 or more rental units | 2 or more rental units |
| Tenants eligible for assistance | Up to 80% AMI | Up to 120% AMI | No income limit |
| Rent payment amount | 3 x current HUD fair market rent (FMR) | 3 months median market rent | 3 months tenant's current rent, or 3 x current FMRs, whichever is greater |
| Additional assistance to Special Circumstance Households* | 1 additional month rent | \$3,000 | \$1,000 |

* Special circumstance households are defined as having at least one person that is either over 62 years of age, handicapped, disabled, or a legally dependent minor child (less than 18 years of age).
 Sources: www.menlopark.org/1399/Tenant-relocation-assistance-ordinance; www.mountainview.gov/depts/comdev/preservation/tenant_relocation_assistance.asp; www.sanleandro.org/depts/cd/housing/tra.asp

tenants are facing heightened challenges in locating replacement housing within their communities. Several Bay Area cities such as Mountain View, San Leandro, Menlo Park, Fremont, and Concord have adopted tenant relocation programs, and based on lessons learned from implementation, have continued to adjust eligibility criteria and other program components to be able to best meet the changing needs of the community's tenants.

San Rafael has an adopted Tenant Relocation and Protection Program. Tenants qualifying as low-income are eligible for relocation assistance (equivalent to two months of rent) if evicted or displaced as a result of property renovation, redevelopment or unit construction where they are required to vacate their rental unit. The Plan recommends that the City continue to monitor and update the Program with a focus on protecting current Downtown tenants at risk of getting priced out because of rent increases due to the anticipated redevelopment in Downtown. As noted earlier in this chapter, the City also has adopted a Just Cause for Eviction Ordinance and provisions for Mandatory Mediation.

■ No-net-loss/one-for-one replacement

The City could consider implementing a one-for-one replacement requirement in Downtown for projects involving the demolition or removal of deed-restricted residential units affordable to lower and/or moderate-income households. Projects could be required to include an equivalent number of affordable housing units (in addition to affordable units required under the City's inclusionary ordinance), or could potentially be permitted to pay a fee to offset replacement costs at a different location. Cities such as Portland and Los Angeles have no-net-loss policies for affordable housing in their downtowns. The City of Walnut Creek implements a one-for-one replacement requirement for projects involving demolition of residential units less than 30 years old. State

density bonus law now includes no-net-loss provisions, requiring replacement of units occupied by lower-income households or subject to a form of rent control within the preceding five year period. Given that most recent development applicants in San Rafael elect to take advantage of density bonus incentives, State replacement housing requirements will provide some protections to tenants in buildings seeking a density bonus.

■ Preservation of affordable rental housing

The preservation of existing affordable housing is a key strategy to minimizing displacement within the Plan Area. As shown in Table 7D, the study area currently contains 286 publicly assisted affordable rental units within 12 residential developments. While four of these properties (81 units) are potentially eligible to convert to market rents within the next 10 years, they are all owned by non-profit organizations and are thus considered at low-risk of conversion. At more imminent risk of conversion to market-rate are privately owned below-market rate (BMR) rent-restricted units produced under the City's inclusionary program. While the City currently requires BMR units to remain affordable for a minimum of 55 years (or in perpetuity in some cases), the term was 30 years when the City started its program in 1986. This means that affordability controls on many of these earlier projects may soon be expiring. The City should request an updated inventory from Marin Housing Authority with current dates of expiring use restrictions to identify such properties, and reach out to property owners to discuss options and incentives to extend affordability controls.

Depending on the extent of at-risk BMR units, the City may wish to consider developing a policy for pricing the purchase of affordability term extensions so this option could be offered to local BMR property owners, along with additional incentives such as rehabilitation assistance.

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