



**SAN RAFAEL CITY COUNCIL STAFF REPORT**

Department: Community Development

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City Manager Approval: \_\_\_\_\_

**TOPIC: SAN RAFAEL 2023-2031 HOUSING ELEMENT**

**SUBJECT: REPORT ON 2023-2031 HOUSING ELEMENT OPPORTUNITY SITES INVENTORY**

**RECOMMENDATION:**

Accept the Informational Report on the 2023-2031 Housing Element Opportunity Sites Inventory.

**EXECUTIVE SUMMARY**

The City is in the process of updating the Housing Element of the San Rafael General Plan. State law requires that all 101 cities and nine counties in the San Francisco Bay Area adopt revised elements by January 31, 2023 or shortly thereafter. The Housing Element covers an eight-year time period; the current Element covers 2015-2023 and the new Element will cover 2023-2031. The Housing Element is the City’s plan for conserving and maintaining its housing supply, removing regulatory barriers to housing production, and creating housing opportunities for all residents.

The Housing Element includes several statutorily required components. One of these is an analysis and inventory of specific housing opportunity sites, listed and mapped by Assessor Parcel Number. Opportunity sites are properties that the City has identified as being appropriate and available to meet its “fair share” of the region’s housing needs. San Rafael’s fair share assignment for 2023-2031 was calculated by the Association of Bay Area Governments (ABAG) to be 3,220 housing units, including 1,387 units affordable to lower income households. Although the City itself does not develop housing, the City must demonstrate that there are enough sites zoned to allow for construction of residential development by private developers in the private and non-profit sectors. This staff report presents the methodology for identifying housing sites as well as a summary of the data.

**BACKGROUND:**

**Overview**

Every city and county in California is required to adopt a housing element as part of its general plan. The Housing Element is the only part of the general plan that must be submitted to the State for certification, a process that is performed by the State Department of Housing and Community Development (HCD). Cities without certified housing elements face adverse consequences, including limited access to State funding and vulnerability to lawsuits and financial penalties. To avoid such consequences, HCD must make a formal determination that each housing element complies with Government Code requirements,

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Disposition: \_\_\_\_\_

including demonstration that each city and county is accommodating its “fair share” of the region’s housing needs and is “affirmatively furthering fair housing.”

San Rafael’s current [Housing Element](#) was adopted on January 5, 2015 and was certified by the State on January 23, 2015. The planning period covered by that Housing Element was January 31, 2015 through January 31, 2023. The next Housing Element is due on January 31, 2023 and will cover the period from January 31, 2023 through January 31, 2031.

The City initiated the update process in September 2021. A 13-member working group was appointed by the City Council in November 2021 to advise on key policy choices. Over the last 10 months, the City has completed background data collection and analysis tasks. The City is in the process of developing housing policies and programs and is conducting additional community outreach to get feedback on priorities and potential solutions to housing challenges.

**Regional Housing Needs Allocation**

The key driver of the Housing Element is the Regional Housing Needs Allocation (RHNA). The RHNA process has been in effect since 1969, when the State legislature mandated that all communities do their “fair share” to meet California’s housing needs. The RHNA process begins with the State determining the eight-year housing need for each region of California. Each regional council of governments is given the task of assigning the regional need to individual counties and cities. In the Bay Area, the Association of Bay Area Governments (ABAG) was tasked with distributing a regional assignment of 441,176 housing units to nine counties and 101 cities. This process occurred in 2020-2021.

San Rafael’s allocation for the 2023-2031 planning period is 3,220 units, which are broken down into four income categories, as shown in Table 1 below. The City’s total allocation represents a 220 percent increase over the 2015-2023 allocation of 1,007 units. Marin County, including the unincorporated areas and the 11 cities, saw much steeper rates of increase. The overall countywide RHNA increased by 526 percent, from 2,298 units (2015-23) to 14,405 units (2023-31).

**Table 1: 2023-2031 Regional Housing Needs Allocation (RHNA) for San Rafael**

	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Above Moderate</b>	<b>Total</b>
Number of Units	857	492	521	1,350	3,220
Income Range (Household of 4)	>\$93,200	\$93,200-\$149,100	\$149,100-\$199,200	>\$199,200	

*Source: ABAG, 2021. HCD Income Limits, 2022.*

**ANALYSIS:**

**General Requirements for the Sites Analysis**

Housing site inventories must follow a format prescribed by HCD, with specific data provided for each site. This includes Assessor Parcel Number, General Plan and zoning designation, size of the site, existing use, and whether the property was counted in a prior Housing Element. Cities are also required to evaluate the availability of utilities to serve each site, identify any environmental constraints, and disclose whether the site is publicly or privately owned.

In 2004, AB 2348 established “default densities” for sites identified as providing opportunities for lower income housing. AB 2348 established that in communities with more than 50,000 residents, sites may only be considered acceptable for meeting the lower income RHNA if they are zoned at densities of *at*

*least* 30 units per acre. Government Code 65583.2(h) further requires that each site designated for lower income housing have the capacity for at least 16 units.

Jurisdictions are required to estimate the capacity of housing sites based on “realistic” capacity rather than “theoretical capacity.” A one-acre site may be zoned for 20 units per acre, but that does not mean 20 units will be constructed. A smaller number of units may be built due to topographical and physical features such as steep slopes and hillsides, creeks, narrow roads and woodland areas. Cities may refer to recent projects to determine what is “realistic” in each zoning district.

AB 1397 established additional requirements for housing sites, particularly those sites identified as being suitable to accommodate the lower income RHNA. These include:

- Limitations on identifying sites smaller than 0.5 acres and larger than 10 acres as suitable for lower income housing. These limitations do not prohibit the use of such sites, but they require jurisdictions to prove that they are viable based on past trends and actual projects.
- Special requirements for sites that are being carried forward from one housing element to the next. These “carry-over” sites must be zoned so that certain types of housing development are permitted “by right.” This includes projects where 20 percent or more of the units are affordable to lower income households. By-right approval means that the City cannot require a Planned Development permit, Conditional Use Permit, or other form of local discretionary review. The City can, however, apply objective development and design standards that have been adopted and published prior to receiving an application for development.
- If a Housing Element relies on non-vacant sites to accommodate 50 percent or more of its RHNA for lower income households, then the jurisdiction is required to provide “substantial evidence” that each non-vacant site will actually be available for housing during the planning period. A city cannot simply list an occupied office building as a housing site and declare that because of low demand for office space, it will redevelop. Examples of substantial evidence include expiring leases, dilapidated structure conditions, and a letter from the owner indicating they are interested in residential development. The City also needs to demonstrate a track record showing that similar properties have recently been redeveloped with housing. It must also cite what steps are being taken to incentivize or streamline housing on these sites, potentially including financial assistance and relief from development standards.

Cities are required to identify sites by income category. For reporting purposes, low- and very low-income sites may be added together and described as lower-income sites. Individual sites may also be assigned to multiple income categories. For example, San Rafael has an inclusionary housing ordinance so it is reasonable to assume that at least 10 percent of all larger sites will provide units for lower-income households.

The designation of a site as a lower-income opportunity site does not mandate the development of lower-income housing on that site, nor does it require the property owner to develop the site during the planning period. The designation is merely an acknowledgment that the site meets certain metrics that are conducive to the development of lower-income housing. Cities may approve market-rate housing on such sites. Where commercial uses are permitted, cities and towns may also approve commercial uses on such sites.

The caveat to the above paragraph is that cities and towns must be able to demonstrate that they have adequate sites to meet their RHNAs *at all times* during the planning period. If a lower income site is

developed for another purpose during the planning period, the City must show that it can still meet its 2023-2031 RHNA on the remaining sites. If the City is no longer able to meet its RHNA, it must identify a developable “replacement” site to make up the lost capacity. In some cases, this could require rezoning. This is referred to as the “no net loss” requirement under (SB 166, 2017).

SB 166 also required that cities and towns include a “buffer” of additional sites in case some of the sites listed in this Housing Element become unavailable before 2031. As recommended by HCD, San Rafael’s site inventory will include a buffer of 15 to 30 percent.

As required by HCD, the estimated yields for housing sites do not include the potential for additional units made possible through State density bonuses. These bonuses can add up to 50 percent to the unit yields for market-rate projects that include certain percentages of affordable units, and 80 percent to the unit yields for 100% affordable projects.

Finally, the sites inventory is subject to the Affirmatively Furthering Fair Housing requirements of AB 686. This requires that the lower income sites be geographically distributed in ways that foster integration and create affordable housing opportunities throughout high resource areas. This aligns with the City’s General Plan guiding principle to create a more equitable and inclusive city. The City has selected sites that also support other General Plan guiding principles, such as preserving open space, reducing greenhouse gas emissions, and promoting more compact development patterns.

## **Methodology**

The methodology for identifying housing sites is described below:

- 1) *Account for approved development projects.* This includes projects that have been approved and are either under construction or not yet built as of July 1, 2022. In San Rafael, this includes 781 housing units. Spreadsheet “A” lists these projects. This number may increase by the time the Housing Element is submitted.
- 2) *Account for proposed development projects.* In addition to projects that are fully entitled, there are a significant number of projects in the pre-application or application stages. The largest of these projects is Northgate Mall, which includes a first phase of 907 units. Other projects in this category include the former Westamerica Bank at 1515 Fourth Street (191 units), and 420 Fourth Street (35 units), among others. In total, there were 10 “pre-pipeline” projects identified, representing another 1,309 housing units.

Taken together, categories 1 and 2 include 2,090 units, or 65% of the RHNA. More importantly, they comprise 94% of the moderate and above moderate RHNA but only 24% of the lower income RHNA. This suggests that much of the emphasis in the sites inventory should be on properties where lower income units are possible, as well as ensuring the construction of inclusionary (Below Market Rate) units in new projects.

- 3) *Determine the likely number of Accessory Dwelling Units (ADUs) and Junior ADUs to be produced over the next eight years by income category.* Staff is projecting that San Rafael will produce 25 ADUs a year between 2023 and 2031, or a total of 200 units. Based on data from ABAG, it is estimated that 35 percent of these ADUs (70 units) will be affordable to lower income households, 50 percent (100 units) will be affordable to moderate income households, and 15 percent (30 units) will serve above moderate income households.

- 4) *Determine which sites in the existing 2015-2023 inventory can be carried forward.* The 2015-2023 inventory identified 44 opportunity sites with the capacity for 2,183 housing units. Staff has determined that 26 of these sites remain viable and has carried them forward to the 2023-2031 period. Their estimated capacity is approximately 1,036 units, excluding Northgate Mall which is included in methodology step (2). Eighteen of the sites in the 2015-2023 inventory were dropped from further consideration, either because they have already been developed or are no longer considered viable (see discussion later in this report).
- 5) *Determine the potential number of units on vacant residentially zoned land.* The City updated its inventory of vacant residentially zoned land as part of General Plan 2040. This data was used to estimate housing potential on vacant sites above and beyond what had been inventoried in the previous Housing Element.
- 6) *Calculate the potential on underutilized residential land.* The potential for additional units on previously developed residential sites was evaluated using indicators such as parcel size, property dimensions, average slope, land to improvement value, ownership, and field observations. Examples of such sites are single family homes in multi-family zoning districts, large lot single family homes in areas zoned at suburban densities (2-8 units per acre), and multi-family properties with the potential for additional units.
- 7) *Calculate the potential in the Downtown San Rafael Precise Plan area.* The Downtown Precise Plan (adopted in August 2021) included an estimate of development potential within the 265-acre plan area. The Plan identifies locations for approximately 2,200 housing units. Some of these sites are already counted in the earlier steps or are unlikely to be available until after 2031. Approximately 1,500 units of capacity are identified Downtown, excluding already approved projects.
- 8) *Calculate the potential on commercial and mixed use sites outside of Downtown.* This required a comprehensive analysis of all 1,051 properties in San Rafael with existing commercial land uses. Parcels were analyzed based on factors such as improvement to land value ratio, parcel size and ownership, slope and physical constraints, vacancy status, proximity to transit, and floor area ratio. Properties already covered in Steps (1) through (4) were excluded.
- 9) *Calculate the potential on public, institutional, and nonprofit-owned land.* This includes housing potential on City-owned property, County-owned property, and State-owned property. It also includes properties owned by SMART, various utility districts, Dominican University, and the school districts serving San Rafael.

Steps 6, 7, and 8 in the above methodology require the use of specific metrics to determine if a site is viable. This data (parcel size, land value, improvement value, building area, building age) is generally available through the Marin County Assessor's Office parcel data base. Parcels were also field checked to observe building condition, vacancy status, and whether the building was for sale or lease. In addition, sites were selected to advance the State AFFH mandate and ensure that affordable housing opportunities were being created in the city's high-resource areas.

### **Calculating the Capacity of Each Site**

As noted earlier, HCD requires that the site inventory identify the "realistic capacity" of each site rather than just the "theoretical capacity" allowed by zoning. HCD encourages cities to be conservative when estimating realistic capacity. However, in many cases the capacity estimates in our 2023-2031 inventory are well below what could actually be built. This is particularly true in the Downtown area, since

development is governed by a Form Based Code that regulates the height and mass of the building rather than the number of housing units that can be built.

Estimates of Downtown’s development potential were made as part of the Precise Plan process that occurred in 2018-2019. In general, Downtown sites subject to a 40 foot height limit (e.g., roughly three stories) were presumed to develop at 40 units per acre, sites subject to a 50 foot height limit were presumed to develop at 65 units per acre, sites subject to a 60 foot height limit were presumed to develop at 90 units per acre, and sites subject to a 70 foot height limit were presumed to develop at 120 units per acre. However, recently approved Downtown projects exceed these numbers. As an example, the Seagate site (703 3<sup>rd</sup> Street) was estimated by the 2015 Housing Element to have the capacity for 31 units. The project was ultimately approved for 138 units.

Outside of Downtown, the capacity estimates are generally 80 percent of what is allowed by zoning. Again, the frequent use of density bonuses means that this estimate is low, at least for multi-family sites.

**Summary of Identified Housing Capacity**

The 2023-2031 sites inventory includes 183 sites. Some of the sites are comprised of multiple parcels and others are a single parcel. In some cases, the parcels are under common ownership. In other cases, there are multiple owners. The cumulative capacity of all sites is estimated to be 5,393 units. This includes 1,763 units of lower income capacity, 700 units of moderate-income capacity, and 2,930 units of above moderate-income capacity. There is a significant “buffer” of excess capacity above the 3,220-unit RHNA. However, most of the buffer is the result of already-approved above moderate-income housing. Removal of development constraints and additional financial resources will be critical to meeting the lower-income targets.

Table 2 indicates the housing capacity by site type. Most of the City’s housing capacity is on sites that are zoned for commercial or mixed use development.

**Table 2: Summary of Housing Opportunity Sites by Income and Site Type**

Spread-sheet	Category	Units by Income Category			Total Units
		Lower	Moderate	Above Moderate	
A	Development Pipeline	198	3	580	781
B	Low/Medium Density Residentially Zoned	3	88	160	251
C	High Density Residentially Zoned	248	81	174	503
D	Mixed Use Sites outside of Downtown	712	279	1,053	2,044
E	Downtown Mixed Use sites	602	249	963	1,814
	<b>TOTAL</b>	<b>1,763</b>	<b>700</b>	<b>2,930</b>	<b>5,393</b>
	RHNA	1,349	521	1,349	3,220
	<i>Surplus Capacity</i>	<i>+371</i>	<i>+179</i>	<i>+1,581</i>	<i>+2,173</i>
	<i>Buffer</i>	<i>30%</i>	<i>34%</i>	<i>117%</i>	<i>67%</i>

## **Overview of the Spreadsheets**

A series of 11 x 17 spreadsheets labeled A through E follows this staff report (see Attachment 1). The spreadsheets correspond to the categories listed in Table 1 and provide State-mandated data for each housing type. The spreadsheets are summarized as follows:

- A “summary” spreadsheet (page 1) presents the same data that is shown in Table 2 in this staff report.
- Spreadsheet “A” lists projects in the development pipeline. The projects shown have all been approved but are not yet occupied as of July 1, 2022 (the start of the RHNA projection period). There are 14 projects listed, with a total of 781 units.
- Spreadsheet “B” lists development opportunities on sites zoned for low and medium density residential development. There are 66 sites identified, with a total capacity of 251 units. Most of this capacity is presumed to be “above moderate” income housing due to the associated densities and construction costs.
- Spreadsheet “C” lists development opportunities on sites zoned for high density housing. There are 20 sites listed, with the capacity for 503 units. Only 3 of the sites are “carry overs” from the 2015 Housing Element—the other 17 were not previously listed. About half of the housing capacity identified on this spreadsheet is for lower income housing. Spreadsheet C also includes several sites with Public/Quasi-Public zoning.
- Spreadsheets “D” and “E” list development opportunities on sites zoned for commercial or mixed use development. Spreadsheet “D” includes sites outside of Downtown San Rafael. Spreadsheet “E” includes sites in the Downtown Precise Plan area.
  - Spreadsheet “D” includes 30 sites with the capacity for 2,044 units. This includes 1,053 units of above moderate-income housing, two-thirds of which is associated with Northgate Mall. The spreadsheet also includes 712 units of lower income capacity and 279 units of moderate-income capacity. Only seven of the 30 sites are “carry overs” from the 2015 Housing Element—the other 23 were not previously listed.
  - Spreadsheet “E” includes 53 sites with the capacity for 1,814 units. This includes 963 units of above moderate-income housing, 249 units of moderate-income housing, and 602 units of lower-income housing. Most of the sites listed were specifically called out in the Downtown Precise Plan as housing opportunities. A few were not. Only seven of the sites were counted in the 2015 Element—the other 46 were not previously listed.

Table 3 below indicates the information for each site provided in the spreadsheets.

**Table 3: Key to the Housing Site Spreadsheets**

Column	Title	Description
1	ID#	A unique alpha-numeric ID has been assigned to each site. The letter corresponds to the spreadsheet on which the site appears.
2	APN	Assessor Parcel Number. Some sites have multiple APNs and some sites occupy only a portion of a given APN.
3	Address/ Location	Either a street address or a narrative description of the location of each property
4	Acres	Total (gross) acres of the housing opportunity site
5	GP Des	Existing General Plan Designation
6	Zoning	Existing Zoning Designation
7	Existing Use	A narrative description of the current use of each site
8	Theoretical Capacity	The land area for each site multiplied by the maximum zoning density, inclusive of any proposed increases in allowable density. For already approved projects and for projects with pending applications, the actual number of approved or proposed units is used. Sites in the Downtown area have no density requirements, so theoretical capacity is more difficult to estimate.
9	Realistic Capacity	(1) For already approved projects, the actual number of approved units is used (2) For sites with development constraints such as steep slopes and limited access, the estimate is generally 60-80 percent of what is allowed by zoning. (3) For mixed use and commercially zoned sites, the estimate is generally 80 percent of theoretical capacity. (4) In the Downtown Precise Plan area, the estimates reflect figures that were developed in 2018-19 and used in the EIR for that project. The estimate of a site’s “realistic capacity” does not preclude a site from developing with more units than are shown in this column. This is intended as a conservative estimate based on guidance provided by HCD.
10	Pub/Private	Indicates whether the site is publicly or privately owned. PR = private. PU = public
11	Constraints	Indicates development constraints on each site, with an emphasis on environmental constraints. Typical constraints include steep slopes, sea level rise, fire hazards, historic resources, noise, and air quality.
12	Infrastructure	Indicates the improvements that would be required for site development, including road access and internal streets and utilities. Sites with utilities available in the street right-of-way abutting the site are considered to have infrastructure. Sites without adjacent water, sewer, or dry utilities are noted as needing infrastructure.
13 A, B, C	Income Category (Low, Mod, Above Mod)	Indicates whether the site is expected to serve above moderate, moderate, or lower (low + very low) income households. The designation of a site as lower income does not mandate that it be developed with lower income housing. However, if it is developed with another use, the City must find that it still has capacity to meet its lower income assignment in the remaining sites (or identify additional opportunity sites to make up the deficit).
14	Counted before?	Indicates if the site was counted in the 2015-2023 Housing Element site inventory
15	Comments	Provides additional remarks and comments about each site, including background information and context for why it is listed as a housing opportunity. <b>Red font</b> is used where a follow-up zoning action is required.



### **Sites Removed from the 2015 Inventory**

The sites that were removed from the 2015 Inventory include those that were developed during the last eight years, and others that no longer appear viable. The removed sites include:

- Marin Square Shopping Center. The site had been estimated as having the potential for 200 units. It has been removed from the inventory as it was recently sold and refurbished for retail use. Housing is still permitted on the site.
- Northgate Three (Michael's, CVS, Black Bear Diner). The site had been estimated as having the potential for 203 units. The owners indicate they are focusing on redevelopment of the Mall rather than this perimeter shopping center, and do not intend to redevelop Northgate Three during the next eight years. Housing is still permitted on the site.
- 550, 670, and 820 Las Gallinas. These are three office buildings on Las Gallinas that were estimated to have the potential for 84 units. One of these office buildings was acquired by Kaiser, another was acquired by a law firm, and the third is fully occupied.
- Former Chrysler/Dodge dealership at 1075 E. Francisco. This property is under construction with a new hotel. It had previously been assumed as a potential site for 63 units.

### **Relationship of the Sites Inventory to AFFH**

The City has long been committed to furthering fair housing, having adopted its first inclusionary housing ordinance in 1991, well in advance of other cities in the County. Over the past few years, the City Council has been looking for ways to remove barriers to housing of all types and at all income levels throughout the community. With this 6<sup>th</sup> cycle housing element, the State Department of Housing and Community Development has required cities and counties to be more intentional and transparent about how they intend on furthering fair housing.

Since 2021, the County of Marin has been leading a collaborative effort to coordinate the Housing Elements of the County and its 11 cities. This includes the services of a consulting team retained by the County to provide supplemental services specifically related to the State's Affirmatively Furthering Fair Housing (AFFH) mandate. The sites inventory is subject to this mandate. More specifically, the sites inventory must be analyzed to ensure that it helps overcome patterns of segregation and contributes to a more inclusive, economically diverse community.

This is both a quantitative and qualitative analysis. The County's consultant—Veronica Tam Associates—is performing the quantitative component and has completed a preliminary screen of San Rafael's 183 sites. This included overlaying a map of the housing sites on other maps showing patterns of segregation, poor housing conditions, and access to resources (good schools, jobs, services, etc.)<sup>1</sup>. The intent is to ensure that the City is not concentrating its lower-income housing sites in "low resource" areas, while locating all of its above moderate-income sites in "high resource" areas.

The initial analysis indicated the City is generally consistent with State requirements but some sites may require further justification. In other words, the City has limited the identification of lower-income housing sites to the already impacted Canal census tracts, while creating opportunities for lower-income housing in upper income/ high-resource census tracts in neighborhoods like Northgate and Downtown.

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<sup>1</sup> These maps will be posted to the [www.sanrafaelhousing.org](http://www.sanrafaelhousing.org) once they are finalized. They will also appear in an appendix to the Housing Element.

In the *qualitative* part of this analysis, the City will need to explain instances where its sites may not appear to support AFFH goals on the surface. For example, the City has provided at least a few opportunities for lower income housing in the Canal area since that area has an urgent need for safe, affordable family housing. In addition, placing only market-rate housing in the Canal area could be harmful to the community, as it could cause displacement and drive up the cost of existing housing. Conversely, there are “high resource” areas in San Rafael where lower income housing may be infeasible due to the lack of services and high fire danger. The City believes its inventory will be found consistent with the AFFH mandate, but will need to provide supplemental information in its analysis to explain why.

### **Maps**

A set of five maps, plus a “key” map are included with this staff report (Attachment 2). The maps show the location of the housing sites listed in Attachment 1. The city has been broken into five sub-areas to communicate this information more legibly. Map 1 shows North San Rafael. Map 2 shows the middle part of the City (between Downtown and the Civic Center). Map 3 shows the San Pedro Peninsula. Map 4 shows Southern and Southeastern San Rafael. Map 5 shows Downtown San Rafael.

The colors on the map correspond to the General Plan designations of each site. City staff is presently working to improve the legibility of the maps, add street names and key landmarks, and show other attributes of each site (such as which sites are “pipeline” projects, which sites are lower income sites, and so on). These will be made available and posted to the City’s website as they are developed.

### **Zoning Changes**

Because the 2023-2031 Housing Element immediately followed adoption of the San Rafael General Plan, the City is able to accommodate its RHNA without any zoning changes.

### **Schedule**

As noted in earlier in this report, the Housing Element must be adopted by January 31, 2023. The State has provided a 120-day grace period (ending May 30, 2023) for cities that require additional time in order to respond to HCD comments. The City of San Rafael anticipates that it may use a portion of the grace period, depending on the HCD comments on its initial draft.

State law requires that each city and county submit a “working draft” of its Element to HCD prior to adopting the document. This allows HCD to provide comments that can be addressed before adoption, thereby increasing the likelihood an adopted element will be found in compliance. Staff is currently anticipating release of the Working Draft in September 2022.

State law requires circulation of the Working Draft for public comment for at least 30 days. At the end of the 30 days, the document will be revised as needed and submitted to the State for review. The State then has up to 90 days to review the draft, meaning that comments will be received in January 2023. Depending on the extent of the State’s comments and when they are received, the City will either adopt the Housing Element in January 2023 or make revisions and adopt it during the grace period. Once the Housing Element is adopted, it must be resubmitted to HCD for certification. The State has 60 days to issue a compliance determination.

It is worth noting that other regions of California on an earlier review cycle than the Bay Area are experiencing exceptionally high rates of non-compliance. For example, the deadline for adoption of Housing Elements in the Southern California Association of Governments (SCAG) region was October

15, 2021. There are 191 cities and six counties in that region (197 jurisdictions in total). As of July 15, 2022—nine months past the deadline—only 19 jurisdictions have been deemed compliant. There are 93 SCAG jurisdictions that have adopted their elements and been found non-compliant, and another 73 jurisdictions that have not adopted their elements yet, as they continue to revise them based on HCD comments. There are also 12 cities in the SCAG region that have either not submitted anything to the State or are still waiting for their first response from HCD.

The City Council is encouraged to review [this document](#), just published by ABAG, for a summary of the principal objections HCD has had with the 6<sup>th</sup> Cycle Southern California elements.

**ENVIRONMENTAL REVIEW:**

As a General Plan amendment, the Housing Element update is subject to the California Environmental Quality Act (CEQA). Because the City does not anticipate major changes to its Land Use Map, the appropriate form of CEQA review for the Housing Element is an Addendum to the recently certified General Plan EIR.

The Addendum would determine if the findings identified in the General Plan EIR would be changed by the policies and programs in the new Housing Element. In the event the Housing Element proposes substantial changes to the General Plan Map, a higher level of CEQA review could be required. As with the General Plan EIR, environmental review will still be required for individual projects proposed after the Element is adopted.

**COMMUNITY OUTREACH:**

The August 1 City Council public hearing was advertised in the *Marin Independent Journal* and publicized with a postcard notice to stakeholders, agencies, and special interest groups.

The City has been circulating the sites inventory since June 2022, both for public information and to solicit comments. The inventory was presented to the Housing Element Working Group for discussion on June 30 and was the focus of a Community Workshop on July 14. It was presented to the Planning Commission for discussion on July 26. While some of the public feedback has related to specific sites, most comments have focused on higher-level issues such as the need for affordable housing, the ability to accurately identify sites, and the likelihood of the sites identified being realistically available before 2031.

**FISCAL IMPACT:**

The Housing Element is a policy document and does not have a direct fiscal impact on the city. Future programs developed as a result of HE2023-2031 adoption could have fiscal impacts by identifying programs requiring funding. Other HE2023-2031 programs may have positive fiscal impacts by identifying new revenue sources or improving the City's eligibility for grants and other funds. Conversely, the absence of a certified Housing Element would have adverse fiscal impacts, as the City would become ineligible for numerous state grants and funds.

**RECOMMENDED ACTION:**

Accept the Informational Report on the 2023-2031 Housing Element Opportunity Sites Inventory.

**ATTACHMENTS:**

Attachment 1: [Housing Opportunity Site List](#) (please note, this is formatted at 11 x 17)

Attachment 2: [Housing Opportunity Site Map](#) (set of five maps, plus key map)

Attachment 1 – Housing Opportunity Site List  
(please note, this is formatted at 11 x 17)

<https://www.cityofsanrafael.org/documents/draft-housing-opportunity-sites-list-june-2022/>

## Attachment 2 – Housing Opportunity Site Map (set of five maps, plus key map)

<https://www.cityofsanrafael.org/documents/draft-housing-opportunity-sites-maps-june-2022/>