



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: November 15, 2022
Agenda Item: 3
Case Numbers: GPA22-002 & P21-006
Project Planner: Ali Giudice, CDD Director
(415) 485-3092
Barry Miller, Consultant
Liz Darby, Consultant
Alexis Captanian, Housing Programs Analyst

REPORT TO PLANNING COMMISSION

SUBJECT: Public Meeting on the San Rafael 2023-2031 HCD Draft Housing Element. Staff will provide a presentation on the Draft 2023-2031 Housing Element. An opportunity for Planning Commission and public comment will be provided. The Planning Commission is being asked to recommend that the City Council approve submittal of this Draft to the State Department of Housing and Community Development (HCD) for review. Case Nos.: GPA16-001 & P16-013.

RECOMMENDATION

It is recommended that the Planning Commission:

- (1) Receive public comment on the HCD Draft Housing Element
- (2) Provide feedback and comments on the HCD Draft Housing Element
- (3) Recommend that the City Council approve submittal of the Working Draft Housing Element to the State Department of Housing and Community Development for their initial 90-day review.

A revised version of the Housing Element (“Public Review Draft”) will be presented to the Planning Commission in March 2023. At that time, the Commission will be asked to approve a resolution recommending Council adoption of the Housing Element and resubmittal to the State for a compliance determination.

EXECUTIVE SUMMARY

The Housing Element is the City’s long-range plan for conserving and maintaining its housing supply, removing regulatory barriers to housing production, promoting fair housing, and creating new housing opportunities for all residents. Requirements and timelines for Housing Elements are established by State law, as well as guidelines developed by the California Department of Housing and Community Development (HCD). All cities and counties in the Bay Area are currently updating their Housing Elements to cover the 2023-2031 period.

Through its Housing Element, each city and county must demonstrate that it has the capacity to accommodate its “fair share” of the region’s housing needs for the next eight years. San Rafael’s fair share assignment 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, it must show it has zoned a sufficient number of sites for housing construction by the private and non-profit sectors. It must also demonstrate that it will implement programs to mitigate or remove constraints to development and encourage a variety of housing types. The Element must further demonstrate that the City is “affirmatively furthering fair housing” (AFFH) by creating opportunities for affordable housing in high-resource neighborhoods along with programs to end housing discrimination and promote fair housing practices.

State law requires that cities and counties publish a “Working Draft” of their Housing Elements for HCD review prior to adoption. The City of San Rafael has published its Working Draft and is now soliciting public comments. The current draft will be revised in early December and submitted to HCD for its review in mid-December. The City will adopt the Element in early 2023, after it receives HCD comments and makes appropriate revisions.

PROJECT 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 substantially complies with Government Code requirements.

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.

State requirements for Housing Elements has changed considerably in the last eight years. The focus of prior Housing Elements was on housing conservation and the creation of new housing opportunities. While housing production is still the central focus, there is a much greater emphasis on equity, fair housing, and meeting the needs of lower-income households and persons with special needs. Cities have been asked to plan for much larger quantities of housing and provide substantially more detail on potential housing sites. Requirements for community engagement and outreach to under-represented populations also have been expanded. Cities and counties must demonstrate that their policies and programs are affirmatively furthering fair housing and directly addressing the factors that have resulted in segregation and concentrated poverty around the State.

The City initiated the update process in September 2021. Over the last 14 months, the City has completed background data collection and analysis tasks; completed a robust public outreach program; and drafted new goals, policies, and programs. In November 2021, City Council appointed a 13-member Working Group (including a Planning Commission representative) to advise on key policy choices. The Working Group met eight times between December 2021 and August 2022. Other community engagement activities included three community workshops, a developer forum, presentations and outreach to neighborhood and community-based organizations, a community survey, numerous focus groups and interviews, a project website, pop-up workshops, and focused outreach to the Spanish-speaking community.

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 is a top-down process that 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. The Association of Bay Area Governments (ABAG), the Bay Area regional council, was tasked with disaggregating 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. This is more than three times 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 countywide RHNA increased by 526 percent, from 2,298 units (2015-23) to 14,405 units (2023-31). ABAG disaggregates the RHNA into four income categories, as shown in the table below.

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

	Very Low	Low	Moderate	Above Moderate	Total
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.

The City is required to demonstrate that it has the zoning capacity to produce this quantity of housing by 2031. It is not required to issue building permits or provide entitlements for this quantity of housing. However, the number of units permitted annually will be used as a metric to evaluate the Element’s success and the need for additional programs to come closer to the target.

Prior Planning Commission Input

Prior Planning Commission discussions of the Housing Element have included:

- September 28, 2021: The Commission received an overview of the Housing Element work program, the purpose of the document, the community engagement strategy, and new State laws affecting the Element’s content
- February 15, 2022: The Commission received a presentation on the Housing Needs Assessment
- June 13, 2022: The Commission received a presentation on the State’s Affirmatively Furthering Fair Housing (AFFH) mandate, and how it influences the Housing Element
- July 26, 2022: The Commission received a presentation on the Housing Site inventory

Each of these meetings included opportunities for public comment.

ANALYSIS

Housing Element Organization and Contents

The San Rafael 2023-2031 Housing Element includes six chapters and three technical appendices. Highlights of each chapter are provided below.

Chapter 1: Introduction

The introduction explains the purpose of the Housing Element. It also describes San Rafael's local and regional context, the RHNA process and San Rafael's assignment, and the statutory requirements for the Housing Element. The Element also explains the organization of the document and includes a detailed description of the community engagement program. The community engagement discussion focuses on efforts to reach lower income households, non-English speaking households, and persons with special housing needs.

Chapter 2: Evaluation of the 2015 Housing Element

This chapter evaluates the City's progress toward implementing the last (2015-2023) Housing Element. It includes a program-by-program assessment of the 2015 Housing Element, indicating whether each program should be carried forward, edited, or replaced. The Chapter also indicates the extent to which the City met its RHNA for the previous planning period. The Planning Commission reviewed this chapter at its [February 15, 2022 meeting](#).

Chapter 3: Housing Needs Assessment

The Needs Assessment includes an analysis of demographic and socio-economic conditions, housing conditions, and market trends. The analysis is used to identify current and future housing needs in San Rafael, particularly for lower-income households and populations with special housing needs. Highlights and findings of the Needs Assessment were included in the staff report for the Planning Commission's [February 15, 2022 meeting](#) (see pages 7 and 8).

Chapter 4: Housing Sites and Resources Analysis

This chapter includes an evaluation of the sites most likely to be available for residential development in the next eight years. The Planning Commission received a presentation and staff report on housing sites at its [July 26, 2022 meeting](#). The list of sites was refined in August 2022 to incorporate public input and to ensure that the Housing Sites Inventory was fully aligned with the development opportunities identified in General Plan 2040 and the Downtown Precise Plan. The inventory identifies opportunities for 4,658 housing units on 112 sites in San Rafael, providing a substantial buffer above the RHNA. Sites with the potential for lower-income units are generally zoned at densities of 30 units per acre or more and are geographically distributed in support of the State goal to affirmatively further fair housing.¹

The Sites chapter has been structured to address HCD requirements. The City must demonstrate that the presumed development capacity estimates for each site are reasonable and that each listed site could realistically be developed in the next eight years. The chapter also addresses projected accessory dwelling unit (ADU) production over the next eight years, environmental constraints on the housing sites, and the availability of infrastructure to serve the sites. This chapter also includes State-mandated discussions of energy conservation resources in San Rafael, and a discussion of potential sources of funding for affordable housing and housing programs in the city.

¹ According to HCD, "the goal of Affirmatively Furthering Fair Housing (AFFH) is to combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access in order to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all Californians."

Table 1: Summary of Housing Site Potential for 2023-2031 by Income

Site Type	Income Category			Total
	Lower	Moderate	Above Moderate	
Development "Pipeline"				
Approved Projects	200	3	582	785
Proposed Projects	115	135	954	1,204
Opportunity Sites				
Low-Medium Density Residential	3	88	56	147
High-Density (30+ DU/Ac) Residential	335	81	42	458
Mixed Use (Non- Downtown)	373	57	74	504
Mixed Use (Downtown)	587	280	693	1,560
TOTAL POTENTIAL	1,613	644	2,401	4,658
<i>Plus presumed Accessory Dwelling Units</i>	70	100	30	200
Total Potential Including ADUs	1,673	744	2,431	4,858
RHNA	1,349	521	1,349	3,220
Buffer (% units over capacity)	25%	43%	N/A	N/A

Source: City of San Rafael, 2022

Chapter 5: Housing Constraints

The Constraints chapter addresses governmental constraints to housing development such as zoning, development fees, development standards, and development review processes. It also addresses non-governmental constraints, such as high land and construction costs. The analysis concludes that the City’s General Plan and Precise Plan are strongly supportive of housing production. It identifies a number of potential zoning constraints, including height limits in the commercial zones and multi-family zoning districts with maximum densities that are below the levels authorized by the General Plan. The analysis notes that parking requirements are generally not a constraint in transit-served areas (due to recent State laws) and concludes that the recent modifications to the City’s affordable housing ordinance and changes to State Density Bonus Law have had a positive effect on housing production.

As required by State law, this chapter evaluates constraints to the production of particular types of housing in the City, including ADUs, single room occupancy hotels, emergency shelters, and transitional and supportive housing. Specific recommendations are included to expand opportunities for special needs housing. The chapter also addresses local permitting procedures and fees, noting the progress that has been made since 2018 when the City began convening developer forums and Council study sessions on strategies to remove constraints and increase housing production.

The final part of this chapter evaluates non-governmental constraints. The focus is on land and construction costs, and financial constraints such as high interest rates and limited availability of low-income housing tax credits. Other non-governmental constraints include community opposition, requests to develop at densities below what is allowed by zoning, and lengthy time delays between project entitlement and construction.

Chapter 6: Housing Plan

This chapter presents goals, policies, and programs to address the City’s housing needs as well as quantified objectives for housing development and preservation during the planning period. It is addressed in more detail in the next section of this staff report.

Appendix A: Assessment of Fair Housing

The Assessment of Fair Housing uses maps and tables to illustrate spatial patterns of segregation and concentrated poverty in the city, and the location of high, moderate, and low resource neighborhoods. This data is used to evaluate the adequacy of the City's housing sites, and also to ensure that housing programs further fair housing and provide greater access to resources (e.g., high-performing schools, quality City parks, health care facilities, etc.) in under-served neighborhoods. The analysis informs many of the policies and programs in Chapter 6. Appendix A also evaluates fair housing practices and provides data on discrimination complaints in the city during recent years.

Appendix B: Housing Opportunity Site Inventory

This is a detailed parcel-level spreadsheet with data for each of the 112 identified housing opportunity sites. The sites are organized into six categories (approved projects, proposed projects, vacant low-density residential sites, medium- and high-density residential sites, mixed use sites outside Downtown, and Downtown mixed-use sites). For each property, the database provides assessor parcel number, address, acreage, zoning and General Plan designation, existing land use, theoretical capacity, realistic capacity (by income group), and any constraints or comments.

Appendix C: Public Participation Matrix

The matrix lists the various outreach and engagement efforts that occurred over the course of the project, including key takeaways and metrics for participation. The matrix provides a bridge from the engagement program to the Housing Element policies and program and illustrates how community feedback has shaped the contents of the document.

Goals, Policies, and Programs

The HCD Draft Housing Element includes four goals:

1. End and prevent homelessness in San Rafael.
2. Combat housing discrimination, eliminate racial bias, and undo historic patterns of segregation.
3. Ensure housing habitability and maintenance.
4. Meet housing needs by providing a variety of housing choices throughout the City.

The goals have been substantially reorganized from the 2015 Housing Element, with a greater focus on fair housing and resources for lower income households. As with the other elements of General Plan 2040, a set of policies follows each goal. The policies are intended to provide broad guidance for future decision-making over the eight-year planning period. Each of the goals is also followed by a series of housing programs, which include more prescriptive direction as well as an assessment of resources, a timetable for implementation and metrics to measure future success.

Programs are summarized below. Commissioners are encouraged to review Chapter 6 of the Draft Housing Element for additional detail. Each of the programs listed below includes a narrative description of the program, specific actions to be taken, a timeline for those actions, the responsible City department or division, the resources available to undertake the action, and the relevant housing policies that are implemented through the program.

Programs to End and Prevent Homelessness

1. Create a Housing and Homelessness Division within the Community Development Department.
2. Require rental property owners to provide relocation assistance to low-income tenants in no-fault evictions.
3. Expand housing resources and supportive services for extremely low-income households.
4. Actively seek funding for strategies that prevent homelessness and help San Rafael residents experiencing homelessness in securing a place to live and access to the services they require.
5. Provide emergency shelter capacity sufficient to meet local needs.

Programs to Combat Housing Discrimination, Eliminate Racial Bias, and Undo Historic Patterns of Segregation

6. Expand awareness of housing laws, programs, and resources provided by the City and by other agencies and organizations through a comprehensive, multi-lingual community outreach and engagement initiative.
7. As part of the Cooperative Agreement with the County on CDBG funding, direct a portion of the City's allocation to a local fair housing assistance program.
8. Affirmatively market local affordable housing opportunities to include groups that have historically been disadvantaged in the local housing market.
9. Undertake a capacity-building and educational program designed to increase understanding of the housing system by the City's Latinx community.
10. Collaborate with Marin County, cities and towns to address regional planning and housing issues. Remain open to alignment in service delivery to increasing housing supply and furthering fair housing.
11. Maintain and monitor effectiveness of local just cause for eviction regulations.
12. Evaluate existing and additional measures to protect tenants from eviction or the loss of housing due to economic or other factors.

Programs to Ensure Housing Habitability and Maintenance

13. Continue and strengthen the Periodic Housing Inspection Program to ensure the safety and habitability of the rental housing stock.
14. Provide effective code enforcement efforts in all neighborhoods to abate unsafe or unsanitary conditions. Organize service delivery around principles of equity and inclusion.
15. Continue residential building inspections at the time of sale to ensure the safety and habitability of units.
16. Support lower income households in maintaining their homes and increase their ability to participate in and reap the benefits of housing sustainability initiatives.

Programs to Increase Housing Choice

17. Increase funding for affordable housing through the City's Affordable Housing Trust Fund and other sources.
18. Maintain affordable housing requirements for market-rate residential and commercial developments. Monitor the policy's effectiveness and periodically revise to reflect changing housing market conditions.

19. Apply for designation as a “Pro-Housing City” by the State of California.
20. Develop an official City process for developing housing in air rights on municipally-owned sites, including Downtown municipal parking lots (i.e., an “air rights strategic plan”). The process should support and promote public-private partnership opportunities that result in new housing on these sites.
21. Prepare a Precise Plan (or equivalent planning document) for the North San Rafael Priority Development Area (PDA).
22. Prepare a Precise Plan (or an equivalent planning document) for the Southeast San Rafael Priority Development Area (PDA).
23. Provide periodic updates on progress toward Housing Element implementation and other City Council and community housing priorities.
24. Maintain capacity to meet the RHNA at all times during the 2023-2031 planning period and add new sites as opportunities arise. Make the list of housing opportunity sites (Appendix B) available to prospective developers and the public.
25. Develop a list of sites located along commercial corridors that could be prime for “by right” development under Assembly Bill 2011 (AB 2011).
26. Adopt objective design and development standards (ODDS) to expedite project approvals for all “by right” multifamily housing projects.
27. Expand resources and reduce barriers for the construction of ADUs and Junior ADUs (JADUs) in San Rafael neighborhoods.
28. Implement Senate Bill 9 (SB 9) regulations and update the website with information to support property owners pursuing lot splits and duplexes on qualifying single-family lots.
29. Support housing development on institutional and religious properties.
30. Discourage conversion of residential units to non-residential uses, and limit loss of rental housing stock. Encourage conversion from commercial/office space back to residential use.
31. Monitor the status of affordable units created through local inclusionary housing requirements to ensure that they are occupied by qualifying households and rented or sold at affordable rates.
32. implement Age-Friendly San Rafael Strategic Plan recommendations.
33. Create additional housing resources for persons with disabilities, including developmental disabilities.
34. Facilitate the development of large and small residential care facilities in San Rafael.
35. Creative incentives that result in a larger percentage of apartments that are three bedrooms or more in affordable housing developments.
36. Review and update the master fee schedule periodically to reflect the costs of delivering City services and to reduce fee burdens for affordable housing projects, where possible.
37. In response to feedback received during past developer and community forums, provide an update on the changes made to reduce costs, time delays, and other barriers to housing development. Measure the success of these changes.
38. Implement State and local density bonus programs, including allowances for additional height and concessions and waivers to development standards for projects with affordable housing.
39. Establish written procedures so that projects with affordable housing units are granted priority for water and sewer connections in the event of future service limitations.
40. Implement measures to streamline the development approval process and reduce the time required between project proposal and project entitlement.

41. Complete strategic revisions to the San Rafael Zoning Ordinance to better achieve Housing Element objectives.
42. Complete an evaluation of residential off-street parking standards to reduce parking as a housing development expense. This should include the removal of minimum parking standards within one-half mile of SMART stations and high-frequency bus corridors.

Chapter 6 concludes with a summary of quantified objectives for the programs (including objectives for housing production and conservation). It also indicates the extent to which programs address specific AFFH themes identified by HCD, including fair housing outreach and enforcement, housing mobility, new opportunities in high resource areas, place-based strategies for neighborhood improvement, and tenant protection and anti-displacement.

Schedule

The HCD Draft Housing Element was published on November 4, 2022. A 30-day public review period is required by State law and will end on December 5, 2022. Comments received by that date will be considered prior to submitting the Draft to HCD. The City is statutorily required to allow 10 business days after the 30-day period to consider comments and make edits in response. The City Council is scheduled to discuss the Housing Element at its December 5 meeting. Comments from the Council also will be considered during this 10- day period. In addition, the Council will be asked to authorize staff to submit the HCD Draft to the State, inclusive of their comments and any revisions made in response to public comments or Planning Commission comments. This action does not constitute adoption of the Housing Element—it is merely approving its submittal for initial State review. The State has up to 90 days to issue its review letter. Submittal to the State is projected by December 19, 2022.

As noted earlier in this report, the deadline for Housing Element adoption is January 31, 2023. While the City is working to meet this deadline and will submit its Draft to HCD before that date, it is unlikely that HCD comments will be received until after the deadline. Most cities are receiving comment letters at or near the end of the 90-day period, which means the City’s letter would be received in mid-March. At that time, the City will respond to any comments from the State, make necessary edits, and return to the Planning Commission with a resolution recommending City Council adoption of the Element.

Once adopted, the Element will be resubmitted to the State for a compliance determination. The State has designated a 120-day “safe harbor” period following the January 31, 2023 deadline for cities not found in compliance by the January 31 date. This period ends on May 31, 2023. The City is striving to receive a compliance determination prior to that date. The principal consequence of a late compliance determination is that any necessary rezoning identified by the Element must be completed by January 31, 2024. San Rafael’s zoning is largely in place and the City would not be impacted by this requirement. However, it is in the City’s best interest to remain in compliance and adopt the Element as quickly as possible after receiving State comments.

As of November 2, four cities in Marin County have submitted their elements to the State. Seven are still preparing their elements or have just released their initial drafts. Only two jurisdictions in the Bay Area (Alameda and Emeryville) have been found in compliance at this time.

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 will determine if the conclusions reached by the General Plan EIR would be changed by the policies and programs in the new Housing Element. The Addendum will be considered concurrently with the Public Review Draft Housing Element in early 2023.

CORRESPONDENCE

No correspondence has been received on this Staff Report.

ATTACHMENTS

No attachments to this staff report are included. However, Commissioners are strongly encouraged to access the HCD Draft Housing Element on the project website at www.sanrafaelhousing.org. The entire document, including maps and technical appendices, may be accessed at that website.