

From: Jenny Silva [REDACTED]
Sent: Monday, December 5, 2022 10:09 PM
To: Housing <housing@cityofsanrafael.org>; HousingElements@yimbylaw.org;
HousingElements@hcd.ca.gov
Subject: Comments on San Rafael Public Draft of Housing Element

Dear City of San Rafael,

It is exciting to see a Marin City take the housing crisis seriously. The changes in your Downtown plan look promising for new housing. However, I have some concerns with the housing element as currently written. I have the documents in a Google doc also, but my internet connection is not good enough to send it. I will send the Google Doc tomorrow.

Best,

Jenny Silva
Volunteer, Campaign for Fair Housing Elements

San Rafael
Via email: housing@cityofsanrafael.org
Cc: HousingElements@hcd.ca.gov; HousingElements@yimbylaw.org

December 5, 2022

Re: The City of San Rafael's Housing Element

Dear City of San Rafael:

I am writing to submit my comments on the draft San Rafael Housing Element. Marin, like most counties in California, is suffering due to our housing shortage. It is important that all jurisdictions do their part to help address this issue. San Rafael is appearing to make a strong effort to do so. In many ways, San Rafael has developed the most robust Housing Element in Marin. I applaud their desire to obtain a Pro-Housing Designation.

Even so, there are some changes that we believe are necessary for San Rafael to achieve it's housing goals. The key concerns are below, followed with detailed comments.

- **Further analysis on Low Income Housing.** However, there does not appear to be sufficient due diligence on the likelihood of the low income sites developing. The changes that San Rafael has made has generate moderate income housing and inclusionary units. However, in reviewing the Site Inventory, it does not appear that San Rafael has done due diligence with land

owners regarding site development. Without confirmation of interest from owners, San Rafael should be applying a probability of development to its low income sites, and develop programs if they are not built out.

- **Back up strategies if Housing Production is insufficient.** On Page 5-48 - San Rafael notes “A number of large-scale multi-family projects in San Rafael were approved in 2018 and 2019 and have yet to start construction.” There are programs suggested to address this, and current applications look promising for moderate income housing. However, it is still unknown whether these changes will be sufficient. Specifically, I’d like to see the following, which are expanded on below:
 - Strengthen program Program 38: Follow-Up to Developer Forum.
 - A specific program is development is below expectations, that could include the following:
 - Expansion by-right housing approvals
 - Commitment to additional CEQA exemptions and area-wide technical reports
 - Rezone single-family home areas to allow more housing.
 - Reduce open space requirements for multi-family housing.
 - Increase height maximums
 - Eliminate administrative use permits (AUP)
- **Stronger protections for tenants.** On page 3-60 San Rafael states, “According to ACS data, median rent in San Rafael rose from \$1,267 in 2010 to \$1,866 in 2019, a 47 percent increase.” This is particularly important now, as there is a recent example of a landlord evicting tenants in the Canal to refurbish apartments to a rental rate that is unaffordable for current residents. Rental rates and homelessness are directly related. San Rafael homeless population will grow if it does not implement a more rigorous program.
 - Commitment to the tenant protections residents have identified as necessary in Program 12: Tenant Protection Measures. Landlords have had great results the last 20 years. Yet, the Housing Element wishes to push off change due to concerns about landlord profitability. This is misguided. Many municipalities have put in place protections such as the ones suggested.
 - San Rafael should make a much stronger commitment to a rental registry, and should commit the resources to do it, if the County does not create a program. San Rafael is staffing many other programs in the Housing Element. San Rafael is choosing not to allocate resources here. Yet, many of its other programs will be dependent on knowing what its rental stock is, which rentals accept Section 8 vouchers and what rental rates are. San Rafael can allocate resources to do this if it chooses, and it should choose to do so.

- **Distribute more housing in areas zoned for Single Family Homes.** San Rafael presents an achievable plan, but the new housing stock is concentrated. There does not appear to be a serious effort to integrate the huge areas of land dedicated to single family homes. There is no public policy rationale for segregating multi-family housing from single family housing. There are no health or safety issues that arise from co-mingling multi-family and single family homes. If there are environmental issues in some single family areas, those issues should be directly addressed in the zoning rules, rather than implementing a widespread, artificially low density limit. Single family zoning was born out of the desire to create segregated neighborhoods. San Rafael should incorporate multi-family and boarding homes into SFH zones, as was historically common in California, but is now largely outlawed. Multi-family housing in all neighborhoods will also allow seniors the option to downsize in their community, without moving into an ADU, and will provide young adults the ability to live near their families.

Page 5-10 -The Housing Element notes “One remaining constraint is that most of the medium- and high-density residential zoning districts do not allow the maximum density envisioned by the General Plan for medium-density and high-density residential areas...” San Rafael states it could address this constraint. It should commit to doing so.

Page 5-10 - The Housing Element notes “Projects using State density bonuses frequently request waivers of the open space standard.” This is evidence that the open space standards pose a constraint and should be addressed. 80% of Marin’s land is open space, and we have a severe housing shortage. This is a standard that can be readily adjusted without impacting quality of life. (On Page 5-12, the Housing Element notes that there is no open space requirement for multi-family housing in mixed use districts, so there is already precedent for less on-site open space.)

Page 5-12 - The Housing Element notes “The 36-foot height limit in the commercial districts is a potential constraint to higher density housing.” and notes that a higher height limit could reduce the need to request a waiver. The Housing Element should directly address this constraint.

Page 5 - 33 “Table 5.8 indicates the approximate processing time for most applications.” San Rafael provides a table of permitting times, but does not provide any information on how the processing times were estimated. Are these actual permitting times achieved on all projects built? If so, how does San Rafael account for the projects that fell out of the process and were never developed? If these times aren’t based on the actual data of built projects in Marin, how were they compiled? The City of San Rafael references that some entitled projects were never built due to

financial infeasibility? How long were these projects in process? The state has regulations governing processing times for permits, and it is not clear if San Rafael is capturing the data required to ensure compliance with these regulations.

Page 5-34. San Rafael lists programs that it has introduced to speed permit processing times. The “Neighborhood Meeting Procedure” is centered around gathering community input, in the hopes that getting concerns early will smooth the process. San Rafael does not provide any data on how this program has impacted processing times. Is there any evidence that this program has helped? Most often, public input processes have been co-opted by a small number of very high resource residents that tend to oppose any development. Unless San Rafael can produce data that these programs have been effective, they should be eliminated.

Page 5-35 - “potentially eliminate administrative use permit (AUP)”. “Potentially eliminate” is not a commitment. If this is in the Housing Element, San Rafael should commit to implement it, either at the time of adoption, or if housing production does not meet expectations.

Page 5-36 “The City will continue to evaluate ways to improve the efficiency of DRB and Planning Commission review as needs and conditions change”. The City should provide permitting times for actual projects built or entitled, and the outcome, so progress can be measured.

Page 5-48 San Rafael notes that “Another strategy for addressing opposition is to create more pathways for ministerial (“by right”) project approval rather than requiring discretionary hearings, or by placing limits on the number of discretionary hearings that may be required for a project. “ San Rafael should lean into this strategy. They are already seeing the results, and public participation has not been shown to improve permitting times.

Page 6-9 - Program 2 - Relocation assistance: According to the housing element “Relocation assistance is not available to occupants of illegal units, or tenants who are being temporarily relocated by the property owner with the intent of the tenant returning following the renovation.”

- This provision should be removed or edited. Tenants will not know whether their unit is legal or not, and exempting illegal units provides an incentive for landlords not to legalize. Tenants who are temporarily relocated still incur the costs of relocation, and this does not guarantee that tenants will be able to return to their old homes.

Page 6-32 - Program 24: Monitoring and Marketing of Housing Opportunity Sites. The marketing of housing opportunity sites implies that San Rafael is not in conversation yet with the property owners. I would expect that any major Housing

Site would already have been discussed with the owners. It seems odd to market to developers without first securing the owner's interest.

Page 6-33 - Program 26 - Objective Design Standards for Multi-Family Housing.

On Page 5-37, San Rafael states "The Draft ODDS are expressly intended for SB 35 applications." This limitation is not as explicit in Program 26, but San Rafael should commit to extending by-right beyond when required by state law and the current precise downtown plan. At a minimum, San Rafael should commit to expanding ODDS if development production does not meet expectations. Further, by-right is required for some re-used Housing element sites. San Rafael should identify somewhere in the housing element which sites will qualify for by-right development. Ideally, this would either be under program 26, or in the site inventory itself (as opposed to within the written write-up on the site inventory.)

Page 6-36 - Program 30 - "Discourage conversion of residential units to non-residential uses, and limit loss of rental housing stock." San Rafael will not be able to measure the effectiveness of these programs without a rental registry.

Page 6-38 - Program 33 - "Housing Resources for Older Adults" I'd encourage San Rafael to include multi-family housing developments (all ages) as Housing options for older adults. The older adults I know that have downsized their living spaces have overwhelmingly chosen all-age multi-family housing, unless they are specifically needing assistive living. Most people do not want to be segregated by age, if it is not necessary. Older adults with reduced mobility can do very well in multi-family developments, especially ones with on-site staff, such as a concierge.

Page 6-42 - Program 38: Follow-Up to Developer Forums. On Page 5-48, San Rafael notes " A number of large-scale multi-family projects in San Rafael were approved in 2018 and 2019 and have yet to start construction.", so this program is critical so that San Rafael can meet its goals. Currently, This program is vague, and does not include timelines. San Rafael should address the following issues:

- How will San Rafael measure success? When will the first report be made? Will the reporting happen on a regular basis?
- When will San Rafael have it's next developer forum? How often will forums be held? At what point will San Rafael decide they are not necessary?

Page 6-43 - Program 39: Incentives for Lot Consolidation. This program is required for San Rafael to perform on its Housing Element. As such, San Rafael should be prepared with back-up options should it not be able to provide sufficient incentives for owners. This program would be stronger if San Rafael provided data that it spoke with owners and understands what is needed to make this happen.

Page 6-45 - Program 42: Streamlining of Development Approval. This program includes some promising ideas. However, the actual commitment is weak. The City should be specific about which actions it will undertake and when. Specifically:

- What and when will the next CEQA exemption be developed?
- What area-wide analyses will San Rafael conduct and when?
- A by-right overlay for affordable housing would be powerful. San Rafael does not commit to this program - it only states it will evaluate the program. San Rafael should commit.

Page 6-49 - Program 43: Zoning Text and Map Revisions. The revisions suggested are all worthy. San Rafael should commit to them in the program, rather than the vague “complete recommended zoning changes that facilitate the full range of General Plan densities.” If the intention is to implement all of the identified zoning changes, the program should state that.

Page 6 - 50 -Program 44: Revisions to Parking Standards. San Rafael can be more aggressive in its reduction of parking standards. 33% of households are singles. Another 13% are single-parent headed households, many of which will only contain one driver. In this context, the parking standards for San Rafael are very high. Yet, the vast majority of housing is required to have 2 spaces. San Rafael can let the builder decide how much parking to provide more often.

Page 6-51 - Data is missing.

Site Inventory

- The site inventory is missing sufficient analysis on the sites that are not vacant that they will be redeveloped within the time period. For example, site D2 is listed as providing 50 affordable units. However, there is no analysis supporting that it will be developed in this time period. Is the owner interested? Is a project for 50 low income units financially feasible? This is particularly on concern for low income sites, including D4, D6, D7, E2, E3, E6, E7, E10, E11, E12 - E17, F6 (this is a supermarket - seems unlikely to develop), F18, F31, F33, F36, F41, F48
 - Without confirmed owner interest, San Rafael should be applying a probability of development to these sites.
- Sites D8, D13, F4, F47 are publicly owned. As such, the City should include a program for obtaining an RFP for developing the site, and commit to developing the project. If the city is not willing to commit, it should be removed from the list.
- Sites E10 and E11 require rezoning to O. This rezoning should be included in the Housing Programs.
- Sites F12, F17, F43 are too small to count for low income housing

- Site F21 is a complex deal, with 6 owners. San Rafael should show some due diligence with owners to include it.

Thank you for the strong start on the Housing Element.

Sincerely,

Jennifer Silva

Campaign for Fair Housing Elements Volunteer
Campaign for Fair Housing Elements

