

Exhibit 1-B: Demonstration of Substantial Compliance through Responses to HCD Findings on Draft San Rafael 2023-2031 Housing Element

On December 20, 2022, the City of San Rafael submitted its Draft Housing Element to HCD for their review. Pursuant to Government Code section 65585, subdivision (b), HCD reviewed the Draft Housing Element and reported the results of its review within 90 days of receiving the Draft. The City received HCD's findings on March 20, 2023. HCD considered public comments in preparing their findings, as well as the requirements of the Government Code.

HCD found that the Draft met many statutory requirements but required revisions to be compliant with Housing Element law (Article 10.6 of the Government Code). HCD's letter included a 10-page Appendix describing the revisions needed. On February 15, March 9, and April 6, 2023, City staff met with its HCD Housing Element Reviewer, who clarified HCD's intent and expectations on several of the required revisions.

The City of San Rafael has prepared this document to demonstrate that it has edited the Draft Housing Element to respond to all HCD comments and produce a Draft that is now substantially compliant with State Law. The City has prepared a tracked change (redlined) version of the December Draft showing every change made and linking these changes to specific HCD comments.

This document has organized the HCD findings in numeric sequence, from 1 to 43. Comments are numbered in **bold blue font**. The findings are copied verbatim from the March 20, 2023 letter in black font. The City's responses appear below each finding in *red italic font*. The responses direct the reader to the specific location in the "tracked change" document where the edits are located and summarize the edits made. Page number references are to the tracked change version of the Element. All of the tracked edits are incorporated in a "clean" version of the document that is tentatively scheduled for adoption by the City Council in May 2023.

HCD Comment 1

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As part of the evaluation of programs in the past cycle (Chapter 2), the element must provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers and persons experiencing homelessness).

City Response

See Pages 2-3 and 2-4. The City had added a new section to Chapter 2 specifically highlighting accomplishments between 2015-2023 related to special needs housing.

HCD Comment 2

B. Housing Needs, Resources, and Constraints

1. Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)

Enforcement & Outreach: While the element discusses outreach capacity for fair housing issues and includes an analysis of fair housing complaints, it must also describe the City's compliance with existing fair housing laws and regulations. For additional information, please see pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.

City Response

See Page A-13 (Appendix A). The City has added a new section to Appendix A (Fair Housing Assessment) listing federal, State, and local fair housing laws and describing the City's compliance with these laws and programs.

HCD Comment 3

2. Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)

Extremely Low-Income (ELI) Households: While the element included the total number of existing ELI households, it must also quantify the number of existing ELI households by tenure (i.e., renter and owner).

City Response

See Page 3-22. The City has added the requested data on the number of Extremely Low Income Households by tenure to Chapter 3.

HCD Comment 4

3. Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)

Overpayment: While the element included the total number of low-income households overpaying for housing, it must also quantify the number of low-income households that are cost burdened by tenure (i.e., renter and owner).

City Response

See Page 3-27 and 3-28. The City has added information on the number of low-income households that are cost-burdened by tenure. A new table has been included on the Needs Assessment (Chapter 3) and the data is cited in the text.

HCD Comment 5

Housing Conditions: While the element identifies the age of the housing stock and includes some information on housing stock conditions from American Community Survey (ACS) data (pp. 3-53), it must also estimate the number of units in need of replacement and rehabilitation. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including nonprofit housing developers or organizations.

City Response

See Pages 3-55 and 3-56. *Per HCD's suggestion, staff completed a windshield survey of five neighborhoods in San Rafael with high concentrations of rental housing. A map and summary of findings have been added to Chapter 3.*

HCD Comment 6

4. An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)

The City has a regional housing needs allocation (RHNA) of 3,220 housing units, of which 1,349 are for lower-income households, 521 are for moderate-income households, and 1,350 are for above-moderate income households. To address this need, the element relies on pipeline projects, vacant and underutilized residential sites, mixed-use sites, and Accessory Dwelling Units (ADUs). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: The element relies on a significant number of pipeline projects to meet its RHNA. Specifically, the element identifies 1,989 units that are either pending, approved, or under construction. The element must demonstrate these units are expected to be constructed during the planning period. To demonstrate the availability of units within the planning period, the element could analyze infrastructure schedules, the City's past completion rates on pipeline projects, outreach with project developers, and should describe any expiration dates on entitlements, anticipated timelines for final approvals, and any remaining steps for projects to receive final entitlements.

City Response

See Pages 4-13 to 4-15. *Following receipt of this comment, staff reached out to the developers of the largest projects in the development "pipeline" and prepared status updates for major projects. Staff also reviewed permit tracking data using the e-trakit on-line system. As requested, the element now analyzes infrastructure schedules, expiration dates on entitlements (for entitled projects) and expected entitlement dates for projects in the application stages.*

HCD Comment 7

In addition, given the City's reliance on pipeline projects, the element must include programs with actions that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applications to approve remaining entitlements, supporting funding applications, expediting approvals, rezoning or identification of additional sites should the applications not be approved).

City Response

See new Program 44 on page 6-58 (Chapter 6). *The City has added a new program to conduct regular outreach to all developers of residential projects with 25 or more units and to monitor the status of these projects. The program description includes specific details on the frequency and intent of this outreach, including the topics listed above. The AFFH matrix (table 6-2) includes a new row for this program on Page 6-67.*

HCD Comment 8

Adequate Site Alternative: Table 4.2 indicates the City is crediting 44 units affordable to extremely low-income households towards its RHNA as part of a Homekey Project. To credit these units toward the City's housing need, the element must demonstrate compliance with all the statutory requirements (Gov. Code, § 65583.1, subd. (c)(2)(D)). For example, the element must demonstrate that the affordability for the units determined will be maintained for at least 55 years, units be made available for people experiencing homelessness as defined in Section 578.3 of Title 24 of the Code of Federal Regulations and will be affordable to very-low and low-income households at the time the units were identified for preservation, among other things. For additional information and an Alternative Sites Checklist, see the *Building Blocks* at https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/adequate-sites-alternatives/docs/adequate_site_alt_checklist.pdf.

City Response

See Page 3-48. *The information requested for the 3301 Kerner HomeKey project has been added to Chapter 3. The number of units has been corrected—the project includes 40 extremely low-income units and one manager's unit. The units will be affordable for 55 years and made available as transitional housing for formerly homeless persons.*

HCD Comment 9

Realistic Capacity: While the element provides analysis and assumptions of realistic buildout for sites included in the inventory (pp. 4-14-23), additional information is required to fully address this requirement. Specifically, the element appears to assume residential development on sites with zoning that allow 100 percent nonresidential uses. The element identifies mixed-use sites located within and outside of Downtown San Rafael and notes that these sites represent a substantial opportunity for housing, but it must still account for the likelihood of nonresidential uses. The element should include analysis based on factors such as development trends, performance standards or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

City Response

See Pages 4-36 to 4-31. The City has reorganized the text in Chapter 4 and relocated the discussion of realistic capacity to a new Section 4.8. Data on average densities in recent and proposed projects has been moved to this section. A new section has been added to address the possibility that some of the housing sites could be used for non-residential development. As suggested the Element now analyzes development activities in the non-residential zones during the recent past and determines that most nonresidential development is occurring on sites that would not meet the criteria for housing sites.

HCD Comment 10

Small and Large Sites: Sites larger than ten acres in size or smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. While the element included a few examples about developments on small and large sites (pp. 4-3, 4-15, 4-21), it must also provide specific examples with the densities, affordability, and if applicable, circumstances leading to lot consolidation or subdivision. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. Based on a complete analysis, the City should consider adding or revising Program 38 to include incentives for facilitating development on small and large sites.

City Response

See Pages 4-41 and 4-42 (and P. 6-50 on lot consolidation). A new section on small and large sites has been added to Chapter 4. There are no large sites identified as potential lower income sites. For the small sites identified as potential lower income sites, the text now cites the factors that makes them realistic. In addition, per the comment above Program 38 has been modified to identify two specific Downtown housing sites requiring lot consolidation, including working with property owners to facilitate assembly.

HCD Comment 11

Suitability of Nonvacant Sites: While the element includes an analysis demonstrating the potential for redevelopment of nonvacant sites, including information such as age of structures, low improvement to land value ratios, and expressed developer interest, additional information is required to address this finding. The element should analyze the extent that existing uses may impede additional residential development. For example, the element includes sites with existing anchor supermarkets, religious institutions, and fast-food chain restaurants (Appendix B). To better correlate the potential for converting existing uses to higher density residential development, the element should relate past development trends described on pages 4-16 and 4-19 to the sites identified in the inventory and add or modify programs as necessary to encourage and facilitate residential development on these sites. This is particularly significant considering that several of these sites were included in prior planning cycles.

City Response

See Pages 4-42 to 4-45. The requested information on past development trends has been added, including the percentage of past development on non-vacant sites, and the similarities between the previous uses on recent development sites and the uses on the designated Housing Opportunity Sites. The text also cites the incentives the City has created for development of non-vacant sites, and the specific programs that address potential constraints associated with such sites. The City has also removed the McDonalds restaurant on 4th Street from the sites inventory (it was a carry-over from the Fifth Cycle).

HCD Comment 12

In addition, as noted in the element, the City relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2).). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

City Response

See Page 4-4. The required findings for non-vacant sites have been included in the adopting Resolution.

HCD Comment 13

Accessory Dwelling Units (ADUs): The element projects 200 ADUs to be constructed over the planning period, averaging 25 units per year. This projection was based on annual permit data from 2018-2021 (pp. 4-13). However, Annual Progress Reports submitted by the City indicated building permit figures of 24, 13, 36, and 18 for 2018, 2019, 2020, and 2021, respectively. The element should reconcile these figures and adjust assumptions as appropriate.

City Response

See Page 4-16 (Sites) and Page 5-21 (Constraints). The data in the Housing Element now matches the data reported by HCD and is consistent with the City's own annual progress reports. The City has moved the four-year "look-back" period forward to include data for 2022, when 45 ADUs received building permits. Thus the four-year historic average is now 28 units a year, which exceeds the 25 unit/yr projection included in the Housing Element.

HCD Comment 14

In addition, a cursory review of the City's ordinance by HCD discovered areas which appear to be inconsistent with State ADU Law. As a result, the element should add or modify a program to update the City's ADU ordinance in order to comply with state law. For more information, please consult HCD's ADU Guidebook, updated in July 2022, which provides detailed information on new state requirements surrounding ADU development.

City Response

See Page 6-38. Also, see Page 5-22. Program 26 has been amended to direct the City to work with HCD's ADU team to resolve any issues with the current ordinance and amend the Municipal Code as needed. Recent changes to State law are also now noted on Page 5-22.

HCD Comment 15

Availability of Infrastructure: The element includes some discussion on water and sewer providers in the City but describes some infrastructure limitations including drought and the need for capital improvement projects (pp. 4-36). The element must clarify whether there is sufficient total water and sewer capacity (existing and planned) to accommodate the regional housing need and include programs if necessary.

City Response

See Page 4-49 to 4-51. Also see Page 6-52. The requested information has been added to Chapter 4. There is sufficient water and sewer capacity to meet the regional need. Based on the analysis, we have also edited Program 40 to call for regular coordination with the two sanitary sewer districts as they implement their CIPs.

HCD Comment 16

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

City Response

The City will be completing this task upon adoption of the Housing Element, as required.

HCD Comment 17

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element acknowledged that emergency shelter parking requirements should be updated pursuant to AB 139 (Chapter 335, Statutes of 2019), no corresponding action in Program 4 was found. The element should be revised to demonstrate consistency with AB 139, which requires only sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.

City Response

See Page 6-12. *Program 4 has been amended to revise the parking standards so they are consistent with AB 139.*

HCD Comment 18

In addition, while the element included some discussion on development standards for emergency shelters in the area south of Bellam/east of I-580, it must also include analysis on proximity to transportation and services for these sites, hazardous conditions, and any conditions inappropriate for human habitability. For your information, Chapter 654, Statutes of 2022 (AB 2339), adds additional specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

City Response

See Page 5-28. *The discussion of emergency shelters has been amended to analyze proximity to transportation and services, hazardous conditions, and conditions impacting human habitability in the areas where shelters are permitted by right.*

HCD Comment 19

• *Supportive and Transitional Housing:* The element states that supportive and transitional housing are treated as residential uses subject only to those restrictions that apply to other residential uses of the same type in the same zone (pp. 5-25). Additionally, the element included Table 5.7, listing allowable uses per zoning district. However, this table did not reflect whether transitional and supportive housing are allowed in zones that allow for residential uses (e.g., downtown commercial, community commercial, etc.). The element should reconcile this information and specifically clarify whether the City permits these types of housing as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone pursuant to Government Code section 65583 (a)(5).

City Response

See Page 5-26 and Page 6-3. *The text has been updated to clarify that transitional and supportive housing are allowed in all zones that allow residential uses, subject only to the same restrictions that apply to other residential dwellings of the same type in the same zone. Policy H-1.2 has been amended to clarify this as well.*

HCD Comment 20

Finally, supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with these requirements and include programs as appropriate.

City Response

See Page 5-25 and Page 6-54. Table 5.7 and related text clarifies that “multi-family” is defined in the Muni Code to include transitional and supportive housing. Program 41 (P 6-54) has also been amended to explicitly state that supportive housing is permitted by right where multi-family and mixed uses are permitted. This is also reiterated in Policy H-1.2 (P 6-3), per previous comment.

HCD Comment 21

• *Housing for Agricultural Employees:* The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. To address this, the element references an action to be included in its programs (pg. 5-29) but no such program was found. In addition, 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. For additional information and sample analysis, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/farmworkers>.

City Response

See Page 5-31 and Page 6-56. The discussion of special housing types in Chapter 5, and Program 42 in Chapter 6, have been amended to address this issue.

HCD Comment 22

5. An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)

Land-Use Controls: While the element included discussion of development standards in many residential districts, including the Downtown Precise Plan districts, it must also provide analysis on development standards for the Downtown Station Area Plans.

City Response

See Page 5-5. Chapter 5 has been amended to note that the Station Area Plans were not formally adopted and did not have development standards.

HCD Comment 23

In addition, the element identifies open space and minimum lot coverage requirements for multi-family development in the HR-1 zones as constraints and identifies programs to address these constraints (pp. 5-10; 5-14). However, no corresponding actions were found

in Program 42 (Zoning Text and Map Revisions). Accordingly, Program 42 should be modified to address these constraints.

City Response

See Page 6-56. Program 42 has been amended so that the potential constraints identified in this comment will be mitigated.

HCD Comment 24

Processing and Permit Procedures: The element identified the Planned Development (PD) process for parcels greater than five acres as a constraint on housing and indicates that the City's General Plan contains an action to make the PD process optional for parcels greater than five acres (pp. 5-7). Accordingly, Program 41 (Streamlining of Development Approval) should also be modified to address this constraint.

City Response

See Page 5-8. The text in Chapter 5 has been edited to note that the PD process became optional in August 2021 with the adoption of General Plan 2040. A Municipal Code Amendment is not required.

HCD Comment 25

In addition, the element should address public comments on this revised draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

City Response

See Page 5-48 and 5-49 for analysis, and Page 6-52 and 6-54 for program changes. A new section to Chapter 5 has been added to describe environmental review procedures and resolve this comment. In addition, Program 41 has been amended to note that the City's CEQA procedures will comply with the relevant provisions of the Permit Streamlining Act.

HCD Comment 26

Zoning, Development Standards, and Fees: The element must clarify compliance with new transparency requirements for posting all zoning, development standards, and fees on the City's website and add a program to address these requirements, if necessary.

City Response

See Page 5-39. The requested information has been added to Chapter 5.

HCD Comment 27

On-/Off-Site Improvements: While the element includes a general discussion of on-/off-site improvements (pp. 5-43), it must specifically identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability.

City Response

See Pages 5-48 and 5-49. *The requested information on subdivision-level improvement requirements, including street widths, has been added. Based on input from our development community, these requirements are not potential constraints on housing supply and affordability in San Rafael.*

HCD Comment 28

Constraints on Housing for Persons with Disabilities:

- **Family Definition:** Zoning should implement a barrier-free definition of family. The element must identify and analyze the City's definition of family as a potential constraint on housing for persons with disabilities and include programs as appropriate.

City Response

See Page 5-31 and Page 6-45. *An analysis of the definition of family has been added to Chapter 5. The City has also modified Program 33 (page 6-45) to add a barrier-free definition of family to the Municipal Code.*

HCD Comment 29

- **Group Homes:** The City's Zoning Code appears to isolate and regulate group homes based on the type of population served (Table 5.7). Notably, the element notes that group homes are permitted by-right if serving the "handicapped" and subject to a conditional use permit (CUP) otherwise. Zoning and standards should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations. Zoning code regulations that isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors may pose a constraint on housing choice for persons with disabilities. The element should include specific analysis of these and any other constraints for impacts on housing for persons with disabilities and add or modify programs as appropriate. For more information, please consult HCD's Group Home Technical Advisory Memo <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

City Response

See Page 5-27 (analysis) and Pages 6-45 and 6-46 (programs). *The Chapter 5 edits address the issues raised here. The Chapter 6 edits modify Programs 33 and 34 to address the concerns raised here. Program 34 now includes objective standards for large residential care facilities so that they may be permitted by right.*

HCD Comment 30

Reasonable Accommodation: While the element includes discussion of reasonable accommodation procedures for persons with disabilities (pp. 5-30), additional information is required to address this finding. Specifically, the element must also analyze fees and processing times for requests received.

City Response

See Page 5-32 (analysis) and Page 6-45 (programs). Staff conducted supplemental outreach on this topic and has documented its findings in Chapter 5. In addition, the City has modified Program 33 to eliminate the fee for reasonable accommodation permits.

HCD Comment 31

6. An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)

Permit Approval Times: While the element includes a general description of delays between approval and building permits (pgs. 5-48-49), it must still identify the length of time between receiving approval for a housing development and submittal of an application for building permits. The element must address any hinderance on the development of housing and include programs as appropriate.

City Response

See Pages 5-55 and 5-56 (analysis) and Page 6-58 (programs). This topic is addressed as a nongovernmental constraint in Chapter 5. In response to a meeting with HCD, the City has provided data on the average time between entitlement and permitting, noting that it varies widely depending on project size and type. In addition, the City has added a new Program (Program 44) calling for regular monitoring of entitled projects and outreach to developers. This program also responds to HCD Comment 7.

HCD Comment 32

7. Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).).

The element indicates that the Rafael Town Center (38 assisted units) is at-risk of conversion in the planning period. Therefore, the element must include additional analysis that provides estimates of replacement and preservation costs for at-risk housing.

City Response

See Pages 3-66 to 3-68. Staff conducted follow-up research after receiving this comment and determined that there are no units at risk of conversion. The 2015 Housing Element reported that the BMR units at Rafael Town Center would expire in 2025 and this information had been carried forward in the December 2022 Draft. Staff did supplemental research on the Development Agreement for this project and learned that the BMR term is actually 40 years and does not expire until 2042. Staff has also modified Program 32 (Page 6-42) to work with the non-profit owner of Pilgrim Park, who has already stated their intent to preserve the affordability of units there.

HCD Comment 33

In addition, the element includes Table 3.32 which lists known affordable housing developments. For your information, HCD's records indicate the following projects are also within the City's affordable housing portfolio. The element should verify affordability information for the following projects: Vivalon Healthy Aging Campus (66 assisted units located on 999 3rd Street), Belle Avenue (9 assisted units located on 519 Belle Avenue), 3301 Kerner (44 assisted units located on 3301 Kerner Boulevard), and Marin Housing for the Handicapped (12 assisted units located on 626 Del Ganado Road).

City Response

See Pages 3-66 to 3-68. Staff added 519 Belle Ave text to the Table. The 626 Del Ganado project was already listed and has been confirmed. The Vivalon and Kerner projects are currently under construction and are not yet providing units (this is now noted in the text).

HCD Comment 34

C. Housing Programs

1. Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines and programs should be evaluated to ensure meaningful and specific actions and objectives. As an example, several programs contain timelines for implementation that have since past or are underway and should be updated to reflect current conditions and circumstances. These programs include, but are not limited to, 1 (Housing and Homelessness Division), 2 (Extremely Low-Income Housing Resources), and 8 (Latinx Community Capacity Building and Engagement).

City Response

See Chapter 6. Staff has have updated the timelines to reflect activities since Fall 2002 for the following Programs:

- Program 1 (Housing/Homelessness Division)*

- *Program 2 (Extremely Low-Income Housing)*
- *Program 3 (Funding to Reduce Homelessness)*
- *Program 5 (Public Information and Engagement)*
- *Program 8 (Latinx Community Capacity Building)*
- *Program 9 (Interjurisdictional Housing Activities)*
- *Program 16 (Funding for Affordable Housing)*
- *Program 20 (Precise Plan for North San Rafael)*
- *Program 21 (Precise Plan for Southeast San Rafael)*

HCD Comment 35

Additionally, all programs should be evaluated to ensure meaningful and specific actions and objectives. Programs containing unclear language (e.g., “evaluate”; “consider”; “encourage”; etc.) or vague commitments should be amended to include more specific and measurable actions. These programs include, but are not limited to, 26 (Accessory Dwelling Units), 32 (Housing Resources for Older Adults), 41 (Streamlining of Development Approval), 43 (Revisions to Parking Standards).

City Response

See Chapter 6. *Staff has added more actionable language and/or time commitments to the following programs in response to this comment and subsequent communication with HCD:*

- *Program 26 (ADUs)*
- *Program 28 (Housing on Institutional and Religious Properties)*
- *Program 32 (Housing Resources for Older Adults)*
- *Program 35 (Affordable Housing for Large Families)*
- *Program 39 (Affordable Housing Incentives)*
- *Program 41 (Streamlining of Development Approval)*
- *Program 43 (Revisions to Parking Standards)*

HCD Comment 36

2. Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)

As noted in Finding B4, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

City Response

The comment is resolved by revisions to other comments, as described above.

HCD Comment 37

Publicly-Owned Sites: The element identifies City-owned sites to accommodate a portion of the RHNA. The element must include a program that ensures compliance with the Surplus Lands. The program should include numerical objectives, and provide incentives and actions, along with a schedule, to facilitate development of City-owned sites. Actions could include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing, and financial assistance.

City Response

See Pages 6-31 and 6-32. Staff has modified Program 19 to address this issue. Compliance with Surplus Land Act is specifically addressed in the edited Program. More specific direction has been provided for marketing and developing at least two of the City-owned parking lots (including outreach, RFP, incentives, etc.).

HCD Comment 38

Single-Room Occupancy: The element notes that SROs are not explicitly defined in the City's Zoning Code and notes that a corresponding action should be considered (pp. 5-25-26). As such, the element must include a program to establish appropriate to establish appropriate zoning.

City Response

See Page 6-9. Staff has modified Program 2 to address this issue and establish appropriate zoning for SROs. This is also referenced on Page 5-27.

HCD Comment 39

3. Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)

As noted in Findings B5 and B6, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

City Response

Comment is resolved by revisions to other comments, as described above.

HCD Comment 40

4. Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)

As noted in Finding B1, the element must include a complete analysis of AFFH. Based on the outcome of that analysis, the element must add or modify programs.

Goals, Policies, and Metrics: While the element included significant and meaningful programs to address issues identified in its AFFH analysis, HCD received public comment that identified homelessness as an ongoing concern in the City. Given the City's significant homeless population, the element should include reference to programs that the City is undertaking to address homelessness in Table 6-2 and modify these programs to geographically target actions in areas with high concentration of persons experiencing homelessness as part of the City's place based AFFH strategies.

City Response

See Pages 6-68 and 6-69. The AFFH matrix (Table 6-2) has been amended to address this issue. The matrix identifies place-based initiatives related to homelessness and also cites other place-based initiatives not associated with the Housing Element that advance AFFH goals in the city.

HCD Comment 41

Additionally, HCD also received public comment regarding the need to strengthen Program 11 (Tenant Protection Measures). The element should commit to implementing some or all of these strategies, depending on the outcomes of the City's feasibility evaluation and identify potential funding sources and timelines to secure funding to support some or all of the actions identified by stakeholders in Program 11.

City Response

See Pages 6-22 and 6-23. Program 11 has been modified to address the issues cited here, including taking action on the recommendations following the evaluation, and securing funding to support the actions.

5. The housing program shall preserve for low-income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)

HCD Comment 42

The element includes Program 30 (Preservation of At-Risk Housing) and specifies actions to monitor at-risk units, including contacting property owners within two years of the affordability expiration dates on projects. However, the program should be modified to include noticing requirements within 3 years and 6 months of the affordability expiration dates, in addition to coordinating with qualified entities such as nonprofit organizations and establish time parameters around such actions.

City Response

See Page 6-42. *Program 30 has been modified to add the specific changes requested here.*

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

HCD Comment 43

The element provides a summary of quantified objectives (pp. 6-54). For your consideration, conservation and rehabilitation objectives could be increased by incorporating anticipated outcomes from the following programs: 12 (Periodic Housing Inspection), 15 (Increasing Equity in Home Maintenance), and 29 (Conversion of Residential and Nonresidential).

City Response

See Page 6-59, and also Pages 6-24 and 6-41. *In response to this comment, Staff has identified quantified objectives for Programs 12, 15, and 29. These are included in the text for Programs 12 (P 6-24) and 29 (P 6-41) and also in Table 6-1.*