



**Agenda Item No: 5.a**  
**Meeting Date: May 15, 2023**

**SAN RAFAEL CITY COUNCIL STAFF REPORT**

**Department: Community Development**

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

**TOPIC: SAN RAFAEL 2023-2031 HOUSING ELEMENT AND RELATED GENERAL PLAN AND ZONING AMENDMENTS**

- SUBJECT:**
- 1. RESOLUTION ADOPTING THE 2023-2031 SAN RAFAEL HOUSING ELEMENT AND AMENDING THE SAFETY AND RESILIENCE ELEMENT OF GENERAL PLAN 2040**
  - 2. INTRODUCTION OF AN ORDINANCE AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE ZONING FOR TWO NON-ADDRESSED PARCELS LOCATED IMMEDIATELY NORTH AND EAST OF 86 CULLODEN PARK ROAD FROM PLANNED DISTRICT 1729 (PD 1729) TO LOW-DENSITY RESIDENTIAL 20,000 SQUARE FOOT LOT MINIMUM (R20) (APN 011-051-31 AND APN 011-115-30) (ZC23-001 AND ZC23-002)**
  - 3. INTRODUCTION OF AN ORDINANCE AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE ZONING FOR 380 MERRYDALE ROAD (APN 173-041-22) FROM PLANNED DISTRICT 1436 (PD 1436) TO OFFICE, AND THE ZONING CLASSIFICATION OF 401 MERRYDALE ROAD (APN 179-041-05) FROM LIGHT INDUSTRIAL-OFFICE TO OFFICE (ZC23-003 AND ZC23-004)**

**RECOMMENDATION:**  
Staff recommends that the City Council adopt the attached Resolution, and waive further reading of the Ordinances and refer to it by title only and introduce the Ordinances.

**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 required to update their Housing Elements to cover the 2023-2031 period.

\_\_\_\_\_  
**FOR CITY CLERK ONLY**

**Council Meeting:** \_\_\_\_\_

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

The City of San Rafael began the update process in September 2021 and has engaged the community throughout this process. A Working Draft Housing Element was published on November 4, 2022. That Draft was presented to the Planning Commission on November 15, 2022 and to the City Council on December 5, 2022. Staff incorporated minor revisions at the direction of the City Council and submitted the revised Draft Housing Element to HCD for their initial review on December 20, 2022. HCD provided comments to the City on March 20, 2023. Staff has revised the Draft Housing Element in response to HCD's comments. Staff has worked closely with HCD reviewers during the revision process to ensure that the final draft Housing Element is substantially compliant with State law.

In addition to recommending that the City Council adopt the revised Housing Element, the City Council is being asked to take several other actions as part of this agenda item. The resolution adopting the Housing Element also includes an amendment to the Safety and Resilience Element of General Plan 2040 to add a set of maps related to evacuation planning. Senate Bill (SB) 99 requires that these maps be added to the General Plan concurrently with adoption of the Housing Element. The other action is to amend the San Rafael zoning map for several parcels so that the zoning map conforms to the General Plan 2040 Land Use Map. These zoning map amendments were anticipated in General Plan 2040, which was adopted by the City Council on August 2, 2021.

**BACKGROUND:**

All local governments in California are required to maintain and periodically update a General Plan "Housing Element." The Housing Element establishes the jurisdiction's policies and programs for meeting local housing needs, with an emphasis on the needs of lower- and moderate-income households and persons with special needs. Housing Elements address all aspects of housing, including production, conservation, rehabilitation, and fair housing.

Housing Elements are subject to review and approval by the State Department of Housing and Community Development (HCD). State law requires cities to submit draft Housing Elements to HCD for initial review before they are adopted. HCD issues findings to the jurisdiction following a 90-day review period, indicating what edits to the document will be required before HCD can find that it "substantially complies" with State law. Many cities and towns edit their Elements after receiving the HCD findings, then adopt the Housing Element and submit it for a formal compliance determination.

Cities and counties are required to update their Housing Elements on eight-year cycles. The start and finish dates of these cycles vary by region and are set by the State. In the Bay Area, the upcoming eight-year planning period (referred to as the "6<sup>th</sup> cycle") began on January 31, 2023, and ends on January 31, 2031. All 101 cities and 9 counties in the Bay Area were required to adopt new Housing Elements by January 31, 2023. A number of jurisdictions did not make the January 31 deadline and are adopting their elements during the February to May period. As of May 1, 2023, only 16 Bay Area cities have been found in compliance by HCD. As of the drafting of this staff report only one Marin County jurisdiction has been found in compliance by HCD at this time.

An important factor in determining if a Housing Element is compliant is the jurisdiction's ability to accommodate its "fair share" of the region's housing needs over the eight-year planning period. The "fair share" is determined by the Association of Bay Area of Governments (ABAG) through a process called the "Regional Housing Needs Allocation" or RHNA. ABAG takes the total regional need, which is determined by the State, and assigns a share to each jurisdiction based on factors such as population, employment, access to transit, and growth potential. The regional need for the nine-county Bay Area for the 2023-2031 planning period was determined to be 441,176 units; San Rafael's assignment is 3,220 units, which is less than one percent of the regional total.

The RHNA is further broken down into income categories. San Rafael's assignment includes 857 very low-income units, 492 low-income units, 521 moderate-income units, and 1,350 above moderate-income units. This is more than three times larger than the City's assignment for the 5<sup>th</sup> Cycle (2015-2023) planning period. The City is responsible for identifying the specific sites in the community where this housing can be built, and for zoning these sites in a way that enables their development. The City is not responsible for building the housing itself, but it must demonstrate that its policies and regulations support construction of a diverse range of housing types by private and non-profit developers.

Since the City's prior Housing Element was adopted and certified in 2015, many new State housing laws have been passed. This has resulted in substantive changes to Housing Element requirements. One of the most impactful laws is AB 686, which requires every jurisdiction in California to "Affirmatively Further Fair Housing" (AFFH). This requires extensive data collection and analysis, policies and programs that promote fair housing, inclusive public outreach strategies, and measures to increase housing choices for lower income and special needs households in each community, particularly in "high resource" (or more affluent) communities.

The City initiated the update process in September 2021. Between that time and November 2022, the City completed background data collection and analysis tasks; completed a robust public outreach program; and drafted new goals, policies, and programs. In November 2021, the City Council appointed a 13-member Working Group 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.

There were five study sessions on the Housing Element convened with the Planning Commission between September 2021 and November 2022. There were also four City Council study sessions on the Housing Element, including:

- An August 16, 2021 introduction to the project, setting forth the schedule and work program and providing an initial opportunity for Council discussion.
- An April 4, 2022 study session on the Housing Needs Assessment.
- An August 1, 2022 study session on the Sites Inventory.
- A December 5, 2022 study session on policies and programs, including direction to submit the Working Draft to HCD.

## **ANALYSIS:**

### **HOUSING ELEMENT**

The analysis in this staff report focuses on the changes that have been made to the Housing Element since it was reviewed by the City Council in December 2022. It explains the Resolutions to be considered by the Council, including the various attachments. The analysis does not go into detail on the contents of the Housing Element and its appendices, as this information was reviewed by the City Council on December 5, 2022. Councilmembers are encouraged to review prior Housing Element staff reports for additional analysis and information about the Element's contents. In particular, the December 5, 2022 staff report (focused on policies and programs) may be reviewed [here](#).

**Summary of the Housing Element Adoption and Safety and Resilience Element Amendment Resolution**

The City Council is being asked to vote on a resolution adopting the 2023-2031 Housing Element, inclusive of revisions made in response to the [State of California's March 20, 2023 findings letter](#). The first part of the resolution (the recitals or “whereas” clauses) provide information on California’s housing crisis and the reasons the City is updating its Housing Element. The recitals reiterate key milestones in the Housing Element update process, including public meetings and document publication dates. The recitals also provide the context for amending the Safety and Resilience Element of General Plan 2040, which is addressed in a later section of this staff report.

The second half of the resolution includes a series of findings, which are summarized below.

The first set of findings relate to the conclusion that the General Plan EIR addendum (discussed below) is the appropriate CEQA vehicle for the Housing Element and General Plan Amendments. The rationale for an Addendum is that adoption of the Housing Element and General Plan Amendments would not result in significantly different land uses than are envisioned by the General Plan, nor amplify the impacts evaluated in the General Plan. The Housing Element proposes no changes to the 2040 General Plan Land Use Map adopted in August 2021. The City is able to accommodate its RHNA without amending the Land Use Map. General Plan EIR mitigation measures will continue to apply to all future projects, and environmental review procedures will be followed for individual developments.

The second set of findings relates to the appropriateness of the Housing Element and amended Safety and Resilience Element as policy documents, including their necessity, consistency with the other elements of the San Rafael General Plan 2040, and potential benefits to the community. The benefits of having a compliant Housing Element are noted, including access to grants and funds, protection from litigation and loss of local control over land use decisions, and comprehensive policy and program guidance to address housing issues. The findings also affirm that the Housing Element is consistent with General Plan 2040 (including its population forecasts and land use assumptions) and helps support and further the other goals and policies in the General Plan.

The next set of findings is specifically required by State law for Housing Elements. These relate to the reliance of the Housing Element on “non-vacant sites” for new housing. The City must find that the existing uses on these sites are not an impediment to its ability to meet the RHNA. Any city relying on non-vacant sites to meet more than 50% of its RHNA for lower income units is subject to this requirement. As a mature city with very little vacant private land, San Rafael must rely on non-vacant sites. The City has provided an analysis in Chapter 4 of the Housing Element to demonstrate that its sites are viable. The resolution cites the conclusions of this analysis.

The last set of findings relate to the Housing Element’s “substantial compliance” with State law. These findings reference several exhibits that are attached to the Resolution. The first exhibit (Exhibit “1-A”) is a copy of the March 20, 2023 review letter from HCD. The second exhibit (Exhibit “1-B”) recites every comment in the March 20, 2023 HCD letter and explains how the City has responded to that comment in its revised Housing Element. There are 43 comments in total that are addressed. The third exhibit (Exhibit “1-C”) recites the State Government Code requirements for Housing Elements and explains where each requirement has been met in the document. It is the City’s position, as expressed in Exhibits “1-B” and “1-C”, that the Housing Element now meets the requirements of State law.

In addition to Exhibits 1-A through 1-C, the resolution includes Exhibits “1-D” and “1-E”. Exhibit “1-D” is a tracked change version of the December 20, 2022 Draft Housing Element. It shows every edit to that

document made since December using underlined/strikeout text. Many of the edits are accompanied by a vertical yellow bar in the right-hand margin. The vertical bar indicates the specific HCD comment that is being addressed (as referenced in Exhibit “1-B”). Text edits in red font were made between December 20, 2022 and April 20, 2023 and primarily respond to the March 20 HCD comment letter. Text edits in blue font respond to supplemental comments made by HCD between April 20, 2023 and May 10, 2023.

Exhibit “1-E” is a clean copy of Exhibit “1-D”, with all the changes accepted. It is considered the “Adoption Draft” Housing Element. Exhibits 1-B through 1-E will be submitted to the State once the Housing Element is adopted. Exhibits 1-D and 1-E include the Appendices to the Housing Element, plus the main text. As such, they are lengthy documents.

Staff had three meetings with the City’s HCD reviewer to discuss their comments on the December Draft in February, March, and April 2023. These meetings were helpful and productive. The HCD reviewer was supportive of the City’s efforts and provided positive feedback on the drafts and helpful guidance in responding to the HCD’s comments.

The City completed its revised draft on April 17, 2023. Staff submitted the draft to HCD for an “informal technical review” and HCD provided comments on April 20, 2023. The HCD reviewer indicated that almost all HCD’s findings had been adequately addressed. However, HCD requested the following additional changes to the document prior to City Council adoption:

- Provide an estimate of the number of units in the City needing rehabilitation
- Submit a State checklist with specific data on the 3301 Kerner project
- Update the discussion of emergency shelters to meet the requirements of AB 2339, which became effective on April 1, 2023
- Eliminate the \$967 fee for processing reasonable accommodation requests
- Clarify that supportive housing is treated no differently than other multi-family housing
- Accelerate the timing of those zoning-related actions that comply with state law

Staff subsequently made these edits (shown in blue font in Exhibit 1-D).

The Resolution adopting the Housing Element includes language allowing staff to make supplemental minor changes to the adopted document, in the event that HCD finds that the responses to its April 20 “informal” comments are not entirely sufficient. Staff does not anticipate revisions at a level that would require another City Council hearing or “re-adoption” of the document.

Staff will submit the revised Housing Element to HCD following City Council adoption. Although the State has 60 days to issue its decision letter, the prior “informal” review will qualify San Rafael for expedited review. HCD has indicated the City will receive its determination letter within two weeks after the revised Housing Element is received by the State.

### **Summary of Changes to the Housing Element**

As noted above, Exhibit “1-B” provides a guide to the changes that have been made to the Housing Element. The changes respond directly to HCD’s letter dated March 20, 2023. While HCD had 43 separate comments, they can be broadly summarized as follows:

- Provide additional data in the Needs Assessment (number of cost-burdened lower- income renters, number of housing units in need of rehabilitation, and cost to address expiring subsidies)
- Provide more evidence supporting the viability of the housing opportunity sites, including:

- Evidence that approved and proposed projects will actually be built
- Evidence that mixed use and commercial sites will develop with housing and not with non-residential uses
- Evidence that small sites (less than ½ acre) are viable for housing
- Evidence that non-vacant sites are viable for housing
- Evidence that infrastructure is adequate for housing
- Provide programs that ensure that San Rafael is fully compliant with current Government Code requirements for all housing types (ADUs, group homes, supportive housing, employee housing, SROs)
- Include more actionable and committal language in some of the programs (e.g., “Adopt...”, “Require...”, “Enact...” rather than “Consider...” or “Study...”)

A summary of the changes to Chapters 1-5 and Appendix A is provided below:

- The **Introduction** (Chapter 1) has been updated with information about activities since December 2022.
- The **Evaluation of the Previous Housing Element** (Chapter 2) has been updated to include a dedicated section on housing programs for persons with special needs during 2015-2023.
- The **Needs Assessment** (Chapter 3) includes additional information on cost burdens for lower income renters, and housing condition. It also includes additional information on existing projects with expiring subsidies.
- The **Sites Analysis** (Chapter 4) includes a new section demonstrating that the sites inventory meets State requirements. This section further updates the status of some of the larger “pipeline” development projects to provide assurance to HCD that they will proceed and be ready for occupancy by 2031. This new section discusses:
  - The likelihood that sites where commercial development is permitted will actually develop with housing (or mixed use) rather than with commercial uses. This discussion includes data for Downtown San Rafael and data for other commercial zoning districts where housing is permitted.
  - The viability of small sites (less than 0.5 acres) for housing based on data for recent projects.
  - The feasibility that non-vacant sites will develop with housing in the next eight years, including examples of where non-vacant sites in San Rafael have been redeveloped with housing in the recent past.
  - Additional information on the availability of water and sewer to serve the housing sites
  - Chapter 4 also includes updated information on ADUs.
- The **Constraints Analysis** (Chapter 5) includes additional information on access to services in the areas where emergency shelter is allowed, zoning requirements for group homes, supportive housing, zoning requirements for employee housing (which includes farmworker housing), clarification of the intent of the 2012/2013 Station Area Plans, clarification of requirements for planned development districts, additional analysis of CEQA requirements, demonstration of compliance with Government Code 65940.1(a)(1), additional discussion of subdivision standards, an analysis of the definition of family, and additional information on the reasonable accommodation process. It also includes additional text on the length of time between project entitlement and the submittal of application for building permits.

- The **Fair Housing Analysis** (Appendix A) now includes a list of state and federal fair housing programs and laws with which the City complies.

The most substantive changes are to the Housing Programs, which are contained in Chapter 6. The following list provides a summary:

- Policy H-1.2 clarifies that the City complies with State law regarding supportive housing.
- Programs 1, 2, 8, 9, 16, 20, and 21 have been updated to note the City's progress since these programs were initially drafted in Fall 2022.
- Program 2 has also been expanded to include objective standards for SRO units.
- Program 4 clarifies that the City will update its parking standards for emergency shelter to be consistent with new State law.
- Program 11 has been strengthened to indicate the City will take appropriate actions based on the findings of its evaluation of potential tenant protection measures.
- Program 19 has been expanded to indicate the City will comply with the Surplus Lands Act, and to add quantified objectives and more specificity regarding how the City will support housing development on City-owned downtown parking lots.
- Program 26 has been updated to indicate that the City will work with HCD to ensure that its ADU requirements remain consistent with State law, as these requirements change regularly in response to new legislation. This program also now uses more actionable language.
- Program 28 now provides greater specificity on when the City will reach out to churches to encourage on-site housing production.
- Program 30 has been amended to note that the City will protect housing units with affordability restrictions that may expire by 2031 and will enforce noticing requirements for tenants facing displacement as required by State law.
- Program 32 (implementation of age-friendly measures) now uses more actionable language.
- Program 33 provides direction to add a barrier-free definition of family to the Zoning Code and eliminate the fee for reasonable accommodation requests.
- Program 34 now includes objective standards for large residential care facilities.
- Program 35 has been amended to use more actionable language (HCD objected to the previous direction to "consider" incentives for large family housing).
- Program 38 now includes more specific guidance on where to focus lot consolidation.
- Program 39: the third bullet has been amended to indicate the timing of the activity.

- Program 40 has been amended to coordinate capital improvement programming with local sewer districts.
- Program 41 has been amended to reference the determination of CEQA compliance within 30 days, consistent with State law.
- Program 42 has been amended to modify the private open space standards in the MR district, increase lot coverage limits in the HR-1 district, and require that employee housing is treated the same as other housing types.
- Program 43 regarding changes to parking standards has been amended to be consistent with recently adopted State law.
- A new program has been added to work with developers following project entitlement to monitor their progress toward permitting and construction and identify any steps the City can take to address constraints or obstacles.

## **SAFETY AND RESILIENCE ELEMENT**

The resolution adopting the 2023-2031 Housing Element also adopts certain amendments to the General Plan 2040 Safety and Resilience Element. These amendments are attached to the resolution as Exhibit “1-F.” Upon City Council approval of the Resolution, they will become part of General Plan 2040.

In August 2021, San Rafael adopted General Plan 2040. The Plan includes 13 topical “elements”, including a State-mandated Safety and Resilience Element. The purpose of the Safety and Resilience Element is to include safety considerations in the decision-making process for future development. The Element aims to reduce personal injury and loss of life, prevent property destruction, and reduce environmental damage throughout the community. The City also has a Local Hazard Mitigation Plan (LHMP), a federally-required document that includes greater detail about how the City will reduce exposure to environmental hazards. Among the hazards covered by the Safety and Resilience Element and the LHMP are earthquakes, landslides, wildfires, flooding, and sea level rise. These documents also address emergency preparedness and disaster recovery.

In 2020, the State approved Senate Bill 99 (SB 99). SB 99 required that all General Plan Safety Elements identify “residential developments” in “hazard areas” that do not have at least two emergency evacuation routes. The State further requires that local governments comply with this requirement “upon the next revision of the Housing Element.” Thus, adoption of the 2023-2031 Housing Element triggers the requirement to add a General Plan map showing areas with potential evacuation constraints.

It is up to each jurisdiction to define what constitutes a “hazard area” and to set a threshold for determining when an area has evacuation constraints. While the State has not provided guidance for how to incorporate the maps into local policies or planning decisions, the City anticipates that additional policy and program guidance will occur through the City/County Local Hazard Mitigation Plan Update, which is currently underway.

San Rafael has defined “hazard areas” to include all properties within the Wildland-Urban Interface (WUI) boundary, all properties in the General Plan Sea Level Rise Overlay Zone, all properties in the 100-year flood plain, all properties with “high” liquefaction susceptibility, and all properties noted by the US Geological Survey as having “many landslides.” Most parcels in the city are affected by one or more of



these hazards. San Rafael has defined “constrained residential developments” as being areas with at least 30 parcels with only one means of ingress and egress. This metric has been used by many other jurisdictions to meet SB 99 requirements.

The Safety and Resilience Element text amendments (Exhibit 1-F) describe SB 99 and reference the new appendix. A new policy and program have been added to utilize the maps in emergency preparedness planning, and as a tool for informing local land use, development, and transportation planning decisions. Four maps have been developed as part of the SB 99 compliance process. These are included in a new appendix to General Plan 2040 (Appendix K). In addition to the map of constrained residential development, Appendix K also includes a composite map showing the “Hazard Areas”, a map showing all public streets in San Rafael classified by pavement width, and a map showing evacuation routes (from the County’s Zonehaven program). Adoption of these maps will ensure the City is compliant with SB99.

## **ZONING MAP AMENDMENTS**

In 2021, the City adopted General Plan 2040. The General Plan included Map changes which resulted in several parcels now having zoning designations that do not match their General Plan designations. The City is amending the Zoning Map in two locations to make it consistent with the General Plan Land Use Map. Two ordinances are appended to this staff report, each associated with a different location.

### **86 Culloden Park Road**

86 Culloden Park is a single-family residence located at the end of Culloden Park Road in the Fairhills neighborhood. The address covers four contiguous parcels with one property owner. With the adoption of General Plan 2040, all four of the parcels have a General Plan land use designation of “Low Density Residential.” However, the current zoning is split, with two of the parcels zoned R20 (20,000 square foot minimum lot size) and two of the parcels zoned PD 1729. The PD zoning is a legacy of when the Academy Heights subdivision (Live Oak Way, the former rock quarry) was created in 2001. APNs 011-051-31 and 011-115-30 were sold to the owner of 86 Culloden by the developer but retained their PD zoning. The two parcels are 0.692 acres and 0.111 acres respectively. The proposed map change would rezone the entire property to R20, which is consistent with the Low Density Residential General Plan land use designation.

The first of the two attached Ordinances includes a map of the four parcels, showing “before” and “after” conditions.

### **380/401 Merrydale**

380 Merrydale and 401 Merrydale are two parcels adjacent to the Civic Center SMART station. Both are developed with mini-storage facilities. 380 Merrydale (APN 179-041-22) is a 1.81-acre site occupied by Public Storage. It is currently zoned Planned Development (PD). 401 Merrydale (APN 011-041-05) is a 0.90-acre site occupied by Northgate Security Storage. It is currently zoned Light Industrial/Office.

Both properties have a General Plan designation of “Office.” The proposed zoning for the two parcels is “Office”, which would make the zoning consistent with the General Plan land use designation and implement General Plan 2040. The Office district permits high-density residential uses as well as office uses, making these parcels suitable as Housing Opportunity Sites. Thus, these sites have been included in the San Rafael 2023-2031 Housing Element as potential locations for multi-family residential development up to 43.5 units per acre. The sites also provide an opportunity to affirmatively further fair

housing by creating multi-family housing opportunities in a higher-resource neighborhood. In addition to multi-family housing and office uses, the Office zoning district also allows a range of other commercial uses, providing flexibility for the property owners. The existing mini-storage facilities will become legal non-conforming uses upon the rezoning and may continue operating as they do today.

These parcels were initially identified as development opportunities in the Civic Center Station Area Plan (2013). General Plan 2040 further acknowledged their potential, given that each site is immediately adjacent to the SMART station. The designation of both sites was changed from “Light Industrial/Office” to “Office” through the General Plan Update. The change was consistent with the General Plan’s emphasis on transit-oriented development and its goal of creating higher density housing opportunities at the City’s two SMART stations. This is a programmatic change and there are no development proposals on either of these sites.

The second of the two attached Ordinances includes a map of the subject parcels, showing “before” and “after” conditions.

**PLANNING COMMISSION FEEDBACK:**

As noted above, the Planning Commission convened a public hearing on the Draft Housing Element, Safety and Resilience Element amendments, and Zoning Map changes on April 25, 2023. Specific questions were raised regarding the intent of the Culloden Park rezoning, and why zoning map changes were being considered concurrently with Housing Element adoption. The Commission asked staff to elaborate on the supplemental changes requested by HCD, and whether it was unusual for cities to rely on non-vacant sites for new housing.

There were two speakers at the meeting, one expressing strong support for additional affordable housing and another expressing concerns about development impacts, height, access, and compatibility in the Merrydale area. In their deliberations, the Commission expressed their support for the documents and adopted four resolutions recommending Council adoption of all proposed changes. The Commission made no changes to the documents or resolutions but expressed an interest in follow-up discussions on metrics to measure the success of housing programs as well as incentives for housing production.

**CORRESPONDENCE:**

As of May 9, 2023, no correspondence has been received for this item. However, several emails and letters were submitted prior to the April 25, 2023 Planning Commission hearing, and those are included as Attachment 4 to this staff report.

**COMMUNITY OUTREACH:**

The May 15 City Council public hearing was advertised in the Marin Independent Journal and also publicized with a notice to stakeholders, agencies, and special interest groups. The City’s Housing Element email list includes approximately 1,100 addresses, with each address receiving notification of the availability of the Housing Element and the related public meetings. Post card notices were mailed to the owners of the parcels being rezoned and all properties within 300 feet of each of the parcels being rezoned.

The Housing Element itself is the product of an intensive public outreach program that included three community workshops, eight Working Group meetings, eight briefings to Planning Commission and City Council, a resident survey, a developer forum, focus groups, interviews, a youth/school program, and presentations to multiple neighborhood groups and community-based organizations.

**ENVIRONMENTAL REVIEW:**

The 2023-2031 Housing Element and Safety and Resilience Element Update amend a previously approved project covered by the previously certified San Rafael General Plan 2040 & Downtown Precise Plan Environmental Impact Report (SCH No. 2019039167) (General Plan EIR). The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date a project is fully implemented, the project may change.

In this instance, the project amends the 2040 San Rafael General Plan, which is covered by the EIR certified on August 2, 2021. Consistent with CEQA, an Addendum to the General Plan EIR has been prepared to evaluate the impacts of the amendment. An Addendum to the General Plan EIR was determined to be the most appropriate method of CEQA documentation, as the proposed updates to the Housing Element and Safety and Resilience Element do not change land use designations, affect buildout potential, or extend development beyond the boundaries analyzed in the General Plan EIR. The Housing Element is focused on affirmatively furthering fair housing, programmatic measures to comply with State laws, and removing obstacles to development in the city. The Safety and Resilience Element amendments consist of the addition of informational maps and do not change City policies.

The Addendum found that there are no substantial changes which would require major revisions to the certified General Plan EIR due to new significant environmental effects or a substantial increase in the severity of significant effects identified in the certified General Plan EIR. It does not identify any new information which might require additional environmental review pursuant to Section 21666 of CEQA and Section 15162 of the State CEQA Guidelines; the Addendum is included as Attachment 1-G to the Housing Element Resolution.

**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 Housing Element 2023-2031 adoption could have fiscal impacts by identifying programs requiring funding. Other Housing Element 2023-2031 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 and potentially vulnerable to lawsuits and fines. The other components of the project, including the amendments to the Safety and Resilience Element and the two zoning map changes, would not have fiscal impacts.

**RECOMMENDED ACTION:**

Staff recommends that the City Council adopt the attached Resolution, and waive further reading of the Ordinances and refer to it by title only and introduce the Ordinances.

**ATTACHMENTS:**

1. Resolution Adopting the 2023-2031 Housing Element and General Plan 2040 Safety and Resilience Element Amendments, including the following exhibits:
  - Exhibit 1-A: HCD Findings Letter (March 20, 2023)
  - Exhibit 1-B: Demonstration that the City has responded to all HCD comments
  - Exhibit 1-C: Demonstration that the City has met all Government Code requirements
  - Exhibit 1-D: [Tracked Change San Rafael 2023-2031 Working Draft Housing Element Showing All Proposed Changes](#) [hyperlink]
  - Exhibit 1-E: [Adoption Draft \("clean"\) Housing Element](#) [hyperlink]
  - Exhibit 1-F: Amendments to the Safety and Resilience Amendments, including text and new Appendix K (Evacuation Planning Maps)

Exhibit 1-G: [Addendum to the General Plan 2040 EIR](#) (hyperlink)

2. Ordinance Rezoning APNs 011-051-31 and 011-115-30 (adjacent to 86 Culloden Park)
3. Ordinance Rezoning APNs 179-041-22 and 179-041-05 (380 and 401 Merrydale)
4. Correspondence received as of May 9, 2023 (includes Planning Commission correspondence)

## RESOLUTION

### RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING THE SAN RAFAEL 2023-2031 HOUSING ELEMENT AND AMENDING THE SAFETY AND RESILIENCE ELEMENT OF GENERAL PLAN 2040

**WHEREAS**, the California legislature has found that “California has a housing supply and affordability crisis of historic proportions” and further that “the consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives” (Gov. Code Section 65589.5); and

**WHEREAS**, the legislature has further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration” (Gov. Code Section 65589.5); and

**WHEREAS**, the legislature adopted the Housing Crisis Act of 2019 (SB 330) which states that “California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years”; and

**WHEREAS**, State Housing Element Law (Government Code Sections 65580, *et seq.*) requires that the City of San Rafael adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City’s regional housing need allocation (RHNA) of 3,220 housing units, comprised of 857 very-low-income units, 492 low-income units, 521 moderate-income units, and 1,350 above moderate-income units; and

**WHEREAS**, to comply with State Housing Element Law, the City of San Rafael has prepared the San Rafael 2023-2031 Housing Element (the Housing Element); and

**WHEREAS**, as provided in Government Code Section 65350, *et seq.*, the Housing Element constitutes an amendment to the San Rafael 2040 General Plan; and

**WHEREAS**, as provided in Government Code Sections 65352 – 65352.5 for general plan amendments, the City contacted California Native American tribes on the contact list provided by the Native American Heritage Commission and informed them of the opportunity for consultation under AB 52 and SB 18; and no requests for consultation were received; and

**WHEREAS**, the City has prepared the Housing Element in accordance with State Housing Element Law; and

**WHEREAS**, State law requires that the City take meaningful steps to promote and affirmatively further fair housing (Gov. Code Section 65583(c)(5)); and

**WHEREAS**, State law requires that the City make zoning available for all types of housing, including multifamily housing (Gov. Code Sections 65583.2 and 65583(c)); and

**WHEREAS**, the preparation, adoption, and implementation of the Housing Element and related General Plan Amendments, and zoning ordinance and map amendments requires a diligent effort to include all economic segments of the community; and

**WHEREAS**, the City conducted an extensive community outreach program between September 2021 and March 2023, including a noticing list with over 1,100 email addresses, a dedicated website landing page, flyers and postcards preceding project-related events; community workshops in November 2021, July 2022, and August 2022; including Spanish and Vietnamese translation; meetings and interviews with housing and tenant advocacy organization; and presentations to major civic groups and organizations; and

**WHEREAS**, the City Council created a 13-member Working Group to guide the Housing Element Update process and that Group met eight times between December 2021 and August 2022, providing substantive guidance used to shape new housing policies and programs; and

**WHEREAS**, the Planning Commission convened public meetings specifically focused on the Housing Element on September 28, 2021; February 15, 2022; June 28, 2022; July 13, 2022; and November 15, 2022 and received public input on housing issues at each meeting; and

**WHEREAS**, the San Rafael City Council was briefed on the Housing Element at meetings on August 16, 2021; November 1, 2021; April 4, 2022; and August 1, 2022; and approved submittal of the Working Draft Housing Element for initial HCD review at its regular meeting on December 5, 2022; and provided opportunities for public input on housing issues at each meeting; and

**WHEREAS**, the outreach and engagement program for the Housing Element was particularly focused on populations with the most significant unmet housing needs, including non-English speaking residents, persons with disabilities, and lower income households, including coordination with the community-based organizations representing these populations; and

**WHEREAS**, the outreach and engagement program also involved housing providers, including developers and the local business community, in order to most effectively address and remove constraints to housing preservation and development; and

**WHEREAS**, outreach efforts were coordinated with ongoing City initiatives to be a more equitable and inclusive community; and

**WHEREAS**, public input was considered and incorporated in the policy and program recommendations, and provided local knowledge that was essential in documenting existing conditions and issues; and

**WHEREAS**, staff published a Working Draft Housing Element on November 4, 2022, circulated that Draft for public review for 30 days, convened a Planning Commission meeting on the Draft on November 15, 2022, received written and oral comments throughout the 30 days, and presented the Draft to the City Council on December 5, 2022, including public comment; and

**WHEREAS**, on December 5, 2022, the City Council recommended submittal of the Working Draft to the State Department of Housing and Community Development (HCD) for their initial review; and

**WHEREAS**, the City allowed 10 business days following the December 5 meeting to revise the HCD Draft and incorporated public comment, in accordance with Government Code Section 65585 (b), and submitted the Draft Housing Element to HCD on December 20, 2022; and

**WHEREAS**, City staff convened two meetings with HCD during the 90-day review period to discuss HCD's initial observations and comments on the Working Draft, so that the City was positioned to respond to HCD's comments more rapidly upon receipt of the Findings letter; and

**WHEREAS**, on March 20, 2023, the City received a letter from HCD providing its findings regarding the Draft Housing Element (Exhibit "1-A"). The findings stated that while the Draft Housing Element addressed many statutory requirements, revisions would be necessary to comply with State Housing Element Law; and

**WHEREAS**, the City systematically analyzed HCD's findings and segmented their findings letter into numbered comments requiring a response or revision (Exhibit "1-B"); and

**WHEREAS**, the City responded to each numbered item in the findings letter and revised the Housing Element so that it now substantially complies with all State Housing Element Law requirements (Exhibit "1-C"); and

**WHEREAS**, the City produced a "tracked change" version (Exhibit "1-D") of the HCD Draft Housing Element identifying all the edits and changes, and a "clean version," (Exhibit "1-E") referred to as the "Adoption Draft", and published that Draft to the City's website on April 20, 2023; and

**WHEREAS**, the City submitted its "tracked change" document to HCD for an informal technical review prior to presenting it to the Planning Commission and City Council, and received direction to make further modifications to several sections, and subsequently made those modifications;

**WHEREAS**, the City notified all interested parties of the availability of the "Adoption Draft," the opportunity to provide comments, and the dates of upcoming public hearings; and

**WHEREAS**, the State adopted Senate Bill 99 (SB 99) in 2019, requiring specific amendments to the Safety and Resilience Element to be adopted concurrently with the next update to the Housing Element. These amendments require each jurisdiction to identify existing residential developments in hazard areas that do not have at least two emergency evacuation routes; and

**WHEREAS**, the City of San Rafael has prepared the maps required under SB 99 as well as supplemental text for the Safety and Resilience Element to summarize the implications of the mapped data for land use and emergency preparedness planning; and

**WHEREAS**, no other amendments to the San Rafael General Plan have been deemed necessary to maintain internal consistency with the Draft Housing Element and proposed changes to the Safety and Resilience Element; and

**WHEREAS**, on August 2, 2021, the City Council certified the General Plan 2040 and Downtown Precise Plan (General Plan 2040) Environmental Impact Report (SCH No. 2019039167) (“Certified EIR”) and adopted General Plan 2040 (“Approved Project”). The Housing Element 2023-2031 update and amendments to the Safety and Resilience Element modify the Approved Project (General Plan 2040) and together constitute the “Modified Project”; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City has prepared an Addendum to the Certified EIR which includes an analysis of the provisions of Section 21166 of CEQA and Section 15162 of the State CEQA Guidelines and their applicability to the Modified Project. Said Addendum is on file with the San Rafael Community Development Department; and

**WHEREAS**, the Addendum concludes that the Modified Project does not result in a change to the impacts evaluated in the Certified EIR for housing, population and growth, transportation, air quality, noise, biological resources, or other environmental categories; does not result in any actions by the City that would result in any new growth potential than what was evaluated in the Certified EIR; and does not result in a new impact or a substantial increase in magnitude of the existing impacts evaluated in the Certified EIR; and

**WHEREAS**, the Addendum does not identify any substantial changes to the Approved Project, or substantial changes with respect to the circumstances under which the Modified Project is undertaken, which would require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of significant effects identified in the Certified EIR, and does not identify any new information which might require additional environmental review pursuant to Section 21666 of CEQA and Section 15162 of the State CEQA Guidelines; and

**WHEREAS**, on April 25, 2023, the Planning Commission convened a public hearing and adopted a resolution recommending that the City Council find that the 2023-2031 Housing Element and Safety and Resilience Element Amendments were completed in compliance with CEQA and that the City Council adopt the Housing Element and the amendments to the Safety and Resilience Element as presented; and

**WHEREAS**, the City provided the legally required notice of the May 15, 2023 City Council meeting in the Marin Independent Journal; and

**WHEREAS**, the City Council conducted a duly and properly noticed public hearing on May 15, 2023 to take public testimony and consider this Resolution, reviewed the Housing Element and revised Safety and Resilience Element; all pertinent maps, documents and exhibits, including HCD’s findings, the City’s response to HCD’s findings, the staff report and all attachments, and oral and written public comments; and



**WHEREAS**, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department:

**NOW, THEREFORE, BE IT RESOLVED**, that the San Rafael City Council makes the following findings based on substantial evidence in the record:

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. The project has been completed in compliance with the California Environmental Quality Act (CEQA) as described above and an Addendum has been prepared. The Addendum, which is attached herewith as Exhibit 1-G, adequately documents that none of the conditions requiring a subsequent or supplemental EIR are required for consideration of the Modified Project, including but not limited to the provisions of Section 21666 of CEQA and Section 15162 of the State CEQA Guidelines, and that use of the Addendum is appropriate pursuant to Section 15164 of the State CEQA Guidelines.
3. The public interest would be served by the adoption of the 2023-2031 Housing Element in that the action would comply with State Housing Element Law, maintain the City's eligibility for grants and other funding sources contingent on having a certified Housing Element, protect the City from fines, penalties, and increased risk of litigation associated with having a non-compliant Housing Element, and support the City's efforts to maintain local control over local land use decisions, which could be jeopardized in the absence of a certified Housing Element. Second, adoption of the Housing Element would provide a comprehensive set of programs to address Housing Needs. This includes programs to end and prevent homelessness; combat housing discrimination, eliminate racial bias, and undo historic patterns of segregation; ensure housing habitability and maintenance; and meet housing needs by providing a range of housing choices and affordability levels throughout the city.

California's housing crisis has resulted in limited housing opportunities for the San Rafael workforce, leading to excessive commuting, air quality deterioration, and greenhouse gas emissions that make it more difficult to achieve the goals of the San Rafael General Plan. Moreover, the needs assessment for the Housing Element found that there are limited housing options available for residents with low and very low-incomes, that housing opportunities are not equally distributed across the city, and that older adults, persons with disabilities, students, immigrants, single parents, and other groups are living in housing that does not meet their needs. This has led to high cost burdens among many households, particularly for lower-income households. The lack of housing for low- and moderate-income households makes it more difficult to achieve the state mandate to affirmatively further fair housing in each community and perpetuates housing inequity at the local and regional levels. Adoption of the Housing Element serves an urgent community need while supporting San Rafael's goal of being a more complete and inclusive community that accommodates households of all sizes, backgrounds, and income levels.

5. The public interest also would be served by the adoption of the revisions to the Safety and Resilience Element in that the action would comply with State law, alert emergency services personnel to locations with constrained access, provide a foundation for emergency response planning to address the needs of these areas, inform future land use policies for constrained parcel clusters, and provide a benchmark for capital improvements and other provisions to improve access to these areas.
6. Adoption of the 2023-2031 Housing Element and Safety and Resilience Element amendments would be consistent with, and would not conflict with, the other elements of the San Rafael General Plan 2040, including the goals, policies, and programs contained therein.
  - a. The 2023-2031 Housing Element supports the guiding principles of San Rafael General Plan 2040, which include conserving and modernizing the city's housing stock, building more housing, increasing housing choices for the local workforce, meeting special needs, encouraging aging in community, improving housing affordability, and treating all residents fairly. The Housing Element further supports other General Plan principles, including ending homelessness, reducing income inequality, promoting a thriving downtown, and living more sustainably.
  - b. The 2023-2031 Housing Element is consistent with the land use, mobility, neighborhoods, community design, economic vitality, community services and infrastructure, and safety and resilience goals expressed in the San Rafael General Plan 2040. It further advances the goals articulated in the Equity, Diversity, and Inclusion Element, including Goal EDI-3 to improve housing stability for all San Rafael residents. Likewise, the Safety and Resilience Element amendments reinforce the other elements of the General Plan by improving emergency preparedness and aligning land use, housing, transportation and open space policies with hazards and evacuation capacity.
  - c. The 2023-2031 Housing Element accommodates San Rafael's RHNA without requiring changes to the General Plan Land Use Map, modifications to density ranges, or Downtown Precise Plan.
  - d. The 2023-2031 Housing Element carries forward much of the policy and program framework from the 2015-2023 Housing Element, while making important additions that will remove constraints to housing production, respond to current needs and issues, and affirmatively further fair housing in all parts of the city.
  - e. The Housing Element, as presented, conforms with best practices in planning and public policy and follows the guidance provided by the State Department of Housing and Community Development. The Element provides essential policy guidance on housing issues in San Rafael, includes measurable targets for production and conservation, identifies specific timelines for implementation, and indicates the parties responsible for carrying out each action. Annual reporting requirements ensure will help ensure accountability.

7. The City Council makes the following specific findings for Non-Vacant Sites, as required by State law.
  - a. Section 65583.2(g)(2) of the California Government Code requires any jurisdiction relying on non-vacant sites to meet more than 50 percent of the RHNA for lower-income households to make findings that the existing uses on the non-vacant sites are not impediments to residential development during the planning period. The findings must be made on substantial evidence that the existing uses are likely to be discontinued during the planning period. HCD has defined non-vacant sites very broadly, including parking lots, utility yards, and sites with vacant buildings.
  - b. Because San Rafael is a mature city with limited potential for annexation, it has a limited supply of vacant land. Most of the undeveloped land in the city is publicly owned and has been designated as permanent open space. Most of the privately-owned vacant land in the city is constrained by poor access, steep slopes, and natural hazards. These sites are not well situated for lower income housing, which requires relatively high-densities and proximity to services and public transportation. As a result, approximately 92 percent of the lower income capacity identified in this Housing Element is associated with sites meeting HCD's definition of "non-vacant."
  - c. Based on substantial evidence in the record, the City has found that existing uses on the non-vacant sites listed in the site inventory are likely to be discontinued during the planning period and therefore do not constitute an impediment to planned residential development during the planning period. The substantial evidence is provided in Chapter 4 and Appendix B of the Housing Element and includes the following:
    - i. The City has created incentives for higher-density residential uses on non-vacant sites. This includes the elimination of density and floor area ratio (FAR) limits on all Downtown sites, and the automatic granting of a 10- to 20-foot height bonus for affordable housing and other housing projects meeting the city's inclusionary zoning requirements. Outside of Downtown, residential uses are not counted toward in the FAR allowance, creating incentives to develop residential uses on commercial sites and develop mixed use projects rather than projects that are entirely commercial.
    - ii. The City has provided more capacity for lower income housing than is required by the RHNA, consistent with State law and "buffer" requirements. This provides additional flexibility in the event some of the non-vacant sites become unavailable during the planning period.
    - iii. Most of the lower-income housing recently developed in San Rafael has been on non-vacant sites. The 32-unit Homeward Bound project at 190 Mill Street was developed on the site of a former shelter. The 67-unit Vivalon affordable senior project was formerly a PG&E facility. The 44-unit HomeKey project at 3301 Kerner is a converted office building.

- iv. Most of the approved and proposed multi-family development in San Rafael is on non-vacant sites. Approved residential projects on non-vacant sites include 703 Third Street, 1010 Northgate Drive (Northgate Walk), 88 Vivian Street, 1515 Fourth Street, and 350 Merrydale. Proposed residential projects on non-vacant sites include Northgate Town Square and 420 Fourth Street.
  - v. The estimated housing yields used in the Housing Element are conservative, especially for Downtown sites and multi-family/mixed use sites. Recently proposed projects typically have exceeded the number of units allowed by zoning due to density bonuses, suggesting that the actual number of units developed on opportunity sites will exceed the figures used in the Housing Element.
  - vi. The City's zoning regulations strongly support multi-family residential and mixed use development on commercially zoned properties. Market trends favor residential uses over office and retail uses in these areas, given high post-pandemic office vacancy rates and the depressed demand for brick-and-mortar retail. The City is developing objective design and development standards to support ministerial approval of affordable housing projects on these sites, creating additional incentives for residential use.
  - vii. The City has analyzed the potential for housing on non-vacant commercial sites based on a consistent set of metrics, such as the ratio of assessed improvement value to land value, the square footage of existing floor area relative to what is permitted by zoning, the age and condition of structures, and the size and shape of each parcel. Non-vacant housing sites have been systematically identified based on these metrics.
  - viii. The City has included Table 4.4 in the Housing Element, stating the rationale for including each non-vacant site outside of Downtown that is included in the inventory. The City has also included Table 4.5 in the Housing Element, stating the rationale for including each non-vacant site (with the capacity to generate at least 30 units) within the Downtown area. In both tables, the City has presented evidence that the site is viable for multi-family residential uses.
8. As required by Government Code Section 65585, the City Council has considered the findings made by the Department of Housing and Community Development (HCD) included in HCD's letter to San Rafael dated March 20, 2023. The City revised the "Draft Housing Element" transmitted to HCD on December 20, 2022, to address each of the findings in the HCD letter. The Housing Element now substantially complies with all requirements of State Housing Element Law as interpreted by HCD. The revisions, and the manner in which they address the HCD comment, have been listed in Exhibit "1-B" to this Resolution, which is incorporated herein by reference. The City has also prepared Exhibit "1-C" which identifies the Housing

Element page on which each requirement of the Housing Element Law is addressed.

9. The City has prepared a “tracked change” version of the December 20, 2022, document submitted to HCD to identify the edits made in response to the HCD’s findings. This is Exhibit “1-D” to this Resolution and is incorporated herein by reference.
10. The City has prepared a “clean” version of the Housing Element (“Adoption Draft”) that accepts all changes shown in the tracked change document. This is Exhibit “1-E” to this Resolution and is incorporated herein by reference.
11. The City has prepared text amendments to the Safety and Resilience Element, and added Appendix K to General Plan 2040, in order to meet the requirements of SB99. The text amendments and Appendix are attached as Exhibit “1-F” to this Resolution and are incorporated herein by reference.

Based on the findings above, the San Rafael City Council:

1. Adopts the first General Plan 2040 EIR Addendum, attached herewith as Exhibit “1-G”, together with the previously Certified EIR. This action occurs prior to and as part of making the decision to approve the Modified Project
2. Repeals the 2015-2023 Housing Element in its entirety.
3. Adopts the Adoption Draft Housing Element in substantially the form attached hereto as Exhibit “1-E”.
4. Authorizes the Community Development Director to submit Exhibits “1-B” through “1-E” to HCD, with a request for a compliance determination.
5. Authorizes the Community Development Director to make any non-substantive changes to the Housing Element that may be required by HCD to achieve certification or that may be necessary to ensure internal consistency with other planning documents.
6. Authorizes the Community Development Director to distribute copies of the Housing Element in the manner provided in Government Code Sections 65357 (requiring that copies be provided to specific public entities and persons submitting comments) and 65589.7 (requiring that copies be submitted to water and sewer service providers).

**BE IT FURTHER RESOLVED**, that any documents attached by hyperlink to this resolution will be edited as necessary following adoption to incorporate the final approved documents, included related addenda,

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of San Rafael held on May 15<sup>th</sup>, 2023 by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**Lindsay Lara, City Clerk**

Exhibits:

- 1-A. March 20, 2023 letter from HCD to City of San Rafael
- 1-B. City Responses to HCD letter
- 1-C. Demonstration of Compliance with Government Code
- 1-D. [2023-2031 Housing Element Tracked Change Edition](#) (hyperlink)
- 1-E. [2023-2031 Housing Element Adoption Draft \("clean copy"\)](#) (hyperlink)
- 1-F. Amendments to the Safety and Resilience Element
- 1-G. [Addendum 1 to San Rafael General Plan 2040 EIR](#) (hyperlink)

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



March 20, 2023

Alicia Giudice, Director  
Community Development Division  
City of San Rafael  
1400 Fifth Avenue, Top Floor  
San Rafael, CA 94901

Dear Alicia Guidice:

**RE: City of San Rafael's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element (Update)**

Thank you for submitting the City of San Rafael's (City) draft housing element update received for review on December 20, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by telephone conversations on February 15, 2023 and March 9, 2023 with you, Alexis Captanian, Liz Darby, and Barry Miller. In addition, HCD considered comments from Canal Alliance, Community Action Marin, Legal Aid of Marin, TransForm, YIMBY Law/Greenbelt Alliance, Kevin Bruke, David Kellogg, and Jenny Silva pursuant to Government Code section 65585, subdivision (c).

The draft housing element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1),

subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at:

<https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the diligent efforts and outstanding dedication your team provided in the preparation of the City's housing element. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Chelsea Lee, of our staff, at [Chelsea.Lee@hcd.ca.gov](mailto:Chelsea.Lee@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy  
Proactive Housing Accountability Chief

Enclosure



## APPENDIX CITY OF SAN RAFAEL

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

### **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).

### **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](https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf).

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).

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).

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.

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. 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).

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](https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/adequate-sites-alternatives/docs/adequate_site_alt_checklist.pdf).

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.

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.

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.

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.

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. 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.

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.

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](mailto: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](mailto:sitesinventory@hcd.ca.gov).

#### 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. 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>.

- *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). 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.
  - *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>.
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. 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.

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. 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.

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.

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.

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.
- *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>.



- *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.

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.

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. 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 3<sup>rd</sup> 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).

## **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). 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).

- 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:

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.

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.

- 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.

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. 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.

5. *The housing program shall preserve for low-income household 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).)*

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.

#### **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).)*

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).

## **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](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](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. At HCD's request, the City also added Appendix "D" (the Alternative Sites checklist).*

## 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 4-41. 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 4<sup>th</sup> 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](mailto: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](mailto: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 and 5-29.** 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. Compliance with AB 2339 is also addressed here, and Program 4 has been changed to require a future zoning amendment that allows emergency shelter on additional sites where residential uses are allowed (per AB 2339).

**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, 5-26, 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 5-38 and 5-39 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 5-40.** *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 5-49 and 5-50. 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 5-32 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 5-33 and 34 (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.*

## Exhibit 1-C:

### Conformance of Housing Element with State Law Requirements, Article 10.6 [65580 – 65589.11]

**Note: All page number references are to the “clean” Adoption Draft version of the Housing Element published on April 20, 2023. Provisions labelled N/A are either not applicable to San Rafael or do not require a reference.**

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
<b>Section 65583</b>	
The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.	Chapter 3 (Needs Assessment) Chapter 6 (Goals, policies, quantified objectives, programs)
The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community.	Chapter 4 (Sites Inventory)
The element shall contain all of the following:	N/A
(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:	Chapter 3 (Needs Assessment) Chapter 4 (Resources) Chapter 5 (Constraints)
(a)(1) An analysis of population and employment trends and documentation of projections	Sec 3.2.1 to 3.2.4 (population trends) Sec 3.2.5 (employment trends) Sec 3.6 (projections)
(a)(1) A quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.	Sec 3.6.2 (existing and projected needs for all income levels) Page 3-21 to 3-33 (Extremely Low Income Household needs) Page 3-71 (projected need for extremely low)

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
(a)(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay,	Sec 3.3 (Household Trends) Sec 3.3.4 (Household Tenure) Sec 3.3.6 (Cost burden)
(a)(2) housing characteristics, including overcrowding, and	Sec 3.5 (Housing characteristics) Sec 3.3.7 (Overcrowding)
(a)(2) housing stock condition.	Sec 3.5.4
(a)(3) 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, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to affirmatively further fair housing. <b>Note: Please see Section 65583.2 regarding the land inventory.</b>	Chapter 4 (Sites Inventory) Sec 4.9.2 (relation to Public Facilities and Services) Sec 4.9.3 and Appendix A, page A-116 (Contribution to AFFH)
<b>[Note that AB 2339 (Chapter 654, Statutes of 2022) amended Section 65583(a)(4). It does not apply to ABAG-area housing elements unless the first draft of the housing element is submitted to ABAG after January 31, 2023 or a draft is submitted after April 1, 2023. Therefore the sections below include the statutory provisions of Section 65583(a)(4) effective in 2022. Jurisdictions adopting their housing element after January 31, 2023 should describe why AB 2339 is not applicable to them.]</b>	N/A. The first Draft was submitted before Jan 31, 2023. Also, the City has already adopted objective standards for emergency shelter.
(a)(4)(A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter.	Page 5-27 to 5-30
(a)(4)(A) If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit.	N/A
(a)(4)(A) The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters.	Page 5-27 to 5-30 (objective standards are listed)

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
<p>(a)(4)(A) Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:</p> <ul style="list-style-type: none"> <li>(i) The maximum number of beds or persons permitted to be served nightly by the facility.</li> <li>(ii) 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.</li> <li>(iii) The size and location of exterior and interior onsite waiting and client intake areas.</li> <li>(iv) The provision of onsite management.</li> <li>(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.</li> <li>(vi) The length of stay.</li> <li>(vii) Lighting.</li> <li>(viii) Security during hours that the emergency shelter is in operation.</li> </ul>	<p>Page 5-27 to 5-30</p>
<p>(a)(4)(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).</p>	<p>N/A</p>
<p>(a)(4)(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.</p>	<p>N/A</p>
<p>(a)(4)(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.</p>	<p>Page 5-27 to 5-30 Program 42 further addresses Low Barrier Navigation Centers</p>

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(a)(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 <b>[Note: The types of housing identified in Section 65583(c)(1) include multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.]</b>	Sec. 5.2.8
(a)(5) for persons with disabilities as identified in the analysis pursuant to paragraph (7),	Sec 5.2.9
(a)(5) including land use controls,	Sec 5.2.8
(a)(5) building codes and their enforcement,	Sec 5.2.10
(a)(5) site improvements,	Sec 5.2.14
(a)(5) fees and other exactions required of developers,	Sec 5.2.13
(a)(5) local processing and permit procedures,	Sec 5.2.11
(a)(5) and any locally adopted ordinances that directly impact the cost and supply of residential development.	Sec 5.2.6 (Affordable Housing Ord.)
(a)(5) The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584	Sec. 5.2.12 Chapter 6, programs 24, 25, 26, 27, 28, 36, 37, 38, 39, 40, 41, 42, 43
(a)(5) and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).	Sec 2.3 Chapter 6, programs 1, 2, 3, 4, 32, 33, 34, 35
(a)(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing,	Sec 5.3
(a)(6) the price of land,	Sec 5.3.1
(a)(6) the cost of construction,	Sec 5.3.1
(a)(6) the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2,	Sec 5.3.4
(a)(6) 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 Section 65584.	Sec 5.3.4
(a)(6) The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.	Chapter 6, programs 3, 9, 15, 16, 18, 36, 38, 39, 41, 44

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(a)(7) An analysis of any special housing needs, such as those of the	Sec 3.4
(a)(7) elderly;	Sec 3.4.1
(a)(7) persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code;	Sec 3.4.2
(a)(7) large families;	Sec 3.4.3
(a)(7) farmworkers;	Sec 3.4.5
(a)(7) families with female heads of households;	Sec 3.4.4
(a)(7) and families and persons in need of emergency shelter.	Sec 3.4.6
(a)(7) The need for emergency shelter shall be assessed based on the capacity necessary to accommodate the most recent homeless point-in-time count conducted before the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions.	Page 3-42 to 3-45
(a)(7) The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.	N/A
(a)(7) An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.	N/A
(a)(8) An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.	Sec 4.10
(a)(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that	Sec 3.5.10



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were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65915.	
(a)(9)(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.	Sec 3.5.10
(a)(9)(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.	N/A (no at risk units)
(a)(9)(C) The analysis shall identify public and private nonprofit corporations known to the local government that have legal and managerial capacity to acquire and manage these housing developments.	Sec 4.11 (P 4-59)
(a)(9)(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs that can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program that have not been legally obligated for other purposes and that could be available for use in preserving assisted housing developments.	Sec 4.11
(b) (1) A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing.	Chapter 6

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(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.	Page 6-59 (Table 6-1)
(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that 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	Chapter 6 (all programs)
(c) through the administration of land use and development controls,	Chapter 6: programs 17, 20, 21, 24, 25, 26, 27, 28, 38, 39, 42, 43
(c) the provision of regulatory concessions and incentives,	Chapter 6: programs 24, 36, 39, 41
(c) the utilization of appropriate federal and state financing and subsidy programs when available,	Chapter 6: program 3, 9, 15, 16, 18
(c) and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code).	Chapter 6: program 16
In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:	N/A
(c)(1) 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 Section 65584.09.	Chapter 6: programs 4, 20, 21, 23, 24, 28, 29, 38, 39, 42
(c)(1) Sites shall be identified as needed to affirmatively further fair housing	Sec 4.9.3 and Appendix A, page A-116 (Contribution to AFFH)
(c)(1) and to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing,	P 5-10 to 5-15 (multi-family) Sec 5.2.8 Table 5.7
(c)(1) factory-built housing,	Page 5-24 (manufactured housing)
(c)(1) mobilehomes,	Page 5-24 (mobile homes)

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(c)(1) housing for agricultural employees,	Page 5-30
(c)(1) supportive housing,	Page 5-25
(c)(1) single-room occupancy units,	Page 5-27
(c)(1) emergency shelters,	Page 5-27 to 5-30
(c)(1) and transitional housing.	Page 5-25
(c)(1)(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with this article within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element.	Current zoning provides adequate capacity to meet RHNA for all income levels.
(c)(1)(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2. Note: Please see Section 65583.2 regarding the land inventory and conformance with subdivision (h).	N/A. The inventory identifies adequate sites to meet the RHNA for all income groups.
(c)(1)(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.	N/A. The inventory identifies adequate sites to meet the need for farmworker housing. Program 42 is included to treat employee housing the same as other housing types in each zone.
(c)(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.	Chapter 6 (all programs)

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(c)(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	Governmental: Chapter 6, programs 24, 25, 26, 27, 29, 37, 38, 39, 42, 43 Non-Governmental: Chapter 6, programs 16, 18, 23, 37, 40, 44
(c)(3) 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.	Chapter 6: programs 5, 33, 34
(c)(3) Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.	Chapter 6: Policy H-1.2 (p 6-3)
(c)(3) Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).	Chapter 6: Policy H-1.2 (p 6-3)
(c)(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.	Chapter 6: Program 11 (also Programs 12 and 13)
(c)(5) 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.	Appendix A Also see Table 6-2 (Chapter 6)
(c)(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a).	Chapter 6, Program 30
(c)(6) 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.	Chapter 6, Programs 16, 30
(c)(6) The program may include strategies that involve local regulation and technical assistance.	Chapter 6, Programs 6A, 6E, 6G
(c)(7) Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling	Chapter 6, Program 26

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unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2.	
(c)(8) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.	Chapter 6. A responsible agency is listed for each of the 44 programs. Program 22 addresses the APR, which covers General Plan consistency.
(c)(9) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.	Page 1-9 to 1-16, Appendix C
(c)(10)(A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:	Appendix A
(c)(10)(A)(i) A summary of fair housing issues in the jurisdiction	Appendix A, Section C
(c)(10)(A)(i) and an assessment of the jurisdiction’s fair housing enforcement and fair housing outreach capacity.	Appendix A, Page A-6 (enforcement) and Page A-11 (outreach)
(c)(10)(A)(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends,	Appendix A, Section D
(c)(10)(A)(ii)racially or ethnically concentrated areas of poverty and affluence,	Appendix A, Section E1 and E2
(c)(10)(A)(ii) disparities in access to opportunity,	Appendix A, Section F
(c)(10)(A)(ii) and disproportionate housing needs,	Appendix A, Section G
(c)(10)(A)(ii) including displacement risk.	Appendix A, Section G4
(c)(10)(A)(ii) The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction.	This is addressed throughout Appendix A, with maps of San Rafael and the region for several variables
(c)(10)(A)(ii) and comparing the jurisdiction to the region in which it is located, based on race 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) and Section 65008.	See comment above
(c)(10)(A)(iii) An assessment of the contributing factors, including the local and regional historical origins	Appendix A, Section H and Section J
(c)(10)(A)(iii) and current policies and practices, for the fair housing issues identified under clauses (i) and (ii).	Appendix A, Section C5
(c)(10)(A)(iv) An identification of the jurisdiction’s fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance,	Appendix A, Section J. Also Chapter 6, Table 6-2
(c)(10)(A)(iv) and identifying the metrics and milestones for determining what fair housing results will be achieved.	Table 6-2

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(c)(10)(A)(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies	See Chapter 6, programs supporting housing mobility are specifically listed in Table 6-2
(c)(10)(A)(v) and encouraging development of new affordable housing in areas of opportunity,	See Chapter 6, programs supporting new affordable housing in areas of opportunity are specifically listed in Table 6-2
(c)(10)(A)(v) as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing,	See Chapter 6, programs supporting place-based strategies are specifically listed in Table 6-2
(c)(10)(A)(v) and protecting existing residents from displacement.	See Chapter 6, programs to prevent displacement are specifically listed in Table 6-2
(c)(10)(B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect before August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.	N/A
(c)(10)(C) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.	N/A
(d)(1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.	N/A
(d)(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit toward its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.	N/A
(d)(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:	N/A
(d)(3)(A) How the joint facility will meet the jurisdiction's emergency shelter need.	N/A

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<p>(d)(3)(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.</p> <p>(d)(3)(C) The amount and source of the funding that the jurisdiction contributes to the facility.</p>	
<p>(d)(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.</p>	N/A.
<p>(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following: <b>[Note that this provision is applicable to AB 2339 (Chapter 654, Statutes of 2022), which amended Section 65583(a)(4). Jurisdictions adopting their housing element after January 1, 2023 should describe why this amendment is not applicable to them.]</b></p>	N/A. City's standards comply with AB 2339.
<p>(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.</p>	N/A
<p>(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.</p>	N/A
<p>(f) – (j): Not applicable</p>	N/A
<b>Section 65583.1(a)</b>	
<p>(a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, ... may also allow a city or county to identify sites for accessory dwelling units based on the number of accessory dwelling units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department.</p>	Sec 4.6
<p>(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No</p>	N/A (no military base in San Rafael)

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sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.	
<b>Note: If communities are using the provisions of Section 65583.1(c), which allow RHNA credit for conversion of non-affordable to affordable housing and for preservation of existing affordable housing at risk of loss, the applicable provisions need to be added to this table.</b>	N/A. Provision is not being used
<b>Section 65583.2</b>	
(a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583,	Chapter 4 (maps included); Appendix B
(a) that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following sites that meet the standards set forth in subdivisions (c) and (g):	Chapter 4 and Appendix B
(a)(1) Vacant sites zoned for residential use.	Sec 4.7.2 and 4.7.3, Appendix B
(a)(2) Vacant sites zoned for nonresidential use that allows residential development.	Sec 4.7.4 and 4.7.5
(a)(3) Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a city, county, or city and county	Sec. 4.7.3
(a)(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.	Sites zoned for nonresidential use that can be redeveloped for residential use are addressed in Sections 4.7.4 to 4.7.6 and in Appendix B. Housing is allowed on all sites listed.
(b) The inventory of land shall include all of the following:	N/A
(b)(1) A listing of properties by assessor parcel number.	Appendix B
(b)(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.	Appendix B
(b)(3) For nonvacant sites, a description of the existing use of each property.	Appendix B, spreadsheets D, E, and F. Also, Tables 4.4 and 4.5
(b)(3) If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.	Chapter 6, Program 19



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(b)(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.	Sec 4.9.1
(b)(5)(A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.	Sec 4.9.2
(b)(5)(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.	All parcels have water, sewer, and dry utilities. See also Program 40 (Water and Sewer Priority)
(b)(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.	N/A. All areas served by sewer.
(b)(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.	Figures 4-1 (A through E)
(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing.	Appendix B. Spreadsheets C through F
(c) A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent	Program 41, Clause D (By right development on carry over sites)

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of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right.	
(c) Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with state law within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning pursuant to this subdivision shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element.	N/A, The City has sufficient zoning in place to meet its RHNA.
(c) The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing,	Chapter 4 (most sites are zoned to accommodate 30 units per acre or more)
(c) factory-built housing, mobilehomes,	Page 5-24
(c) housing for agricultural employees, supportive housing,	Page 5-30, Page 6-56
(c) single-room occupancy units,	Page 5-27, Page 6-9
(c) emergency shelters, and	Page 5-27 to 30, plus Chapter 6, Programs 2 and 4
(c) transitional housing	Page 5-26, Policy H-1.2, Program 41
(c) and whether the inventory affirmatively furthers fair housing.	Page A-116
(c) The city or county shall determine the number of housing units that can be accommodated on each site as follows:	Section 4.3
(c)(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.	See Appendix B. Capacity estimates are provided and explained for each site in the inventory.
(c)(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583,	Section 4.3 and Section 4.8: See "realistic capacity" discussions. Also, Appendix B includes "theoretical" and "realistic" capacity columns
(c)(2) the realistic development capacity for the site,	Appendix B (see above)
(c)(2) typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction,	Section 4.8
(c)(2) and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.	Sec 4.9.2, also Appendix B

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
(c)(2)(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.	Sec 4.8.2, "large and small sites"
(c)(2)(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing.	Sec 4.8.2, "large and small sites"
(c)(2)(B) For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.	Appendix B Also, Figure 4-1, Sheets 1-5
(c)(2)(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.	Appendix B, Spreadsheets A and B
(c)(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:	Chapter 4
(c)(3)(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.	N/A. San Rafael is using approach (B) below: default density is 30 DU/Ac
(c)(3)(B) The following densities shall be deemed appropriate to accommodate housing for lower income households: (i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre. (ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units/ ac. (iii) For a suburban jurisdiction: sites allowing at least 20 units per acre. (iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.	Sites identified as lower income sites allow at least 30 units per acre.
(4)(A) For a metropolitan jurisdiction:	N/A

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
(4)(A)(i) At least 25 percent of the jurisdiction's share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing, but not more than 100 units per acre of housing.	Appendix B. The moderate-income sites meet this criteria.
(4)(A)(ii) At least 25 percent of the jurisdiction's share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.	Appendix B. The above moderate income housing sites meet this criteria.
(B) The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following: (i) Deny a project that does not comply with the allocation. (ii) Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law. (iii) The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.	Nothing in the San Rafael 2023-2031 Housing Element conflicts with this requirement.
(C) This paragraph does not apply to an unincorporated area.	N/A
(D) For purposes of this paragraph:	N/A
(i) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.	N/A
(ii) "Unit of housing" does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Section 65852.2 or Section 65852.22 or through a local ordinance or other provision implementing either of those sections. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.	Appendix B. The potential for ADUs is not counted in determining the yield of the housing opportunity sites and is calculated separately at Sec 4.6. Chapter 6, Program 26 addresses ADU monitoring and surveys.
(E) Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.	N/A
(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the	N/A. Marin County is classified as a suburban county

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.	
(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.	N/A
(2)(A)(i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.	This applies to Marin County, but San Rafael is using the higher default density standard applicable to metropolitan counties.
(2)(A)(ii) A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low income households.	N/A
(2)(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.	San Rafael documents its progress in its Annual Progress Report.
(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.	See earlier comments.

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
(g)(1) For sites described in paragraph (3) of subdivision (b) [non-vacant sites], the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential.	Appendix B, spreadsheets C through E, also Sec 4.3, 4.7, and 4.8
(g)(1) The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development,	Sec 4.3 and 4.8.3
(g)(1) the city's or county's past experience with converting existing uses to higher density residential development,	Sec 4.8.3
(g)(1) the current market demand for the existing use,	Sec 4.8.3 and Appendix B, spreadsheets C through E
(g)(1) an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development,	Same as above
(g)(1) development trends,	Same as above
(g)(1) market conditions,	Same as above
(g)(1) and regulatory or other incentives or standards to encourage additional residential development on these sites.	Same as above. See also Chapter 6, Programs 19, 20, 21, 24, 28, 38, 39, 41, 42, 43
(g)(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.	Sec 4.2.5 and 4.8.3. Findings included in adoption Resolution.
(g)(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.	See Chapter 6, Program 11 (p 6-22)

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period.	N/A. The City has provided adequate sites to meet the RHNA.
(h) These sites shall be zoned with minimum density and development standards that permit at least	A rezoning program is not required, but most of the sites are subject to minimum density requirements.
(h) 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c),	See note above. Housing sites have the capacity to provide 16 units per site at a density of at least 16 DUA.
(h) shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c)	N/A
(h) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b).	See note above
(h) At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.	100% residential is allowed on all of the housing sites
(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act.	See note above; CUP and/or PUD permit not required for residential. Program included to eliminate AUP requirement and use objective standards in certain commercial zones.
(i) A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.	The Housing Element is not inconsistent with this requirement

GOVERNMENT CODE PROVISION	HOUSING ELEMENT COMPLIANCE
(i) Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.	N/A. The San Rafael Municipal Code (zoning) treats rental and owner-occupied multifamily housing the same.
(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marín Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.	N/A



## Exhibit 1-D:

[Tracked Change San Rafael 2023-2031 Working Draft Housing Element Showing All Proposed Changes](#)

<https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2023/05/FullSanRafaelHousingElement-Tracked-051023.pdf>

## Exhibit 1-E:

[Adoption Draft \("clean"\) Housing Element](#)

<https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2023/05/FullSanRafaelHousingElement-clean-051023.pdf>

## EXHIBIT 1-F:

# AMENDMENTS TO GENERAL PLAN 2040 SAFETY AND RESILIENCE ELEMENT

The text below has been excerpted from General Plan 2040, which was adopted on August 2, 2021. The text in black is already part of the adopted General Plan. The red, underlined text is being added to General Plan 2040 to meet the requirements of SB 99. Further amendments may be made when an updated Local Hazard Mitigation Plan is adopted.

## Emergency Preparedness

### Goal S-6: Emergency Preparedness

Improve disaster preparedness, resiliency, response, and recovery.

*The City should enhance public outreach, awareness, education, and preparedness for all hazards to minimize losses.*

Emergency preparedness is an essential part of being a more resilient city. The City of San Rafael administers programs to help residents prepare for disasters and ensure that the City itself can effectively respond to—and recover from—natural and human-caused disasters. These programs begin with basic preventive measures such as vegetation management around homes, seismic reinforcement of older structures, and flood proofing of vulnerable infrastructure. They also include community emergency response training, drills and exercises, and education about how to stay safe when disaster strikes. It is also critical to have plans in place for evacuation, shelter, food, medical care, counseling, and other needs that occur during and after an emergency.

Most of San Rafael's emergency preparedness programs are administered through the Fire Department and the City's Office of Emergency Services. The City has an Emergency Preparedness Plan, which aims to prepare both the City and its residents for possible emergencies. San Rafael also works collaboratively with the Marin County Sheriff's Office and County Office of Emergency Services, which coordinates the activities of local jurisdictions and operates a countywide Emergency Operations Center (EOC) during a major emergency or disaster.

The City has prepared General Plan Appendix "K" to facilitate emergency preparedness planning. Appendix K meets the requirements of Senate Bill 99 (SB99), which requires cities to include maps showing neighborhoods in hazard-prone areas with only one means of ingress and egress. The map identifies "constrained parcel groups" in San Rafael where evacuation may require additional strategic planning. Appendix K also shows evacuation routes identified through the County's Zonehaven program, as well as streets with narrow road widths.





### **Policy S-6.1: Disaster Preparedness Planning**

Conduct disaster prevention and preparedness planning in cooperation with other public agencies and public interest organizations.

**Program S-6.1A: Mutual Aid Agreements.** Continue, and where feasible expand, mutual aid agreements that augment public safety personnel in times of emergency.

**Program S-6.1B: Standardized Emergency Management System (SEMS).** Maintain a SEMS-based emergency plan that provides direction and identifies responsibilities after a disaster. Continue to train all City employees and officials in SEMS procedures.

**Program S-6.1C: Emergency Preparedness Plan.** Update and publicize the City's emergency preparedness plan in conformance with State guidelines, including information on evacuation routes and shelter locations. The City's Emergency Operations Center Handbook also should be updated.

**Program S-6.1D: Urban Search and Rescue Techniques.** Continue to ensure that Urban Search and Rescue techniques remain current. Provide opportunities for trained volunteers to participate as appropriate.

### **Policy S-6.2: Neighborhood Disaster Preparedness Programs**

Encourage educational outreach to promote awareness and readiness among residents regarding disaster preparedness. Outreach and education should be targeted for each hazard type and risk area, including climate-related incidents. Community involvement is an essential part of resilience and recovery, and residents play an important role in disaster response.

**Program S-6.2A: Educational and Training Programs.** Support educational and training programs through the Police and Fire Departments and community-based organizations. These Programs include Community Emergency Response Teams (CERT), Citizens Police Academy, Neighborhood Response Groups (NRGs), and Voluntary Organizations Active in Disaster (VOAD) among others. Neighborhood teams should supplement City resources during emergency situations and can assist in disaster preparedness and mitigation efforts.

**Program S-6.2B: Neighborhood Disaster Plans.** Provide technical assistance as needed to develop and update neighborhood disaster plans.

**Program S-6.2C: Website Improvements.** Regularly update the Fire Department's website and social media presence to provide information on disaster preparedness, resources, and links to other sites. Include printed information in City publications such as the Recreation Activities guide.

**Program S-6.2D: Outreach to Vulnerable Populations.** Identify vulnerable populations (such as non-English speaking residents, frail older adults, young children, and persons with disabilities) that may need assistance in times of disaster. Develop outreach programs that are geared toward these populations, including multi-lingual communications.

**Program S-6.2E: Disaster Management Drills.** Conduct emergency response drills to test the effectiveness of local procedures, including evacuation and emergency shelter drills in neighborhoods prone to flooding and wildfire.

See also Policies EDI-2.10 and EDI-6.5 on increasing resilience among disadvantaged communities and older adults. See Program EV-1.10A on the role of the business community in emergency preparedness.

### **Policy S-6.3: Improving Evacuation Capacity**

Improve local evacuation capacity by identifying and improving escape routes for areas with unique hazards or at-risk populations and identifying safe assembly locations for evacuees.

**Program S-6.3A: Evacuation-Related Capital Projects.** Identify key capital improvements needed to facilitate the orderly evacuation of at-risk areas and the ability of designated assembly points to handle evacuees.

**Program S-6.3B: SB99 and AB747 Compliance.** Utilize the maps in General Plan Appendix "K" to inform evacuation planning and emergency preparedness efforts. The maps identify hazard-prone areas, neighborhoods with only one means of ingress and egress, areas with narrow street widths, and local evacuation routes. As part of the Local Hazard Mitigation Plan (LHMP) update, pursue multi-jurisdictional analysis of evacuation under different scenarios, as required by AB 747. Incorporate the findings into updated emergency preparedness plans.

### **Policy S-6.4: Emergency Operations Centers**

Maintain a centralized Emergency Operation Center to coordinate emergency responses to emergencies, complemented by other locations in the city that provide for emergency evacuation and service delivery following a major disaster.

**Program S-6.4A: Evacuation Shelters.** Identify locations of evacuation shelters and provide the necessary training and supplies so that these centers can function effectively during and after a disaster. This should include refuge centers for extreme heat events, power failures, and air quality emergencies.





### **Policy S-6.5: Post-Disaster Recovery Planning**

Incorporate post-disaster recovery planning in the City's emergency management programs. Recovery planning should include measures to mitigate the potential for further damage.

***Program S-6.5A: Essential Services Following Disasters.*** Make provisions to continue essential emergency public services during and after natural disasters and other catastrophes.

***Program S-6.5B: Employee Transportation.*** To ensure adequate safety personnel in an emergency, explore ways to transport first responders from outlying areas when damaged infrastructure prevents them from driving to San Rafael.

***Program S-6.5C: Incentives for Disaster Response and Essential Worker Personnel.*** Support state legislation and City initiatives that would provide incentives for staff with roles in disaster response to live in San Rafael, so they may be readily available if a disaster should occur.

***Program S-6.5D: Rapid Reconstruction Ordinances.*** Explore model ordinances and best practices to facilitate rapid reconstruction and recovery, including issues such as temporary housing and modular construction. Reconstruction should achieve code compliance, while advancing green building practices where feasible.





## CERT Training

One of the most important emergency preparedness resources for residents is the Community Emergency Response Team (CERT) Program. CERT is sponsored by the San Rafael Fire Department and includes a training program that familiarizes residents with the basics. Participants learn to:

- Size up the situation in their immediate area
- Reduce immediate dangers by turning off utilities, suppressing small fires, and evacuating hazardous areas
- Performing immediate medical triage and basic treatment of injuries
- Assessing structural integrity and performing light search and rescue
- Collecting and recording vital information to professional responders on damage, victims, and resources needed
- Providing leadership to untrained volunteers.

The City encourages all residents to participate in CERT training. A steering committee provides ongoing guidance and assists in specific projects, events, and meetings.

## Policy S-6.6: Effective Communication Systems

Ensure that all City agencies with a role in emergency response are provided with effective, reliable and robust emergency communications systems and equipment. The systems and equipment should have adequate capacity and redundancy to ensure these agencies can accomplish their missions.

Consideration should also be given to the communications needs of the County of Marin and other agencies that may be required to supply mutual aid to or from other jurisdictions.

***Program S-6.6A: Involvement with Marin Emergency Radio Authority. Maintain active involvement with Marin Emergency Radio Authority (MERA) and pursue installation and activation of the MERA radio system.***

**Program S-6.6B: Emergency Alert Systems.** Use emergency alerts, electronic message boards, and other notification systems to warn resident of an active threat such as a flood or wildfire. The use of emergency warning sirens and other types of mass notification alerts also should be considered.

### **Policy S-6.7: Emergency Connectors**

Pursue the development of road connections for emergency vehicles only to improve access within San Rafael and between San Rafael and adjacent communities.

**Program S-6.7A: Emergency Connectors.** Maintain the following existing access routes for emergency vehicles:

- a) the existing connection between Freitas Parkway and Fawn Drive.
- b) the all-weather connections between Freitas and Fawn and between Ridgewood and Fawn.
- c) The connection between Del Ganado and Butterfield Road in Sleepy Hollow.
- d) The private portion of Sienna Way in the Dominican area.
- e) The access drive between Peacock and Biscayne.

Consider the need for additional emergency connectors, including the costs, effectiveness, impacts, and potential to use such routes for evacuation in the event of a wildfire.

**Program S-6.7B: Obstruction of Evacuation Routes.** Reduce obstacles for emergency vehicles and evacuation routes, including parked cars that constrict emergency vehicle passage.

**Program S-6.7C: SMART Crossing.** Work with SMART to explore the feasibility of an emergency vehicle rail and pedestrian/bicycle crossing at Merrydale Drive (see also Policy NH-4.10).

See the Mobility Element for policies to limit constriction of emergency access routes in future road design.

### **Policy S-6.8: Design of Public Safety Facilities and Utilities**

Ensure that public safety facilities, critical utilities, and telecommunication facilities are designed and constructed to deliver necessary services with minimal interruption in times of disaster.

**Program S-6.9A: Facility Evaluations.** Regularly evaluate the need to upgrade essential public safety facilities, equipment, and technology, and identify funding mechanisms to meet these needs.

**Program S-6.9B: Energy Storage Plan.** Develop an Energy Storage Plan, including microgrids and expanded battery capacity, to improve reliability of the power system following a major disaster (see also Policy CSI-4.13 on energy reliability).

### **Policy S-6.9: Use of Technology**

Leverage new technologies to reduce losses and save lives following a disaster. Implement improvements such as traffic signal pre-emption for first responders to facilitate response and recovery time.



# APPENDIX K

## SB 99 Evacuation Planning Maps

### SB 99 Requirement

Senate Bill 99 (SB99) was signed by the Governor on August 30, 2019. The bill required each city and county, upon the next revision of its housing element, to update the safety element of its general plan to identify residential developments in hazard areas that do not have at least 2 emergency evacuation routes. San Rafael adopted its updated Housing Element for 2023-2031 in May 2023. Accordingly, the City added this Appendix to the General Plan 2040 along with a program in the Safety Element to use this data in emergency preparedness planning.

Four maps have been prepared. An overview of these maps is provided below.

### Composite Hazard Areas

Figure K-1 shows composite natural hazards in the San Rafael Planning Area. Different colors are used to display a variety of hazard types, including the Wildland Urban Interface area (WUI), the 100-year flood plain (Flood Insurance Rate Maps), the Sea Level Rise overlay (a General Plan land use designation), areas with high landslide risks, and areas with high liquefaction hazard levels. Collectively, these areas comprise most of San Rafael. The five hazards listed here were merged into a single “layer” that is used in Figure K-2 to identify “hazard areas” as required by SB 99.

### Constrained Parcel Clusters

SB99 requires the City to identify residential areas with less than two emergency evacuation routes. The State Office of Planning and Research has not published thresholds for defining “residential areas.” Based on best practices in other cities, the City used a threshold of 30 parcels (or 30 dwelling units) to identify these areas. In other words, individual cul-de-sacs and dead-end streets were not included on the map if they served fewer than 30 units. Designated evacuation routes also were excluded. The map primarily shows subdivisions in San Rafael’s hillside neighborhoods where more than 30 homes must rely on a single local street to access the nearest evacuation route. These areas are shown on Figure K-2.

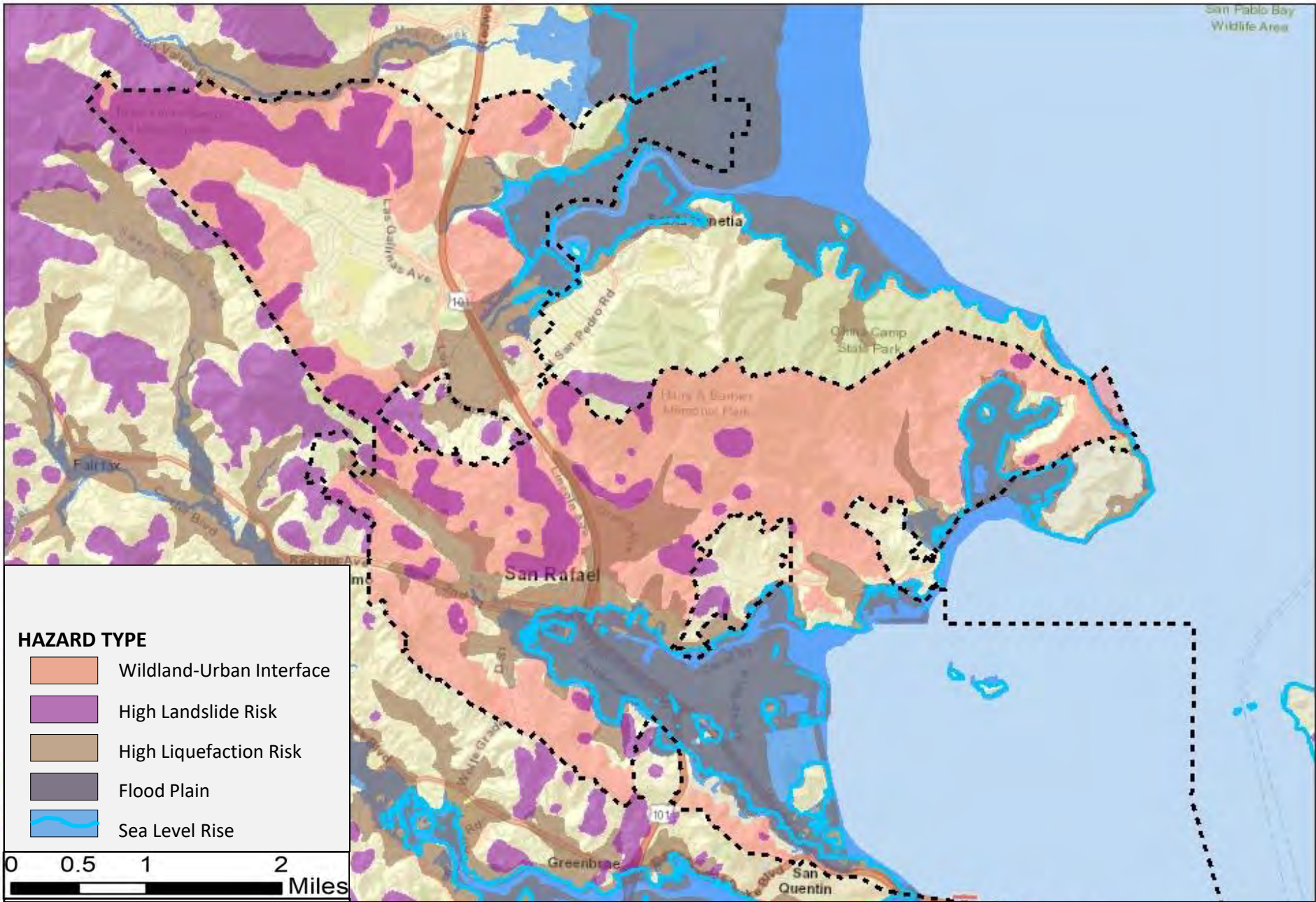
### Street Widths

Figure K-3 shows street widths in San Rafael. Street are classified using pavement width rather than right-of-way, providing a better assessment of constrained areas. Private streets are generally excluded from this diagram. Of particular note are those streets with a curb to curb width of less than 20 feet. On-street parking can create emergency vehicle access hazards in such areas, requiring parking limitations in some cases.

### Evacuation Routes

Figure K-4 shows evacuation routes in San Rafael, as designated on the Zonehaven map prepared for countywide emergency preparedness planning. The map identifies primary routes, which generally correspond to major arterial streets, and secondary routes, which generally correspond

to minor arterial and collector streets. Zonehaven is a technology service that identifies individual evacuation zones in each jurisdiction, improves the efficiency and speed of evacuation, and assists first responders in orderly and effective disaster response.



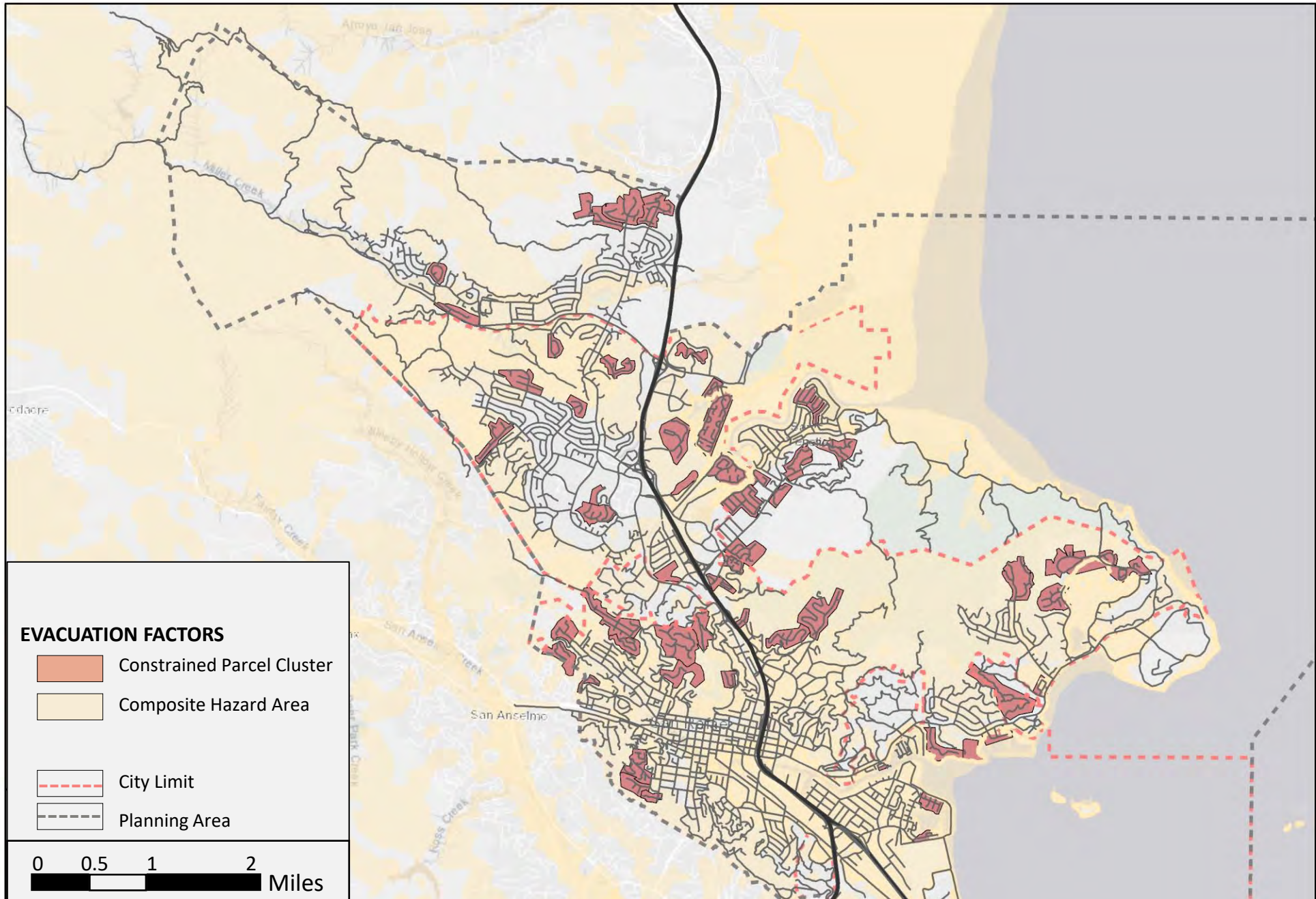
**HAZARD TYPE**

-  Wildland-Urban Interface
-  High Landslide Risk
-  High Liquefaction Risk
-  Flood Plain
-  Sea Level Rise



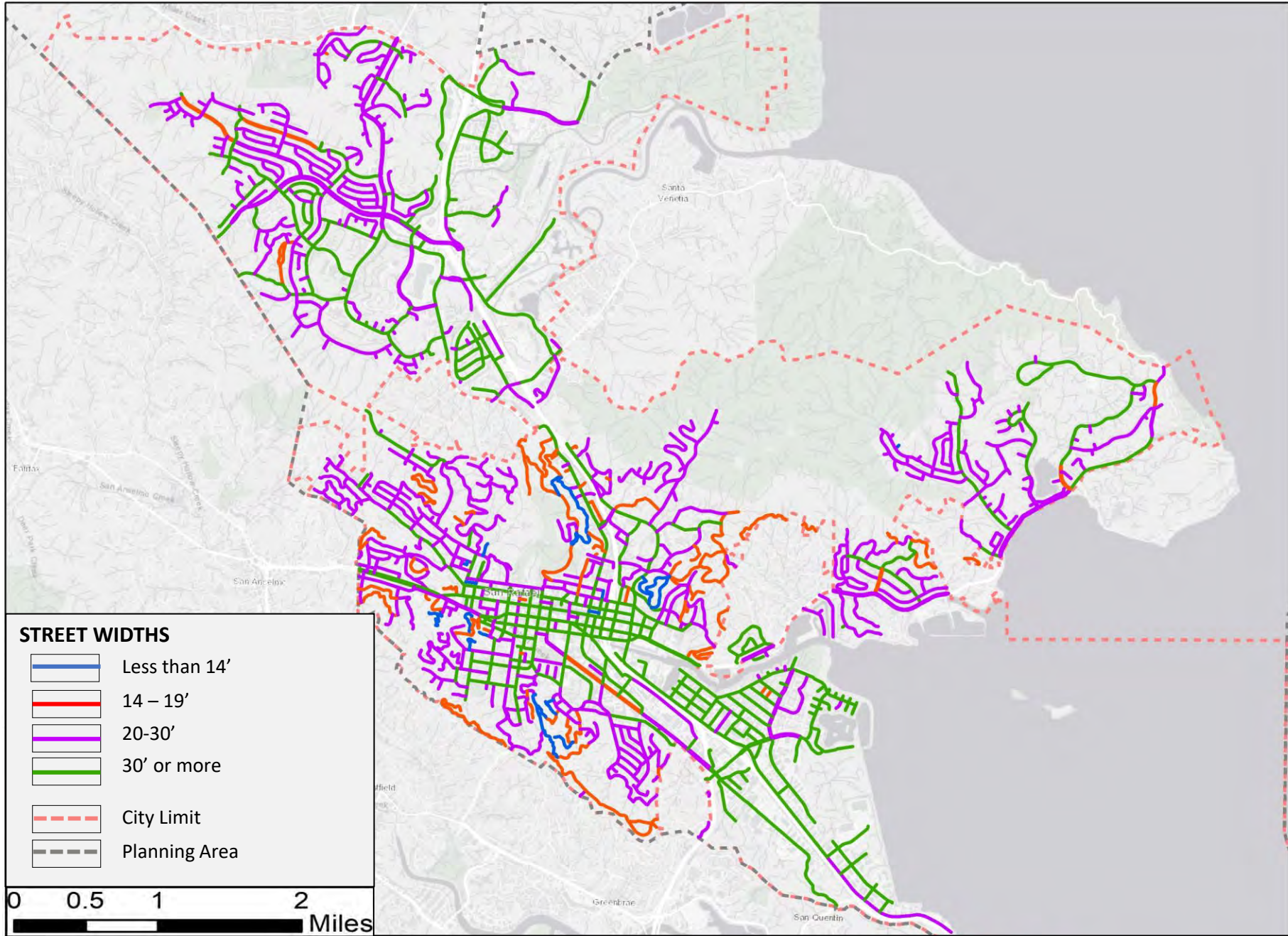
**Figure K-1:  
Composite Hazard Areas**



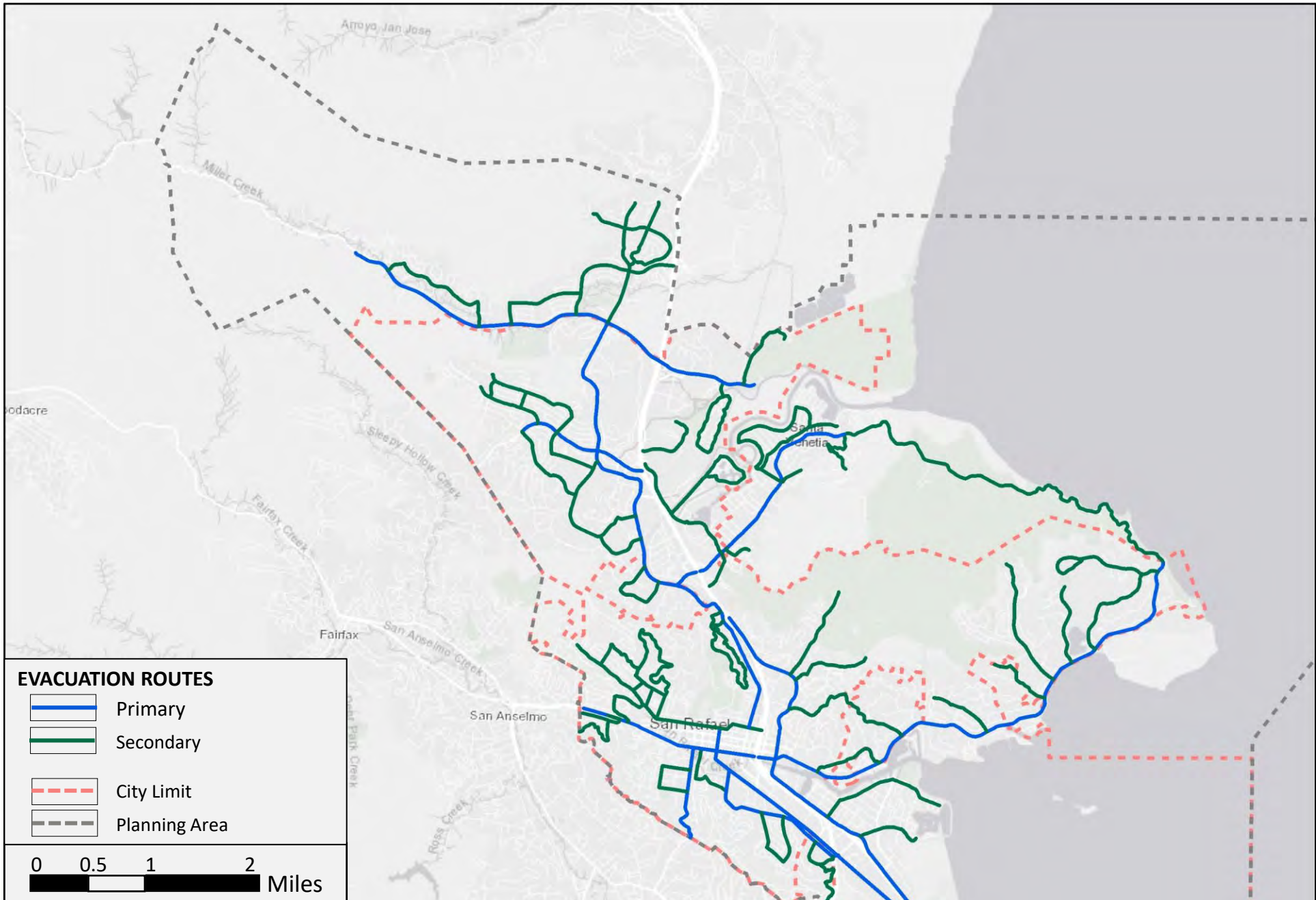


**Figure K-2:  
Constrained Parcel Clusters**





**Figure K-3:  
Street Widths**



**Figure K-4:  
Evacuation Routes**

## Exhibit 1-G:

[Addendum to the General Plan 2040 EIR](#)

[https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2023/04/EXHIBIT1-F-EIRAddendum\\_HousingElement2023-31.pdf](https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2023/04/EXHIBIT1-F-EIRAddendum_HousingElement2023-31.pdf)



**ORDINANCE NO.**

**AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE ZONING FOR TWO NON-ADDRESSED PARCELS LOCATED IMMEDIATELY NORTH AND EAST OF 86 CULLODEN PARK ROAD FROM PLANNED DISTRICT 1729 (PD 1729) TO LOW-DENSITY RESIDENTIAL 20,000 SQUARE FOOT LOT MINIMUM (R20) (APN 011-051-31 and APN 011-115-30) (ZC23-001 and ZC23-002)**

**WHEREAS**, the City of San Rafael completed a comprehensive update of its General Plan between 2018 and 2021, moving the time horizon forward from 2020 (General Plan 2020) to 2040 (General Plan 2040); and

**WHEREAS**, the Plan Update process included a “Call for Amendments” wherein property owners were invited to apply for amendments to the General Plan Map; and

**WHEREAS**, on June 21, 2019, the owners of Assessor Parcel Number 011-051-31 submitted a request for an amendment to change the designation of this 0.692-acre property from its 2020 General Plan designation of Hillside Resource Residential to a 2040 designation of Low Density Residential; and

**WHEREAS**, the intent of this request was to harmonize the land use designations of four adjacent properties with the same owner, including one 1.196-acre property with a home (86 Culloden Park Road, APN 011-115-10) which was designated Low Density Residential, two small vacant properties (0.111 acres and 0.194 acres) also designated Low Density Residential, and an adjoining 0.692-acre parcel on the east which was vacant and designated Hillside Resource Residential (011-051-31); and

**WHEREAS**, staff evaluated the request and determined that the requested change was consistent with best practices, would avoid a “split” General Plan designation on a single-family, single-ownership property; and would not adversely impact surrounding properties; and

**WHEREAS**, on February 5, 2020, the San Rafael Planning Commission considered this request and several others and supported changing the land use designation as requested; and

**WHEREAS**, on August 2, 2021, the San Rafael City Council adopted General Plan 2040, including an updated Land Use Map incorporating the Low-Density Residential designation for APN 011-051-31; and

**WHEREAS**, California Government Code 65860 requires a city’s zoning ordinance, including its zoning map, to be consistent with a city’s general plan; and

**WHEREAS**, APNs 011-051-31 and 011-115-30 currently have zoning designations of Planned District (PD 1729), a designation that was created to support the adjacent Academy Heights/ Live Oak Estates subdivision, which no longer includes the subject parcels; and

**WHEREAS**, the best fit zoning designation for APN 011-051-31 and 011-115-30 is R20, which matches the designation of the primary residence at 86 Culloden Park Road and all other parcels along Culloden Park Road; and



**WHEREAS**, the R20 designation is consistent with the Low Density General Plan designation and would align the zoning for these parcels with the General Plan; and

**WHEREAS**, the proposed rezoning implements the San Rafael General Plan 2040, for which a Final Environmental Impact Report was previously prepared and certified on August 2, 2021, Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of General Plan 2040, including the adoption of Findings and a Mitigation Monitoring and Reporting program. No development is currently proposed on the subject properties and no further impacts will result from the rezoning; and

**WHEREAS**, the City of San Rafael established zoning case numbers ZC23-001 and ZC23-002 for the two subject parcels to facilitate this rezoning, in order to align the zoning and General Plan Maps; and

**WHEREAS**, on April 25, 2023, the San Rafael Planning Commission convened a duly noticed public hearing and unanimously (5:0, with one member absent) approved a resolution recommending City Council approval of this rezoning; and

**WHEREAS**, the City has complied with all noticing requirements for the rezoning action, including providing mailed notices to all property owners within 300 feet of the subject properties; and

**WHEREAS**, on May 15, 2023, the San Rafael City Council held a duly noticed public hearing on the proposed rezoning, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

**WHEREAS**, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department; and

**WHEREAS**, as required by San Rafael Municipal Code Section 14.27.060, the City Council makes the following findings in support of an ordinance to amend the Zoning Map to change parcels APN 011-051-31 and 011-115-30, located immediately north and east of 86 Culloden Park Road, from Planned District 1729 (PD 1729) to Low-Density Residential 20,000 Square Foot Lot Minimum (R20), as shown on the map contained in Exhibit "A":

1. The proposed amendment to the Zoning Map is consistent in principle with the General Plan in that:
  - a. This action would be consistent with the General Plan Land Use Map, which identifies the subject sites as Low Density Residential.
  - b. This action would implement the General Plan Land Use Map.
  - c. This action would be consistent with the mapping protocol used in the General Plan, including assigning a single General Plan category to properties under single ownership rather than applying multiple designations.
  - d. This action would be consistent with and implement the following General Plan policies:
    - 1) Land Use Element Policy LU-1.8 (*Density of Residential Development*), which supports densities that are aligned with the physical characteristics of the natural landscape and topography.

- 2) Land Use Element Policy LU-2.1 (*Land Use Map and Categories*), which supports aligning zoning with the General Plan Land Use Map.
- 3) Neighborhoods Element Policy NH-2.11 (*Fairhills Neighborhood*) to retain the character of Fairhills as a scenic hillside neighborhood.
- 4) Community Design and Preservation Policy CDP-1.3 (*Hillside Protection*) to ensure that hillside development protects the natural landscape and supports lot consolidation in hillside areas.
- 5) Housing Element Policy H-4.8 (*Adequately Zoned Sites*) to maintain an adequate supply of residentially zoned land to meet the needs of all economic segments of the community.

2. The public health, safety, and general welfare would be served by the adoption of the proposed amendment to change the existing PD 1729 Zoning Classification to the R20 Zoning Classification for the property in that the Zoning Map change will implement the General Plan Land Use designation and is consistent with the General Plan as noted above.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:**

**DIVISION 1: Findings**

The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and the finding of Planning Commission Resolution 23-03, adopted April 25, 2023, recommending to the City Council adoption of this Ordinance, are true and correct. The City Council further finds that the zoning map amendment complies with CEQA and is consistent with the certified EIR for San Rafael General Plan 2040.

**DIVISION 2: Approval**

The City Council of the City of San Rafael hereby approves and adopts the amendment to SRMC Title 14 Zoning Map as presented in Exhibit A attached hereto and incorporated herein by reference.

**DIVISION 3: Publication**

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

The Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against the same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, Marin County, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk a certified copy of the full text of this Ordinance, along with the names of those Councilmembers voting for or against the Ordinance.

---

KATE COLIN, Mayor

ATTEST:

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LINDSAY LARA, City Clerk

**THE FOREGOING ORDINANCE** was first read and introduced at a regular meeting of the San Rafael City Council on the 15<sup>th</sup> day of May 2023, and was passed and adopted at a regular meeting of the San Rafael City Council on the 5<sup>th</sup> day of June 2023 by the following vote, to wit:

AYES:           COUNCILMEMBERS:  
NOES:           COUNCILMEMBERS:  
ABSENT:        COUNCILMEMBERS:

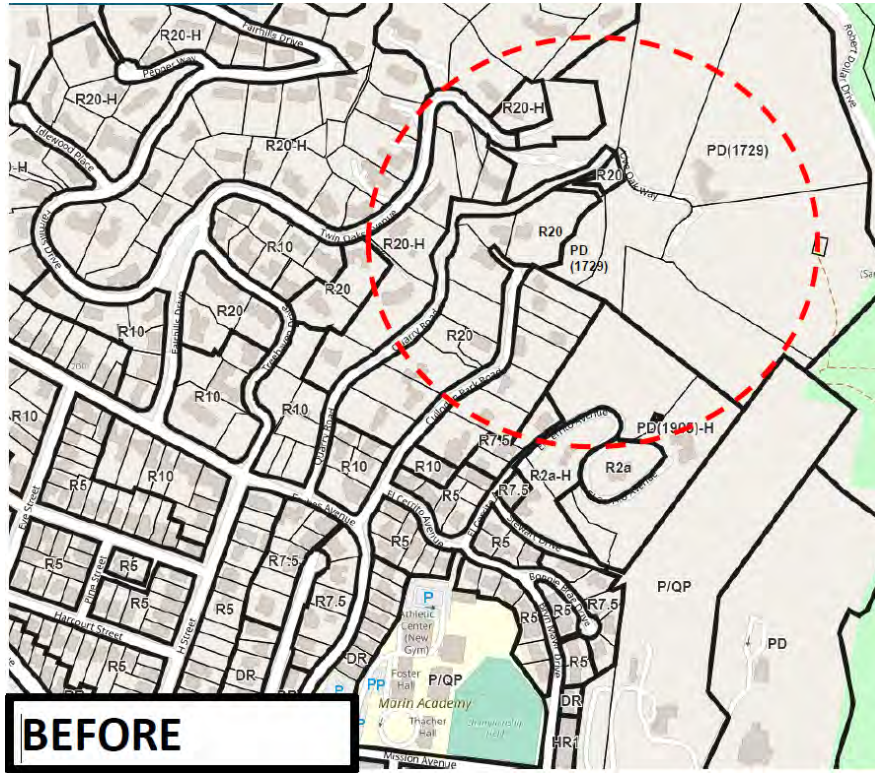
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LINDSAY LARA, City Clerk

Exhibits:

A. Rezoning Map

# Attachment A San Rafael Zoning Map



**ORDINANCE NO.**

**AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE ZONING FOR 380 MERRYDALE ROAD (APN 179-041-22) FROM PLANNED DISTRICT 1436 (PD 1436) TO OFFICE, AND THE ZONING CLASSIFICATION OF 401 MERRYDALE ROAD (APN 179-041-05) FROM LIGHT INDUSTRIAL-OFFICE TO OFFICE. (ZC23-003 and ZC23-004)**

**WHEREAS**, the City of San Rafael completed a comprehensive update of its General Plan between 2018 and 2021, moving the time horizon forward from 2020 (General Plan 2020) to 2040 (General Plan 2040); and

**WHEREAS**, the Plan Update process included an update of the General Plan Land Use Map to reflect recently prepared plans and land use policies, including policies supporting higher density residential and mixed use development around rail transit stations; and

**WHEREAS**, on August 2, 2021, the San Rafael City Council adopted General Plan 2040, including an updated Land Use Map replacing the “Light Industrial/ Office” General Plan designations at 380 Merrydale (APN 179-041-22) and 401 Merrydale (APN 179-041-05) with the “Office Mixed Use” General Plan designation, thereby creating additional opportunities for transit-oriented development, including housing at densities up to 43.5 units per acre and

**WHEREAS**, California Government Code 65860 requires a city’s zoning ordinance, including its zoning map, to be consistent with a city’s general plan; and

**WHEREAS**, the current zoning classification for 380 Merrydale (APN 179-041-22) Planned District 1436 (PD 1436), corresponding to the self-storage facility on the property and the current zoning classification for 401 Merrydale (APN 179-041-05) is Light Industrial/Office (LI/O) and neither of these designation is consistent with the General Plan Land Use designation of Office Mixed Use; and

**WHEREAS**, the City of San Rafael has identified 380 Merrydale and 401 Merrydale as potential sites to meet a portion of its Regional Housing Needs Allocation (RHNA) of 3,220 housing units, as well as opportunities to affirmatively further fair housing by creating multi-family housing opportunities in a range of locations around the city; and

**WHEREAS**, rezoning of these properties would better align their zoning designations with their General Plan designations, while also facilitating the City’s ability to meet its State-mandated RHNA; and

**WHEREAS**, the proposed rezoning implements the San Rafael General Plan 2040, for which a Final Environmental Impact Report was previously prepared and certified on August 2, 2021, Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of General Plan 2040, including the adoption of Findings and a Mitigation Monitoring and Reporting program. No development is currently proposed on the subject properties and no further impacts will result from the rezoning; and

**WHEREAS**, the City of San Rafael established zoning case numbers ZC23-003 and ZC23-004 for the two subject parcels to facilitate this rezoning, in order to align the zoning and General Plan Maps; and

**WHEREAS**, on April 25, 2023, the San Rafael Planning Commission convened a duly noticed public hearing and unanimously (5:0, with one member absent) approved a resolution recommending City Council approval of this rezoning; and

**WHEREAS**, the City has complied with all noticing requirements for the rezoning action, including providing mailed notices to all property owners within 300 feet of the subject properties; and

**WHEREAS**, on May 15, 2023, the San Rafael City Council held a duly noticed public hearing on the proposed rezoning, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

**WHEREAS**, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department; and

**WHEREAS**, as required by San Rafael Municipal Code Section 14.27.060, the City Council makes the following findings in support of an ordinance to amend the Zoning Map to change 380 Merrydale Road (APN 179-041-22) from Planned District 1436 (PD 1436) to an Office (O) zoning classification and to change 401 Merrydale Road (APN 179-041-05) from Light Industrial/Office (LI/O) to an Office (O) zoning classification, as shown on the map contained in Exhibit "A":

1. The proposed amendment to the Zoning Map is consistent in principle with the General Plan in that:
  - a. This action would be consistent with the General Plan Land Use Map, which identifies the subject sites as Office Mixed Use, rather than Light Industrial/Office.
  - b. This action would implement the General Plan Land Use Map.
  - c. This action supports the General Plan concept of transit-oriented development around the two SMART stations and would accommodate higher-density residential and employment uses that is more sustainable and less car-dependent than traditional suburban development.
  - d. This action would be consistent with and implement the following General Plan policies and programs:
    - 1) Land Use Element Policy LU-1.3 (*Land Use and Climate Change*), which supports housing and commercial development adjacent to transit stations.
    - 2) Land Use Element Policy LU-2.1 (*Land Use Map and Categories*), which indicates that the General Plan Map should be used as a framework for future land use decisions, including zoning regulations.
    - 3) Land Use Element Policy LU-2.2 (*Mixed Use Development*), which supports mixed uses on commercial properties.
    - 4) Land Use Element Policy LU-3.3 (*Housing Mix*), which supports a diverse mix of housing choices and opportunities.

- 5) Neighborhoods Element Program NH-4.10A (*Station Area Plan Implementation*) which supports additional residential and commercial development opportunities adjacent to the Civic Center Station.
  - 6) Mobility Policy M-3.8 (*Land Use and VMT*), which supports development opportunities around transit stations.
  - 7) Housing Element Policy H-4.8 (*Adequately Zoned Sites*) to maintain an adequate supply of residentially zoned land to meet the needs of all economic segments of the community.
2. The public health, safety, and general welfare would be served by the adoption of the proposed amendment to change the existing “PD 1436” and “LI/O” Zoning Classifications to the “O” Zoning Classification because the subject parcels would provide opportunities for housing, including affordable housing. Allowing densities of 43.5 units per acre on sites where residential uses are not permitted today can help meet an urgent community need and leverage the benefits of the sites’ proximity to mass transit. Moreover, rezoning properties located immediately adjacent to the SMART station presents an opportunity for development that is less car-dependent, reduces per capita greenhouse gas emissions, supports active transportation modes such as walking and bicycling, and reduces the need to convert open space on the fringes of the city to urban uses.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:**

**DIVISION 1: Findings**

The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and the finding of Planning Commission Resolution 23-03, adopted April 25, 2023, recommending to the City Council adoption of this Ordinance, are true and correct. The City Council further finds that the zoning map amendment complies with CEQA and is consistent with the certified EIR for San Rafael General Plan 2040.

**DIVISION 2: Approval**

The City Council of the City of San Rafael hereby approves and adopts the amendment to SRMC Title 14 Zoning Map as presented in Exhibit A attached hereto and incorporated herein by reference.

**DIVISION 3: Publication**

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

The Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against the same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, Marin County, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk a certified copy of the full text of this Ordinance, along with the names of those Councilmembers voting for or against the Ordinance.

---

KATE COLIN, Mayor

ATTEST:

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LINDSAY LARA, City Clerk

**THE FOREGOING ORDINANCE** was first read and introduced at a regular meeting of the San Rafael City Council on the 15<sup>th</sup> day of May 2023, and was passed and adopted at a regular meeting of the San Rafael City Council on the 5<sup>th</sup> June of May 2023 by the following vote, to wit:

AYES:           COUNCILMEMBERS:  
NOES:           COUNCILMEMBERS:  
ABSENT:        COUNCILMEMBERS:

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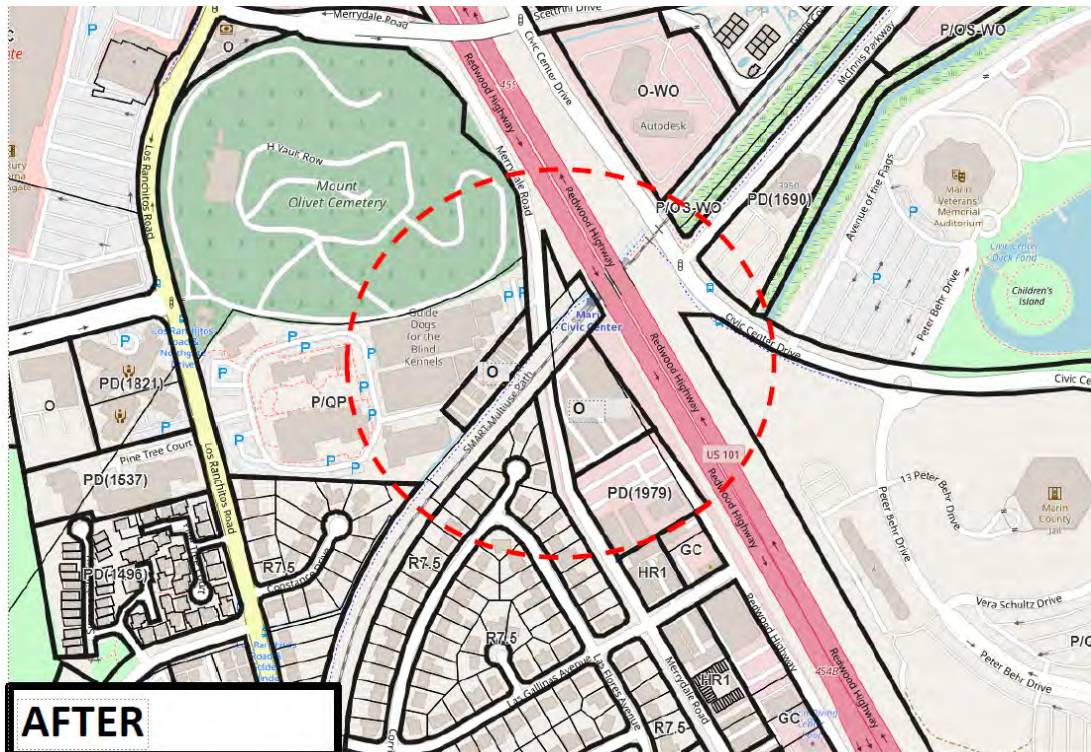
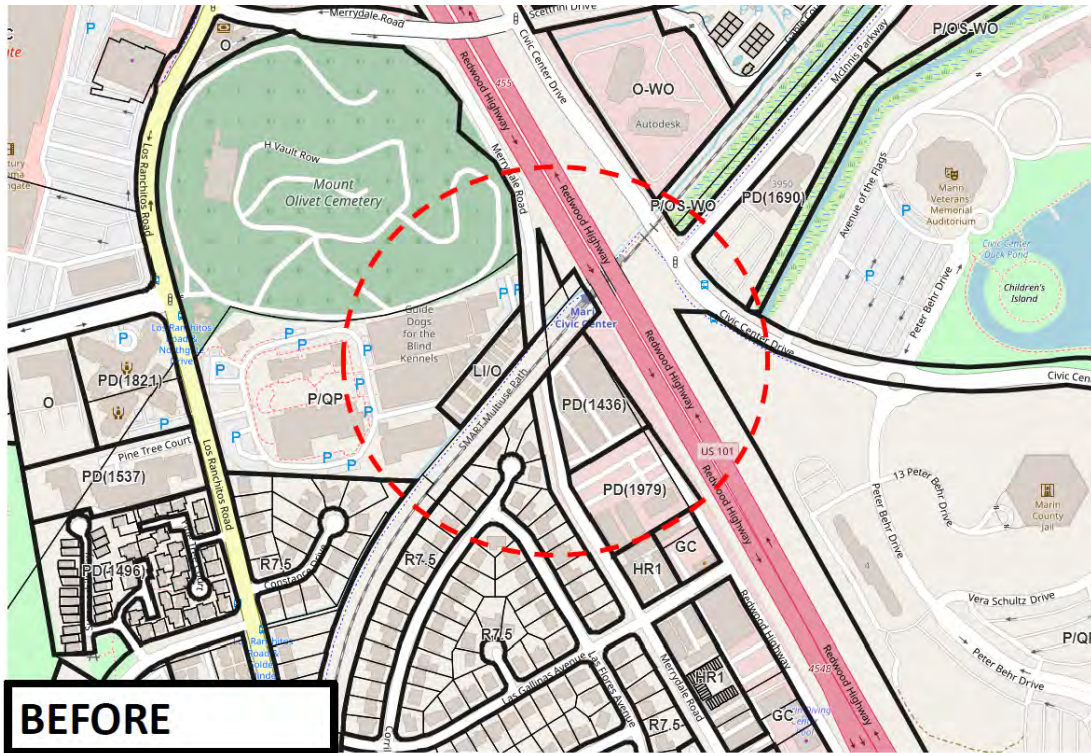
LINDSAY LARA, City Clerk

Exhibits:

A. Rezoning Map



# Attachment A San Rafael Zoning Map



## Barry Miller

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**From:** [REDACTED]  
**Sent:** Sunday, April 16, 2023 1:53 PM  
**To:** Barry Miller  
**Subject:** Rezoning of 401 Merrydale Road APN 179-041-05

Dear Mr. Miller,

I am the owner of 401 Merrydale Rd (Northgate Security Storage) located adjacent to Guide Dogs for the Blind (GDB) on two sides of my property. The back property line is the new puppy kennel and the side property is the existing kennels. The south side of the property is located next to the SMART train tracks and within 200' of the Civic Center Platform. The frontage is Hwy 101.

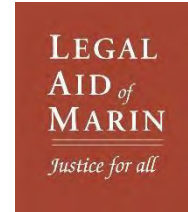
A noise analysis was conducted by Charles M. Salter Associates in 2016 to evaluate existing noise levels as well as evaluate the impact from barking dogs at the new Puppy Center. The noise levels were predicted to be 76dBA at the Northgate Security Storage property line. Maximum limit is 70dBA for industrial zoning during the day and 60dBA at night. Dogs do not stop barking during the night and especially don't stop barking on weekends when the staff is limited. The noise level from GDB has not been mitigated. I can attest to this since I have owned this property and business for over 45 years.

Due to all the noise generated from GDB dog kennels, the Smart train and Civic Center platform and Hwy 101 frontage, the new proposed office zoning would not meet the noise requirement for office zoning of 65dBA intermittent and 55 dBA constant during the day and 55dBA intermittent and 45dBA constant at night. The Light Industrial/Office zoning is the correct zoning for the APN 179-041-05 (401 Merrydale). The mini storage business seems a perfect business for the site.

I am confident that any future development on this site would be fully evaluated by the planning commission if the zoning is not changed.

Thank you for your consideration in this matter.

Janette Caron  
Owner



April 21, 2023

Mayor Kate Colin  
Vice Mayor Llorens Gulati  
Councilmembers Kertz, Bushey, and Hill  
Planning Commissioners Saude, Haveman, Mercado, Previtali, Samudzi, and Shalk  
City Administration

San Rafael City Hall  
1400 Fifth Avenue, Room 203  
San Rafael, CA 94901

**Re: Community Response to HCD Comments on San Rafael’s Proposed Housing Element**

Dear Mayor Kate and Team San Rafael:

We represent a coalition of Marin nonprofits working alongside and on behalf of thousands of Marin residents, especially the Latino immigrant community, Black, Indigenous, People of Color (BIPOC) and other lower-income residents disproportionately impacted by the current housing crisis.

First, let us congratulate City staff and consultants on what is largely an excellent Housing Plan. We have reviewed the State’s letter dated March 30<sup>th</sup> <sup>1</sup> and agree that the City is very close to having a compliant housing element. We recognize that much of the tangible work on housing will begin after the Element is adopted, and we are committed to working with the City on the implementation of its ambitious goals, policies and programs in a timely manner.

Regarding the City’s reply to the State’s letter, we find it important to highlight the State’s reminder that under Gov. Code, § 65583, subd. (c):

Programs containing unclear language (e.g., “evaluate”; “consider”; “encourage”; etc.) or vague commitments should be amended to include more specific and measurable actions.

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<sup>1</sup> California Department of Housing and Community Development. City of San Rafael’s 6th Cycle (2023-2031) Draft Housing Element (Update). March 20, 2023. [Link](#).



As our organizations and community members have made it clear throughout this process,<sup>2</sup> the City of San Rafael needs to make a stronger commitment to passing renter protections allowed under state law, including stronger just cause eviction protections and stronger rent control. Language in Program Sections 10 and 11, which are the sections that deal with Just Cause Eviction and Rent Control, fall into this unclear or vague determination.<sup>3</sup>

The State also noted that, with respect to the need to strengthen Program 11 (Tenant Protection Measures):

The element should commit to implementing some or all 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 the actions identified by stakeholders in Program 11.

With a few simple changes, the City can align itself with the State’s response by shifting from consideration to commitment.

For example, the City of Concord— a city similarly situated to San Rafael demographically, socioeconomically and politically —made specific and time-bound commitments to advance tenant protections through their Housing Element.<sup>4</sup> Program 20: Residential Tenant Protections commits to **“begin drafting rent stabilization and just cause for eviction ordinances within 90 days of Housing Element adoption, with adoption of ordinances by December 2023.”** We ask that San Rafael adopt language in line with Concord’s specific and time-bound commitment to considering, passing and implementing meaningful protections for San Rafael’s renters. These ordinances would improve housing stability for the City’s low-income and BIPOC residents, especially those residing in the Canal neighborhood.

## Goals & Objectives

We also feel it is important to note that on May 15<sup>th</sup>, the City Council will consider both the Housing Element for adoption and begin setting their 2023–24 Goals & Objectives, outlining the City’s priorities for the next 24 months. We urge the Council to adopt tenant protections as a top priority for San Rafael in order to put the full weight of the City behind implementing this crucial component of the Housing Element.

We will be there to support the community’s voice at the Council meeting on May 15<sup>th</sup>, and we are also ready to work with staff on May 16<sup>th</sup> and beyond. While we insist on stronger and more committed language regarding tenant protections in the Housing Element, we know that building stronger programs for San Rafael will require intensive and consistent cross-sector collaboration after the Housing Element is adopted. The Canal Policy Working Group proved its

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<sup>2</sup> See City of San Rafael. 6th Cycle 2023-2031 Housing Element Update HCD Draft November 2022, p. 6-23. [Link](#); San Rafael City Council Meeting, March 6, 2023. [Link](#); San Rafael Housing Element Comment Letter, August 5, 2022. [Link](#); San Rafael Housing Element Comment Letter, December 1, 2022. [Link](#); San Rafael Housing Element Comment Letter, February 16, 2023. [Link](#).

<sup>3</sup> City of San Rafael. 6th Cycle 2023-2031 Housing Element Update HCD Draft November 2022, p. 6-20 – 6-24. [Link](#).

<sup>4</sup> City of Concord. 6th Cycle 2023-2031 Housing Element Update HCD Draft August 2022, p. 38, [Link](#).

worth during the pandemic, and we are committed to playing a similar role in studying, designing and ushering implementation of stronger renter protections and the 44 housing programs proposed in the Element.

We very much look forward to our ongoing collaboration.


Sincerely,



Omar Carrera  
Chief Executive Officer  
Canal Alliance



Laura McMahon  
Executive Director  
Legal Aid of Marin



Chandra Alexandre  
Chief Executive Officer  
Community Action Marin

Gregory Andrew

**Comments on San Rafael 2023-2031 Housing Element; April 25, 2023**

I am providing the following comments for: **Planning Commission Regular Meeting; Tuesday, April 25, 2023,**

The public notice and agenda packet for this meeting do not provide any staff report so I ask that the Planning Commission provide, at the meeting, a full and complete explanation of why the Housing Element is proposed to be revised for:

- Rezoning of 380 Merrydale (APN 179-041-22) from PD 1436 to Office (O) and 401 Merrydale (APN 179-041-05) from Light Industrial/ Office (LI/O) to Office (O)

In addition, I am reiterating my previous comments from 12/5/2022 on the Draft Housing Element and ask that these issues be addressed by the Planning Commission during the public meeting:

Table 4.1 should be revised to show the Total Buffer = 51%. Why is the Total Buffer on Table 4.1 shown as N/A? The total buffer = 51% (50.869%); why is this not shown in the table?

There is no justification for such a large buffer and it should be drastically reduced, down to the 15% buffer that is required. Why allocate a 51% when the State requirement is for a 15% buffer. What is the rationale and justification such a high buffer? Especially when the ABAG RHNA allocation of 3,220 units is already such an arbitrary and grossly inflated number to begin with.

The Housing Element needs to show and clearly define the income levels associated with Low, Moderate, and Above Moderate income households; the only mention of this is buried in tiny print in an asterix note at the bottom of Table 4.3. There needs to be better transparency of the incomes associated with the housing categories.

The City needs to reconsider its allocation of Moderate housing units. Table 4.2 shows that Moderate Income housing units have been left in the dark by the City, and almost completely left out of City-approved housing units, with only 3 out of 785 units being Moderate.. Table 4.3 shows that again Moderate housing units will be sidelined with only 11% of units in the approval pipeline designated for Moderate income levels. If the City wants to profess that it is making housing units available to safety & emergency service employees then how will there be enough Moderate Income units available given the City's track record? It seems to be a false argument for more housing if the City won't deliver on the housing for Moderate income families.

Figure 4-1 needs to be revised to show in a legend what the circled letter-number designations represent. There is no information on Figure 4-1 on what these designations are. The maps should also have basic and standard map references to a north arrow and scale.

The Housing Element needs to include maps showing what the zoning designations are for the areas around the units highlighted; there should be more transparent information about how the proposed zoning for the allocated sites compares to the areas around the sites.

Housing designations bordering single-family residential parcels should constraint building height so that new developments do not tower over and look into private residences, thus destroying privacy. An example site is the Dandy Market site at the corner of Merrydale Road and El Prado (Site E-20). Any new development at this site must not destroy the privacy of the single-family residences behind Dany Market.

Thank you.



April 25, 2023

San Rafael Planning Commission  
1400 Fifth Avenue  
San Rafael, CA 94901

**BOARD OF DIRECTORS**

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Kiki La Porta  
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Howard Schwartz

415.302-0110

**RE: Adoption of 2023-2031 Housing Element**

Honorable Commissioners,

Sustainable San Rafael has been following the City's housing programs and policies as part of the Housing Element Working Group (2021-22). There is much to commend in the revised Housing Element, including the consultations with project developers, housing to meet the needs of lowest income residents, and implementation of the CCAP.

We appreciate the opportunity to submit these comments to make the Element more accurate. We hope these will assist you in further strengthening the revised Housing Element.

**Page 2-3**

Current: 'Promotion of accessory dwelling units (ADU) as a resource for lower income and senior homeowners seeking a source of income to reduce housing expensive, and a housing resource for older adults and lower income renters.'

Recommended:

"Promoted accessory dwelling units (ADU) as a resource for homeowners seeking an additional source of income to reduce housing expenses and to provide new housing for lower income renters."

**page 3-17**

Add: Roughly one third of the city's households include at least one resident over 65 years old. Nearly half of these households consist of single persons over 65 living alone.

**page 3-22**

Table 3.13 shows income by tenure. Owner-occupied households had a median income of \$141,212, which was more than double the median income of \$61,595 reported for renters. More than 41 percent of all renter households had incomes below \$50,000 a year, compared to 16 percent for owner households. Nearly half of all homeowners had annual incomes exceeding \$150,000 a year, compared to just 16 percent for renter households.

Ownership rates are particularly low among extremely low income (ELI) households. CHAS data indicate that just 25.1 percent (1,225) of the ELI households in San Rafael are homeowners, while 74.9 percent (3,655) are renters. Even without mortgages, ELI owners may face challenges associated with home maintenance, taxes, and other expenses.

Recommended for last sentence: "**ELI homeowners** [delete 'may'] face

challenges associated with home maintenance, taxes, and other expenses."

Comment: the data shows that older homeowners may also be cost-burdened; they should be included. (see page 3-33)

**Page 4-13 and B-8**

Recommended: Include the Aldersly Garden Community project's status as well. This is non-profit senior housing. The project was approved in January '22 and plans have been submitted for building permits. The groundbreaking is scheduled for '23.

**Page 4-16**

The ADU projections based on ABAG calculations result in "conservative," very low expectations for ADU construction.

Recommended: We encourage the City to propose a goal to increase the number of new ADU units to 100 a year during the planning period. This would mean a greater policy and program commitment to promote this housing type due to its affordability, the ability to meet various needs of older homeowners (income, caregiving, intergenerational housing), and to provide infill lower-income housing that can increase the diversity of a neighborhood.

**Page 4-32**

Sites C4 and C5 are on steep hillside lots.

Recommended: As environmentally sensitive locations, these sites should not be included on the 'housing sites' list. They may still be developed as single-family homes, but they should not be fast-tracked as housing opportunity sites through the City's review process.

**Page 4-35**

Site B2 is the Aldersly housing project (326 Mission) that was approved December '22.

Recommended: This site should be shown in 'red.'

**Page 4-36**

"Similarly, the project at 107 G Street included one very low-income unit, representing 15% of the project total."

Comment: 107 G Street is ten units. Please verify that instead an in-lieu fee was paid for the fractional affordable unit required for the project.

**Page 4-37**

Recommended: The discussion of San Rafael's legacy track record in approving projects above the zoning density could also recognize the record in previous housing elements documenting the City's practice since the 1980s of approving density bonuses for affordable housing throughout the community.

**Page 4-48**

Recommended: In "Air Quality and Noise" section, recognize that the proposal by the Transportation Authority of Marin to build an interchange at 105/580



with connections that will relocate commuters from south of San Rafael to central San Rafael will have air quality and noise (and visual) impacts on housing sites E-16 and E-17.

**Page 4-49**

Recommended: Delete these sensitive hillside sites from the housing sites list and delete this sentence "A few of the low-density sites (Fair Drive/Coleman), collectively representing less than one percent of the City's total site capacity, do not currently have infrastructure and are shown in the site inventory as "above moderate income" to reflect those costs."

**Page 5-51**

Comment: The definition of 'family' was removed due to court decisions at the time that found 'family' was defined in ways to restrict non-familial roommate, board and care, multigenerational and other types of non-mainstream housing arrangements. The definition needs to not discriminate against non-family types of housing.

**Page 6-10 and 6-38 to -39 and 6-71**

Recommended: Do more than 'allow and promote' ADUs. This includes assigning a planner with the goal to approve 100 units/year and to expedite approvals; contracting with a firm to provide initial feasibility studies; joining the County of Marin's ADU partnership site, [City Standards — ADU Marin](#); holding ADU informational workshops with community-based and faith-based organizations; and revising the Planning Department ADU handouts to make the information accessible and to eliminate planning jargon ([ADU Single Family Checklist - San Rafael](#)).

**Page 6-11**

Recommended: for " Program 3: Funding and Resources to Prevent and Reduce Homelessness," add 'shallow rent subsidies for the most vulnerable extremely-low-income renters' (i.e. single renters 80 and older) to prevent them from becoming homeless.

**Page 6-27**

Add: Continue to encourage the provision of EV charging in apartment buildings, both new and previously-built.

**Page 6-32**

Recommended: Prioritize the air rights development plan by pursuing an RFP for the plan in 2024. Implementation of the plan should begin in 2026. The current wording says there won't be any action for another seven years.

**Page 6-44 and 6-72**

Current: "Amend affordable housing provisions by 2025 to clarify that assisted living units are subject to as a residential use rather than a commercial use so that the City's affordable housing requirements may be applied."

Recommended: "Study assisted living and memory care housing projects to understand the applicability of affordable housing provisions in supportive-services housing for older adults. Develop recommendations to encourage the development of housing to meet the needs of lower-income older adults."

Comment: There is a growing need for assisted living and memory care housing for people, especially as they age into their 80s. The City needs to research the efficacy of various options to meet the need, in addition to possibly requiring affordable units in a development that provides expensive medical services to its residents.

Recommended: Add an item to work with HCD to clarify that housing for older adults in assistive living and memory care counts as a 'unit' for RHNA purposes, consistent with a recent court decision.

Recommended: Revise as follows: "Continue to assist older San Rafael residents by offering wellness checks, recreational programming and social activities, and links to transportation, parks, shopping, health care, and other resources that make it easier to age in community."

Recommended: Add (similar to the large family preference and 6-73) "Express preference for housing units designed for older adults (including senior amenities such as onsite day center or community room)."

**Page 6-46**

Add: a program to monitor the number of facilities to ensure there is no loss of residential care and board and care facilities over the next eight years.

Finally there are some minor edits to correct typos:

**Page 1-13**

Typo: for the year (2023) of this focus group: Marin Center for Independent Living and Vivalon (2/14/33)

**page 1-14**

Typo: Voces De l Canal

Thank you for your leadership on behalf of increased affordability and diversity of housing in San Rafael.

Sincerely,

Linda M. Jackson  
Vice President