

November 30<sup>th</sup>, 2022



Protecting Marin Since 1934

Alicia Giudice, Director  
Community Development Department  
City of San Rafael  
1400 5<sup>th</sup> Avenue  
San Rafael, CA 94901  
Email: [alicia.giudice@cityofsanrafael.org](mailto:alicia.giudice@cityofsanrafael.org); [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org)

**Subject: City of San Rafael Draft Housing Element**

Dear Ms. Giudice:

Thank you for the opportunity to review and submit comments on the City of San Rafael Draft Housing Element. The Marin Conservation League (MCL) acknowledges that development and adoption of a Housing Element is critical and important in this pivotal time of balancing the need for housing and the growing consequences of climate change.

MCL is an environmental organization, and housing is not its principal focus. Nonetheless, MCL follows its current policy position on housing, which is to: a) support a balance of commercial development and workforce employment with needed housing; b) avoid sprawl; c) correspond to the service capacity of Marin’s infrastructure; and d) protect specific areas of environmental importance. As a result of the State’s housing crisis, in the past five years there have been dramatic changes in mandated housing laws to promote housing development. These new laws prescribe public review processes that promote streamlining and “by-right” (ministerial) permitting processes. To fully understand these new housing laws, in January 2022, MCL hosted “MCL After Hours – The Impacts of the New State Housing Laws.” This event was intended to educate interested attendees on the recent State housing laws and how they affect the review and development of housing at a local level in Marin County. Consequently, with the many changes in the housing laws, MCL is in the process of updating its housing policy position.

MCL has reviewed the Draft Housing Element for alignment with its adopted policy positions on, among others, housing, flooding/sea level rise, greenhouse gas emissions, and wildfire management. Further, the draft document has been reviewed for alignment with MCL’s longstanding mission, which is, “*To preserve, protect and enhance the natural assets of Marin in a changing environment.*” MCL respectfully submits the following comments, which factor in the recent changes in State housing law:

1. Housing Needs Assessment (Chapter 3).

San Rafael’s Regional Housing Needs Assessment (RHNA) for the next 8-year cycle is 3,220 housing units, which is triple the 2014-2022 RHNA of 1,007 units. As is the case with other Marin jurisdictions, the greatest need has been identified in the extremely low-/very

175 N. Redwood Dr., Ste. 135, San Rafael, CA 94903 | 415.485.6257 |  
[mcl@marinconservationleague.org](mailto:mcl@marinconservationleague.org)

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low- and low-income household categories. Unlike many of the Marin cities/towns, San Rafael has adequate sites for higher-density zoning, which has proven to be necessary to feasibly finance lower-income housing development.

2. The needs assessment notes that a big challenge is keeping the existing rental housing affordable over time to serve the low-wage earner and to keep these earners living locally. San Rafael has the only federally designated “Opportunity Zone” in Marin County, which covers a large portion of the Canal neighborhood. Opportunity Zones are structured to promote private investment in aging property through incentives, which could result in higher rents, resident displacement, and gentrification. MCL acknowledges that this is a social equity and economic issue, but the fallout of resident displacement also has environmental consequences. Specifically, if existing lower income residents are displaced, they are forced to relocate to areas where there is more affordable housing. Increased travel from home-to-work results in increased greenhouse gas emissions. Preserving the existing housing stock and planning for new housing opportunities to accommodate the lower-wage workforce will promote a more sustainable balance in jobs and housing within the County, which will reduce the environmental impacts associated with climate change.
3. Housing Opportunity Sites and Resources (Chapter 4).  
This chapter is comprehensive and includes a detailed discussion of, among others, housing opportunity sites, accessory dwelling unit (ADU) forecasts, and energy and financial resources. MCL favorably acknowledges that the City publicly-vetted a preliminary housing opportunity site inventory this past summer, prior to release of the Draft Housing Element. The initial preliminary inventory presented sites to accommodate 5,393 housing units. Based on comments from the City Planning Commission and public, the preliminary inventory was revised resulting in a reduced number of sites to accommodate a potential of 4,858 housing units. MCL appreciates that the updated housing opportunity site inventory: a) presents more realistic expectations; b) generally carries over the housing expectations of the recently adopted San Rafael General Plan 2040; and c) acknowledges some individual, site-specific environmental conditions and constraints that must be considered when planning for development.

Some of the higher density opportunity sites are located in the Federal Emergency Management Agency (FEMA) flood hazard zone and are vulnerable to projected sea level rise. These sites are located in fully developed areas and are surrounded by development. For these vulnerable areas, areawide adaptation planning is paramount. Nonetheless, for site development review in these areas, it is expected that the City will follow through on implementing General Plan 2040 Program S-3.5A: Code Amendments for Floor Elevation. This program prescribes that the City has committed to update and adopt zoning, building and public works code requirements to establish and mandate a minimum finished floor elevation for new development, redevelopment, and substantial additions to existing development. The program suggests adopting a minimum, finished floor elevation requirement of +3 feet above the FEMA 100-year flood elevation requirement.

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4. Constraints to Housing Production (Chapter 5).

This covers a discussion of a number of governmental and non-governmental topics that have the potential to create constraints for housing development. MCL would like to thank the City for including a discussion of environmental and infrastructure issues. As noted in this chapter (and in comments above), the housing site inventory acknowledges some individual, site-specific environmental conditions and constraints that must be considered when planning for development. While general, this information is enough to provide the City decision-makers and the public with known environmental issues and an understanding of site challenges.

5. Housing Action Plan (Chapter 6).

The draft policies and programs are well written to cover all housing laws. MCL supports the following policies and programs, which are in alignment with our mission and adopted policy position statements:

- a. Policy H-2.8: Fair Housing and Transportation Choice. Work with local transportation agencies and transit service providers to sustain, and where possible expand, transportation choices for San Rafael residents, particularly lower-income renters who are transit-dependent.
- b. Policy H-3.3: Resilient Housing. Improve the resilience of housing and residential neighborhoods to the effects of climate change, including sea level rise, increased wildfire risks, extreme heat, and drought.
- c. Policy H-3.5: Housing and Greenhouse Gas Emissions. Design and locate new housing in a way that supports the city's greenhouse gas reduction goals.
- d. Policy H-3.6: Sustainable Design. Encourage the use of building materials, construction methods, and designs that reduce environmental impacts and the consumption of non-renewable resources.
- e. Policy H-4.2: Preventing Displacement. Prevent the displacement of lower income residents due to expiring housing subsidies, rising costs, evictions without cause, conversion of housing units to non-residential use, and other factors that make it difficult for people to stay in San Rafael.
- f. Policy H-4.15: Housing and Infrastructure. Coordinate with water, sanitary sewer, and dry utility service providers to ensure that infrastructure is available to support anticipated housing development.
- g. Program 21: Precise Plan for North San Rafael. Prepare a Precise Plan (or equivalent planning document) for the North San Rafael Priority Development Area (PDA).
- h. Program 22: Precise Plan for Southeast San Rafael. Prepare a Precise Plan (or an equivalent planning document) for the Southeast San Rafael Priority Development Area (PDA).
- i. Program 27: Accessory Dwelling Units (ADUs) Expand resources and reduce barriers for the construction of ADUs and Junior ADUs (JADUs) in San Rafael neighborhoods.
- j. Program 30: Conversion of Residential and Non-Residential. Discourage conversion of residential units to non-residential uses, and limit loss of rental housing stock. Encourage conversion from commercial/office space back to residential use.

## CEQA Review for Draft Housing Element

The various reports published on the Draft Housing Element indicate that the required California Environmental Quality Act (CEQA)/environmental review for the Housing Element will be addressed in an “Addendum” to the recently certified San Rafael General Plan 2040 environmental impact report (EIR). The General Plan 2040 EIR considered cumulative impacts for the addition of over new 4,000 units in preparation of this subsequent, Housing Element update. Substantial new housing is planned for in Downtown (under the Downtown Precise Plan), as well as several other sites/areas such as Northgate Mall. The EIR Addendum may be appropriate as the General Plan 2040 anticipated and planned for new housing, and the supportive EIR is a recent document, and a very detailed one. However, MCL reserves the right to review the EIR Addendum when it is completed and available for review.

Of particular concern is how the CEQA document will address housing projects that are eligible for the “by-right” review process, which are exempt from environmental review. While the state housing laws covering “by-right” review acknowledge some environmental topic areas under CEQA to determine site eligibility and project review (e.g., federally designated wetlands, FEMA flood plain zone, historic and cultural resources), it does not cover or address all environmental topic areas that are covered under CEQA. One example is air quality. Low-, medium-, and high-density residential uses are considered sensitive receptors. Sensitive receptors are subject to air-pollutant related health risks. A number of the housing sites on the Site Inventory are within 500 feet of US 101, which is a source of cancer-causing pollutants. Some of these sites might be eligible for the “by-right” review process. For housing projects being processed through the conventional, discretionary planning process, a health-risk assessment would be required to assess future resident exposure to air pollutants. Such an assessment would not be required for a project seeking “by-right” review. This type of void should be acknowledged in the Addendum text and could be addressed in possible amendments to the City’s SB35 and SB9 ordinances, and, where appropriate, in the accompanying “objective design standards.” Regarding the latter, MCL encourages the City to complete and adopt it’s draft objective design standards. In doing so, it is encouraged that the City look to how the County’s objective standards (“ODDS”) anticipate what they may be able to, and want to, protect when the by-right review process is in effect.

Thank you for this opportunity to comment this critical policy planning document.

Yours truly,



Robert Miller  
President



Paul Jensen  
Board Member