



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE

Update: Implementation of 2007-2014 Housing Element and Update of 2015-2022 Housing Element

RECOMMENDED ACTION

For information only; no action required

SUMMARY

The Government Code requires jurisdictions to update their housing element every planning period and obtain certification from the HCD that the element complies with Housing Element law. The work involves **two tracks**. The **first track** involves adopting a variety of Zoning Ordinance Amendments which were committed to in the existing Housing Element adopted in 2012. Specifically, the programs which are required to be implemented are: Housing Element Programs 8a/8b (Vertical Mixed Use[VMU]/Horizontal Mixed Use[HMU]), 10a/10b (Accessory Dwelling Units), 11 (Liveboards), 19 (Density Bonus), 20 (Multi-family Standards), 21 (Special Needs) and 25 (Reasonable Accommodations). If these amendments are not implemented by the end of 2014, the eight year cycle reverts to a four year cycle and the City's next Housing Element will be due in 2018, instead of 2023. The **second track** is a minor update to the adopted Housing Element and gaining certification by the State by January 31, 2015. The second track is reliant on the zoning amendments being adopted. It is anticipated that the City will be making only minor updates to the Housing Element by using the goals and policies of the existing Housing Element in the upcoming update.

BACKGROUND

- For background information on the Housing Element Update process for 2015-2023 see **Attachment 1**.
- In September 2013 and January 2014 the Council appointed **Mayor Ray Withy** and **Vice-Mayor Tom Theodores** as the City Council representatives and **Chair Joan Cox** and **Commissioner Cleveland-Knowles** as the Planning Commission representatives on the Housing Element subcommittee to work with staff on preparation of the Zoning Ordinance amendments for implementation of the 2007-2014 Housing Element and Update of the 2015-2002 Housing Element Update.
- The full Subcommittee met on January 30, 2014, February 7, 2014 and February 13, 2014 to review the draft amendments.
- The draft ordinance amendments (**Attachments 2 and 5-7**) are recommended by the Subcommittee to be presented to the community at a community meeting on March 15.

ORDINANCE AMENDMENT OVERVIEW

- Housing Element **Programs 8a/8b (VMU/HMU)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 2**.
- Housing Element **Programs 10a/10b (Accessory Dwelling Units)**: Completed. See update in **Attachment 3**.
- Housing Element **Program 11 (Liveboards)**: Partially completed. See update in **Attachment 4**.

- Housing Element **Program 19 (Density Bonus)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 5**.
- Housing Element **Program 20 (Multi-family Standards)**: Planning Commission recommended draft ordinance to be reviewed by the City Council at a public hearing on March 4, 2014 (draft ordinance not included in this update).
- Housing Element **Program 21 (Special Needs)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 6**.
- Housing Element **Program 25 (Reasonable Accommodations)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 7**.
- New Definitions to address new terms in the draft ordinances above are in **Attachment 8**.

NEXT STEPS

The following are the next steps in the Implementation of 2007-2014 Housing Element and Update of 2015-2022 Housing Element (see **Attachment 9** for a flow chart):

Track One (Implementation of 2007-2014 Housing Element):

Event	Timeframe
Subcommittee meeting: review draft ordinance amendments	January 30, February 7 and February 13
Community meeting: discuss the ordinance amendments	Saturday, March 15, 10am-12pm, Bay Model
City Council meeting: update on ordinance amendments and housing element update	April
Planning Commission hearings: ordinance amendments	May/June
City Council hearings: to adopt ordinance amendments	June/July

Track Two (Update of 2015-2022 Housing Element):

Event	Timeframe
Subcommittee meeting: review draft Element	March
City Council meeting: update on ordinance amendments and Housing Element update	April
Community meeting: discuss the draft Element	May
City Council meeting: update on ordinance amendments and housing element update	June
Planning Commission hearings: recommend draft Element	June/July
City Council meeting: review of recommended draft Element	July
HCD: reviews draft Element	August/September
City Council hearings: to adopt updated Element	October/November


STAFF RECOMMENDATION

For information only; no action required

ATTACHMENTS:

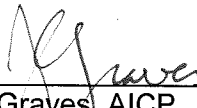
1. Background Information
2. Programs 8a/8b (VMU/HMU)
3. Programs 10a/10b (Accessory Dwelling Units)
4. Program 11 (Liveboards)
5. Program 19 (Density Bonus)
6. Program 21 (Special Needs)
7. Program 25 (Reasonable Accommodations)
8. Definitions (to implement amendments)
9. Flow Chart

PREPARED BY:



Lily Schinsing
Administrative Analyst

REVIEWED BY:



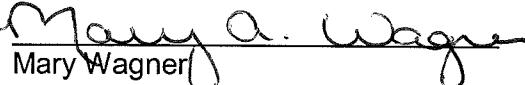
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Community Development Director

REVIEWED BY:



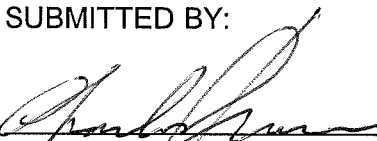
Charlie Francis
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Mary Wagner
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SUBMITTED BY:

by 

Adam W. Peltzer *by Charles D. FRANCIS*
City Manager *ACM*

BACKGROUND INFORMATION

The City's 2007-2014 Housing Element was adopted on October 9, 2012 and certified to be in conditional compliance with Housing Element Law by the California Department of Housing and Community Development (HCD) on November 7, 2012. The adopted Housing Element reflects the unique character of Sausalito while also being responsive to the State's legal requirements by using a multi-faceted approach that has a low impact on the community.

The Government Code requires jurisdictions to update their housing element every planning period and obtain certification from the HCD that the element complies with Housing Element law. The current planning period is from 2014-2022 (an eight year cycle), provided that the City receives certification from HCD by January 31, 2015. ***If the City does not gain certification from HCD by the statutory deadline, the eight year cycle reverts to a four year cycle*** (see discussion below in the "Penalty for Non-Compliance" section).

2014-2022 RHNA

The Regional Housing Need Allocation (RHNA) is the process by which each community is assigned its share of the regional housing need for an eight-year period. The allocation process consists of two steps. First, HCD determines the total housing need for each region in the state. Second, the Association of Bay Area Governments (ABAG) is assigned the responsibility to distribute this housing need to local governments within the Bay Area. The following actions have occurred regarding the 2014-2022 RHNA:

- On February 24, 2012, HCD provided ABAG with its determination of total regional housing need.
- On May 17, 2012, the ABAG Executive Board approved the draft RHNA methodology and a draft share of the region's total housing need for each of the subregions.
- On April 25, 2012, Sausalito sent a comment letter to ABAG regarding the proposed methodology.
- On June 19, 2012, the ABAG Executive Board adopted the final RHNA methodology and approved release of the draft allocations.
- On June 28, 2012, Sausalito sent a comment letter to ABAG regarding the methodology.
- On July 18, 2013, the ABAG Executive Board adopted the Final RHNA.
- See http://www.abag.ca.gov/planning/housingneeds/pdfs/2014-22_RHNA_Plan.pdf for the *Regional Housing Need Plan for the San Francisco Bay Area: 2014-2022*.

Sausalito's RHNA for the 2014-2022 Housing Element cycle is a total of **79 units**, which is substantially less than the 207 units from the 1999-2006 RHNA and the 165 units from the 2007-2014 RHNA. See the table below, from ABAG's *Regional Housing Need Plan for the San Francisco Bay Area: 2014-2022*, which divides Sausalito's 2014-2022 RHNA into Very Low, Low, Moderate, and Above Moderate Income categories.

Appendix C: FINAL REGIONAL HOUSING NEED ALLOCATION (2014-2022)

	Very Low 0-50%	Low 51-80%	Moderate 81-120%	Above Moderate 120%+	Total
Marin County					
Belvedere	4	3	4	5	16
Corte Madera	22	13	13	24	72
Fairfax	16	11	11	23	61
Larkspur	40	20	21	51	132
Mill Valley	41	24	26	38	129
Novato	111	65	72	167	415
Ross	6	4	4	4	18
San Anselmo	33	17	19	37	106
San Rafael	240	148	181	438	1,007
Sausalito	26	14	16	23	79
Tiburon	24	16	19	19	78
Marin County Unincorporated	55	32	37	61	185
	618	367	423	890	2,298

STREAMLINED REVIEW

For the first time, HCD is offering a streamlined review for the upcoming Housing Element cycle. While all local governments are still required to adopt a housing element update, the streamlined review is designed to reduce the number and scope of housing element submittals per jurisdiction and to focus resources on providing assistance to jurisdictions to ensure compliance and effectively addressing housing needs. *Jurisdictions that do not adopt a Housing Element by January 31, 2015 will not be eligible for the streamlined review.* The benefits to opting with a streamlined review with HCD include:

- Priority review status (less than the typical 60 day review);
- Ability to use a template to show changes made to Housing Element, which shortens the HCD review period and focuses the HCD questions to those relevant portions of the Element;
- Flexibility in having to only minimally update, or not update at all, certain sections of the Element;
- Permission to show changes to the Housing Element in a strikeout, underline, redline, or highlighting format.

In order to qualify for the streamlined review, the following requirements apply:

Streamlined Review Requirements	Status
<input type="checkbox"/> A housing element for the previous planning was adopted and found to be in compliance with State housing element law	<input checked="" type="checkbox"/> The 2007-2014 Housing Element was adopted and found to be in conditional compliance with State housing element law
<input type="checkbox"/> Any programs which the City was given conditional certification for need to be completed (Housing Element Programs 10a, 10b and 11)	<input checked="" type="checkbox"/> The ordinance regarding new and amnesty ADUs was adopted in late 2012 <input type="checkbox"/> Liveaboard work is partially completed
<input type="checkbox"/> Zoning Ordinance Amendment completed to permit emergency shelters without discretionary action (Housing Element Program 21)	<input type="checkbox"/> Ordinance drafted and reviewed by Subcommittee. Ordinance needs to be adopted.

<input type="checkbox"/> Zoning Ordinance Amendment completed to permit transitional and supportive 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 (Housing Element Program 21)	<input type="checkbox"/> Ordinance drafted and reviewed by Subcommittee. Ordinance needs to be adopted.
<input type="checkbox"/> Zoning Ordinance Amendment completed to authorize reasonable accessibility accommodations with respect the zoning, permit processing and building regulations(Housing Element Program 25)	<input type="checkbox"/> Ordinance drafted and reviewed by Subcommittee. Ordinance needs to be adopted.
<input type="checkbox"/> Zoning Ordinance Amendment completed to update the current density bonus provisions in the Zoning Ordinance (Housing Element Program 19)	<input type="checkbox"/> Ordinance drafted and reviewed by Subcommittee. Ordinance needs to be adopted.

It should be noted that a significant part of the Housing Element Update will include requirement to "Review and Revise." This will require the City to review the status of and demonstrate compliance with important implementing programs:

Streamlined Review Requirements	Status
<input type="checkbox"/> VMU/HMU Regulations (Housing Element Programs 8a and 8b)	<input type="checkbox"/> Ordinance drafted and reviewed by Subcommittee. Ordinance needs to be adopted.
<input type="checkbox"/> Multi-family Standards (Housing Element Program 20)	<input type="checkbox"/> Ordinance drafted; first reading by Council on 3/4/14

PENALTY FOR NON-COMPLIANCE

Senate Bill 375 (SB 375) changed the RHNA process from a five-year cycle to an eight-year cycle. However, the penalty for not adopting an updated Housing Element within 120 days of the statutory deadline (for the upcoming cycle: January 31, 2015) is that the Housing Element update cycle would be transformed from an eight-year cycle to a four-year cycle. This would mean that a city that does not adopt an updated Housing Element within 120 days of the statutory deadline would now have **two** required updates in the eight-year period: once by January 31, 2019 and another by January 31, 2023.

Memorandum

TO: City Council

FROM: Geoff I. Bradley, AICP Principal, Metropolitan Planning Group
Dave Javid, AICP, LEED AP, Principal Planner, Metropolitan Planning Group
Karen Warner, AICP, Principal, Karen Warner Associates

SUBJECT: Vertical Mixed Use and Horizontal Mixed Use Regulations
Sausalito 2009-2014 Housing Element Programs #8a and 8b

BACKGROUND

Sausalito's adopted 2009-2014 Housing Element includes Program #8 "Mixed Use Zoning in Commercial Districts." Findings in the Housing Element update determined the greatest potential for residential development within the City occur as infill sites within commercial districts. The program follows direction set by the following Housing Element policies:

- Policy 2.1 Variety of Housing Choices;
- Policy 2.3 Adaptive Reuse;
- Policy 4.2 Flexible Development;
- Policy 5.3 Family Housing; and
- Policy 6.5 Jobs/Housing Balance

Program #8 is divided into Vertical Mixed Use (#8a) and Horizontal Mixed Use (#8b) sections. Provisions within each section aim to encourage and incentivize the development of residential uses adjacent to commercial uses within specified zoning districts. Incentives, standards, mandates, and modifications to the existing Zoning Ordinance are outlined within the provisions of this program and reflected in the following regulations. See **Exhibit A** for an excerpt from the Housing Element regarding Program #8.

PURPOSE

Vertical and Horizontal Mixed Use (VMU and HMU) Regulations have been developed with standards to encourage the inclusion of affordable residential units within commercial districts within the City. Though the existing Zoning Ordinance allows residential uses within these districts, these regulations deliver modifications to the existing standards within the applicable zoning districts to facilitate the addition of residential units in these areas. These regulations lay out standards, procedures, design and parking, requirements, and applicability of residential units within vertical and horizontal mixed-use developments. The provisions of these regulations can provide additional affordable and market rate units within infill sites.

Exhibit B is the draft VMU regulations, which have been incorporated into Zoning Ordinance Section 10.44.190 (Residential Use in Commercial Districts). **Exhibit C** is the existing, clean lined version of Section 10.44.190 (for reference).

Exhibit D is the draft HMU regulations, which would be included in the Overlay Chapter of the Zoning Ordinance. **Exhibit E** is the draft edits that would be necessary to the Zoning Map. **Exhibit F** is the Amendments to Table 10.12-2 and 10.24-1 to incorporate the HMU overlay.

City Council Meeting
February 25, 2014

Attachment 2
VMU/HMU Memo

Item 6C - attach 2
02-25-14
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Exhibits

- A. Sausalito Housing Element Program #8a and 8b
- B. Draft VMU Regulations (Amend Zoning Ordinance Section 10.44.190)
- C. Existing Zoning Ordinance Section 10.44.190
- D. Draft HMU regulations (Amend Chapter 10.28)
- E. Draft Zoning Map Amendments to incorporate HMU overaly
- F. Draft Amendments to Tables 10.12-2 and 10.24-1 to incorporate HMU overlay

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Exhibit A: Housing Element Program #8a and 8b

(Policy 2.2 Adequate Sites)

As part of this Housing Element, a detailed analysis of all vacant and underutilized residential and commercial parcels in Sausalito was conducted. The analysis used the Marin Map GIS system and was confirmed by review of aerial photographs and site visits. A number of filters were applied in order to identify only those parcels that truly have realistic development potential. The analysis determined that under existing zoning designations, approximately 100 additional units can be accommodated within the City's residential zoning districts and approximately 50 units within the City's commercial zones. Only limited vacant sites remain, with the majority of future residential development opportunities on underutilized parcels that are more challenging to develop.

2009-2014 Objectives: *Maintain a current inventory of vacant and underutilized residential sites, and mixed-use sites within the City's commercial districts. Provide the site inventory and available development incentives information to interested developers.*

8. Mixed Use Zoning in Commercial Districts

(Policy 2.1 Variety of Housing Choices, Policy 2.3 Adaptive Reuse, Policy 4.2 Flexible Development Standards, Policy 5.3 Family Housing, Policy 6.5 Jobs/Housing Balance)

With approximately one-third of the City's residential infill potential occurring within its commercial districts, it will be important that the City's standards facilitate residential mixed use. The following provisions currently encourage the integration of residential use within the CC, CR and CN commercial zoning districts:

- Allowances for residential housing on upper stories, up to the City's height limit of 32 feet, with commercial uses at ground level;
- Prohibition against conversion of existing residential uses to commercial (except in CC district where permitted with Minor Use Permit);
- Allowances for commercial and residential users to share their parking with a conditional use permit (CUP); and
- Allowances for tandem parking with a CUP.

8a. Vertical Mixed Use Requirements in Commercial Districts

"Vertical Mixed Use" (VMU) is a new mandatory requirement to be applied throughout the CN-1, CR and CC zoning districts to better facilitate the provision of upper story residential use above ground floor commercial (i.e. "vertical" mixed use), and encourage the integration of affordable units within market-rate projects. VMU requirements are as follows:

- New construction of 2nd and 3rd stories is limited to residential use.
- A minimum of one unit must be affordable. Projects with 6 or more units must provide

20% affordable units.

- Affordable rental units are targeted to low income (80% AMI) households, and affordable ownership units are targeted to moderate income (120% AMI) households.
- Affordable units must have a minimum of two bedrooms to accommodate families.
- The affordable units must be deed-restricted for a period of not less than forty years.
- The conversion of existing upper story residential uses to commercial uses is prohibited.
- The following exceptions to VMU requirements may be approved by the City Council:
 - a. To allow the expansion of an existing business;
 - b. If the property owner can demonstrate a financial hardship; and
 - c. If project applications for non-residential uses are deemed complete prior to March 31, 2013, to allow for potential projects that are currently under consideration to be reviewed according to existing zoning regulations.

Incentives to foster the creation of upper story residential VMU units include:

- Raising the current Conditional Use Permit requirement for 4 or more residential units to 7 or more residential units.
- Allowance for commercial and residential users to share parking, and for tandem and off-site parking leases with a Minor Use Permit.
- Allowance for affordable units to vary in square footage, design and interior amenity within reason from non-affordable units to reduce the cost of providing affordable units.
- Reduction or waiver of certain application and development review fees for the affordable units.

2009-2014 Objectives: Adopt VMU requirements for CN-1, CR and CC zoning districts within six months of Housing Element adoption.

8b. Horizontal Mixed Use Incentives in Neighborhood Commercial (CN-1) District

To further facilitate the provision of housing within the Neighborhood Commercial (CN-1) Zoning District, the City will implement "Horizontal Mixed Use" (HMU) incentives to encourage the integration of housing with an affordable component¹. These are voluntary incentives that allow commercial property owners of designated CN-1 zoned sites (1901 Bridgeway and 2015 Bridgeway) to utilize the ground floor level of buildings for residential use, rather than the commercial uses otherwise required. The optional HMU incentives may be used in combination with incentives available under State density bonus law for affordable units.

In exchange for the by-right provision of ground floor residential use, the property owner would be required to:

- Ensure a minimum 30% three+ bedroom units to accommodate larger families;
- Ensure 25% very low income and 25% low income households;
- Ensure affordable units are deed-restricted for a period of not less than forty years;
- Meet the existing development standards in the Zoning Ordinance and existing findings for Design Review.

¹ The integration of 100% residential projects within a commercial district is referred to as "horizontal" mixed use as it allows residential uses next to commercial uses, on either the same or nearby parcels.

The following two sites are designated for Horizontal Mixed Use incentives:

- 1901 Bridgeway
- 2015 Bridgeway

2009-2014 Objectives: Adopt HMU incentives on designated parcels within six months of Housing Element adoption.

9. Non-Traditional Housing Types

(Policy 2.1 Variety of Housing Choices, Policy 4.2 Flexible Development Standards)

The community recognizes the changing housing needs of its population, including a growing number of non-family households, aging seniors in need of supportive services, and single-parent families in need of childcare and other services. To address such needs, the City can support the provision of non-traditional and innovative housing types to meet the unique needs of residents, including co-housing, shared housing, and assisted living for seniors, among others.

Co-housing is an innovative type of collaborative housing originated in Denmark in the 1960s. Co-housing communities consist of individually owned, private homes clustered around common facilities and amenities in a walkable, sustainable environment. Common features may include a community garden, recreational areas, and a common house where day care and meals can be shared. The communities are managed by the residents who have chosen to live in a close-knit neighborhood. Hundreds of co-housing communities currently exist throughout the country in a variety of settings, including communities in Berkeley, Oakland, Pleasant Hill, Cotati, Grass Valley, Davis and Santa Barbara.

Given the economic downturn, shared housing living situations are becoming more common. Homeowners are taking in renters, and renters are advertising for roommates to share in housing costs. Bringing in a tenant can be particularly helpful to the community's elderly homeowners to provide the necessary support to allow them to remain in their homes. The City supports these types of shared living situations.

Assisted living facilities are designed for elderly individuals needing assistance with certain activities of daily living - such as eating, bathing, and transportation - but desiring to live as independently as possible. Such facilities bridge the gap between independent living and nursing homes. With 7% of Sausalito's population over the age of 75, assisted living can help meet the housing and supportive service needs of the community's more frail senior residents. The Zoning Ordinance currently provides reduced parking standards for senior housing facilities.

2009-2014 Objectives: Facilitate the development of alternative housing models suited to the community's housing needs by modifying zoning regulations to allow for such additional housing types.

Exhibit B: Draft Amendments for VMU Regulations (Amend Section 10.44.190)

10.44.190 Residential Use in Commercial Districts

A. Purpose and Applicability. Residential uses located in CC, CR and CN zoning districts are subject to the requirements of this section, as provided by Section 10.24.030 (Allowable Land Uses, Commercial Zoning Districts). In addition to the general purposes of this Chapter, the specific purposes of regulating residential uses in commercial zones are as follows:

1. To further the objectives of the 1985 Traffic Initiative by prohibiting conversion of existing residential uses to commercial uses; and
2. To provide valuable opportunities for affordable housing while locating residential land uses adjacent to active commercial areas, to implement the goals and policies of the General Plan and specific programs in the Housing Element.
3. To encourage the retention of existing residential uses in the Central Commercial (CC), Mixed Commercial and Residential (CR), and Neighborhood Commercial (CN-1) Zoning Districts, by prohibiting the conversion of existing upper story residential units to commercial uses.
4. To encourage a mix of residential and commercial uses in the Central Commercial (CC), Mixed Commercial and Residential (CR) and Neighborhood Commercial (CN-1) Zoning Districts, by retaining commercial use on the first (ground or street) levels and requiring that residential use is the only allowed use on all levels above the ground level in the mixed use commercial districts, as specified in this section.

B. Location.

1. Residential uses in the Central Commercial (CC), Mixed Commercial and Residential (CR), and Neighborhood Commercial (CN-1 and CN-2) Zoning Districts are allowed as follows:
 - a. Central Commercial (CC) Zoning District. All uses located above the first (street or ground) level of all existing and new structures shall be residential. Existing residential uses located in the CC Zoning District may be converted to commercial uses with the issuance of a Minor Use Permit pursuant to Chapter 10.58 (Minor Use Permits).
 - b. Mixed Commercial and Residential (CR) Zoning District. All uses located above the first (street or ground) level of all existing and new structures shall be residential. Existing residential uses located in the CR Zoning District are to be preserved.
 - c. Neighborhood Commercial (CN-1) Zoning District. All uses located above the first (street or ground) level of all existing and new structures shall be residential in the CN-1 Zoning Districts located in the Second and Main Street area and the Bridgeway and Spring Street area.
 - d. Neighborhood Commercial (CN-2) Zoning District: Residential uses are not permitted in the CN-2 Zoning District located along Bridgeway between Coloma Street and Ebbtide Avenue.

2. Existing residential uses located on the first (street or ground) level of a structure are permitted to remain in their current location.
3. Commercial uses are an allowed use on the first (street or ground) level pursuant to Section 10.24.030.

C. **Permit Applications for Residential Units.**

1. **Development Standards.** Development standards shall be those of the base zoning district for residential projects per Table 10.24-2 (Site Development Standards – Commercial Zoning Districts). For Residential Density Bonus and Incentives see Section 10.40.130.
2. **Requirements.** Each of the following requirements shall be met as a part of any residential project, including new construction and/or conversion of existing building space:
 - a. Developments of 1 (one) to 5 (five) units must provide a minimum of one (1) Affordable Unit. Developments with six (6) or more units shall require at least twenty (20) percent of the units as affordable. When the number of Affordable Units is calculated to a fractional number, any fraction of less than 0.5 shall be rounded down to the next whole number; any fraction of 0.5 or greater shall be rounded up to the next whole number. In the event that the Affordable Unit(s) are rental unit(s) the applicant shall enter into an agreement with the City regarding such unit(s). The agreement shall meet the requirements of California Civil Code Section 1954.52(b).
 - b. Affordable Units made available as rentals shall be provided to low income (80% AMI) households at an affordable rent.
 - c. Affordable Units made available as ownership units shall be sold to moderate income (120% AMI) households at an Affordable Ownership Housing Cost. Purchasers of Affordable Units must remain as owner-occupants, and may not rent or lease the unit, unless written approval is first obtained from the Director. The Director may approve the renting or leasing only if all of the following conditions are met: (1) the term is not greater than twelve (12) months and cannot be extended without the Director's written approval; (2) the owner demonstrates to the Director's reasonable satisfaction that the owner will incur substantial hardship if he or she is not permitted to rent or lease the Property or any part thereof to a third party; and (3) the rent does not exceed the lesser of: (i) thirty percent (30%) of the income of the tenant household that is renting the Property, or (ii) the owner's monthly cost of principal and interest on the First Mortgage Loan and any Second Mortgage Loan, and property insurance and property taxes associated with Property. Affordable Units shall be constructed to include a minimum of two (2) bedrooms in order

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to accommodate families. Affordable Units shall be constructed to include a minimum of two (2) bedrooms in order to accommodate families.

d. Affordable Units must be deed-restricted for a period of not less than forty (40) years.

3.. Incentives. The following incentives and conditions shall be granted to developers of residential projects under this Section 10.44.190:

a. Development may permit commercial and residential tenants to share parking, and for tandem and off-site parking leases with a Minor Use Permit. In order to approve a Minor Use Permit for joint use, the Applicant shall demonstrate the following:

i. There is no substantial conflict in the principal operating hours of the building or uses for which the joint use of off-street parking facilities is proposed; and

ii. The proposed joint use parking area is conveniently located to the uses to be served.

iii. If the area to be used for parking and the parcel on which the subject land use is located are not the same, then the Zoning Administrator shall consider whether a deed restriction is warranted as a condition of approval. Said deed restriction would stipulate that the shared parking agreement shall remain in effect for the life of the subject land use.

b. Affordable Units may be permitted to be smaller in aggregate size and have different interior finishes and features within reason from market-rate units. The interior amenities in Affordable Units should generally be the same as those of the market rate units in the project. Appliances need not be the same make, model, or type of such item as long as they are of good and new quality and are consistent with current standards for housing. Deviations between market rate and Affordable Units shall be described in writing by the applicant and shall require written approval by the Director.

c. Development and application fees, including plan check and building permit fees, shall be reduced to a rate of 50 percent of the adopted development fees for the affordable portions of the project. The fee reduction shall be calculated on pro-rata basis by the Director.

4. Access and Facilities. Both market rate and Affordable Units shall maintain separate entrances from commercial and/or office uses. A Minor Use Permit shall be required to deviate from the separate entrance requirement. In order to approve a Minor Use

1 Permit for joint entrance, the Applicant shall demonstrate that the addition of a
2 separate entrance is infeasible due to physical constraints. All residential units shall
3 contain a separate kitchen and bathroom facility.
4

5 5. Exceptions to Requirements. Waiver of specific use requirements in this Section
6 10.44.190 pursuant to Section 10.44.010.E shall only be considered in the following two
7 instances:

- 8 a. To allow for an exception to Section 10.44.190.B.1, which requires that all uses
9 located above the first (street or ground) level of all existing and new structures
10 shall be residential. The expansion of an existing business within the same or
11 adjacent site may be a special situation considered by the Planning Commission
12 when evaluating an exception to Section 10.44.190.B.1.
13 b. To allow for an exception to Section 10.44.010.E, which requires that Affordable
14 Units provide a minimum of two (2) bedrooms. To receive an exception from
15 Section 10.44.010.E, it must be demonstrated that there are physical site
16 constraints which make infeasible units with two or more bedrooms whether
17 affordable or market rate.
18

19 Section 10.44.010.E shall not be used to grant any other exceptions from this Chapter
20 10.44.190 except for the two instances listed above.

Exhibit C: Existing Section 10.44.190

- H. **Low and Moderate Income Housing.** As vacancies occur, marina operators shall give preference to qualified Low and Moderate income tenants until such tenants constitute at least 50% of the liveaboard vessels in the marina.

10.44.180 Veterinary Clinics

When allowed by Chapters 10.20 through 10.28 (Zoning District Regulations) in the zoning districts that are subject to the Marinship (-M) overlay district, veterinary clinics are subject to the requirements of this section:

- A. **Boarding.** Veterinary clinics may offer short-term boarding of animals to serve the primary purpose of providing health care for animals.
- B. **Noise.** All areas where animals have access or are kept shall be soundproofed to contain all sounds on-site prior to the issuance of a Zoning Permit.

10.44.190 Residential Use in Commercial Districts

- A. **Purpose and Applicability.** Residential uses located in CC, CR and CN zoning districts are subject to the requirements of this section, as provided by Section 10.24.030 (Allowable Land Uses, Commercial Zoning Districts). In addition to the general purposes of this Chapter, the specific purposes of regulating residential uses in commercial zones are as follows:
1. To further the objectives of the 1985 Traffic Initiative by prohibiting conversion of existing residential uses to commercial uses; and
 2. To encourage the retention of existing residential uses in the CR zoning district, by requiring a Conditional Use Permit for any commercial uses above street level.
- B. **Location.** All residential uses shall be located above the first (street or ground) level of all existing and new structures. Existing residential uses located on the first (street or ground) level of a structure are permitted to remain in their current location.
- C. **CC zoning district.** Existing residential uses located in the Central Commercial (CC) zoning district may be converted to commercial uses with the issuance of a Minor Use Permit pursuant to Chapter 10.58 (Minor Use Permits).
- D. **CR zoning district.** Existing residential uses located in the Mixed Commercial and Residential (CR) zoning district are to be preserved. Only new residential uses are allowed on levels above the street level. Commercial use on levels above the street shall require a Conditional Use Permit.
- E. **CN zoning district.** Residential uses are permitted above the ground floor in the CN Zoning Districts located in the Second and Main Street area and the Bridgeway and Spring Street area. Residential uses are not permitted in the CN Zoning District located along Bridgeway between Coloma Street and Ebbside Avenue.

Exhibit D: Draft HMU regulations (Amend Chapter 10.28)

1 **Amendment to Chapter 10.28 – Overlay Districts: New Section 10.28.080 Horizontal Mixed Use (HMU)**

2 **A. Applicability.** These regulations apply to Horizontal Mixed Use (HMU) Overlay sites situated within
3 the Neighborhood Commercial 1 (CN-1) zoning district. An applicant may elect to comply with the
4 provisions of this Section 10.28.080 in which case the requirements of MSC 10.44.190 shall not apply.
5 In the event an applicant does not elect to comply with the provisions of this Section 10.28.080 then
6 the requirements of SMC 10.44.090 shall apply.
7

8 **B. Zoning Map Indicator.** Each HMU overlay district shall be shown on the zoning map by adding an “—
9 HMU” designator to the base district designation.
10

11 **C. Permit Applications for Residential Units.**

12
13 1. **Location.** Residential dwelling units within HMU projects may be permitted on all levels of
14 existing and new buildings.
15

16 2. **Development Standards.** Development standards shall be those of the base zoning district for
17 residential projects per Table 10.24-2 (Site Development Standards – Commercial Zoning Districts).
18 For Residential Density Bonus and Incentives see Section 10.40.130.
19

20 3. **Requirements.** HMU projects shall comply with each of the following provisions:

21 a. Thirty percent of residential units within HMU projects shall provide a minimum of three (3)
22 bedrooms in order to accommodate “large households” (i.e., households with five or more
23 persons, typically consisting of families with children). If the number of units is calculated to
24 a fractional number, any fraction of less than 0.5 shall be rounded down to the next whole
25 number; any fraction of 0.5 or greater shall be rounded up to the next whole number.

26 b. A minimum of 25 percent of the units in an HMU project must be provided at an affordable
27 rents or sales price to very low income (50% AMI) households, and an additional 25% must
28 be provided as affordable to low income (80% AMI) households. If the affordable number of
29 units is calculated to a fractional number, any fraction of less than 0.5 shall be rounded
30 down to the next whole number; any fraction of 0.5 or greater shall be rounded up to the
31 next whole number.

32 c. Affordable Units shall be deed-restricted for a period of not less than forty years.

33 4. **Incentives.** The following incentives shall be granted to HMU projects compliant with the
34 development standards and requirements in these regulations.

35 a. Affordable Units may be permitted to be smaller in aggregate size and have different
36 interior finishes and features within reason from market-rate units. The interior amenities in
37 Affordable Units should generally be the same as those of the market rate units in the
38 project. Appliances need not be the same make, model, or type of such item as long as they
39 are of good and new quality and are consistent with current standards for housing.
40 Deviations between market rate and Affordable Units shall be described in writing by the
41 applicant and shall require approval by the Director.

- 1 b. Development and application fees, including plan check and building permit fees, shall be
2 reduced to a rate of 50 percent of the adopted development fees for the affordable portions
3 of the project. The fee reduction shall be calculated on pro-rata basis by the Director.
- 4 5. Access and Facilities. Residential units of both market rate and affordable varieties shall
5 maintain separate entrances from commercial and/or office uses. A Minor Use Permit shall be
6 required to deviate from the separate entrance requirement. In order to approve a Minor Use
7 Permit for joint entrance, the Applicant shall demonstrate that the addition of a separate
8 entrance is infeasible due to physical constraints. All residential units shall contain a separate
9 kitchen and bathroom facility.
- 10 6. Exceptions to HMU Requirements. The Planning Commission may waive the requirement in
11 Section 10.28.080.C.3.a, which requires that 30% of the units provide a minimum of units of three
12 (3) or more bedrooms in order to accommodate larger households in special situations when it is
13 demonstrated that there are physical site constraints which make infeasible units of three or more
14 bedrooms. In order to waive this requirement, the following findings shall be made:
- 15 a. Based on the unique project characteristics and location, the requirement in Section
16 10.28.080.C.3.a is not necessary to meet the goals and policies of the General Plan and
17 specific programs in the Housing Element.
- 18 b. There is an adequate mix of units in the proposed development for larger households.
- 19

Exhibit F: Draft Amendments to Tables 10.12-2 and 10.24-1

Table 10.12-2 OVERLAY DISTRICT DESIGNATIONS		
Designator	Overlay Zoning District	Regulations in Section
-H	Historic	10.28.040 and Chapter 10.46 (Historic Overlay District and Landmarks)
-M	Marinship	10.28.050
-Pd	Planned Development	10.28.060
-Sh	Senior Housing	10.28.070 and Section 10.44.120 (Senior Housing Projects)
<i>-HMU</i>	<i>Horizontal Mixed Use</i>	<i>10.28.080</i>

Table 10.24-1 (continued)
LAND USES ALLOWED IN COMMERCIAL DISTRICTS*1*

LAND USE	CC	CR	CN	SC	CW	W	W-M	SEE SECTION
Residential accessory uses	P	P	P					10.44.020 (Accessory Uses and Structures)
Senior housing projects	CUP	CUP	CUP ^{34*}					10.44.120 (Senior Housing Projects)
Upper floor residential								
One to three (1-3) dwelling units six 6	P	P or CUP	P ^{34*}					10.44.190 (Residential Use in Com. Dist.)
Seven Four (4) or more dwelling units	CUP	CUP	CUP ^{34*}					
Retail Trade								
Art galleries dealing in original art	P	CUP						Sec. 10.44.230 (Visitor Serving Stores and Art Galleries)
Drinking Establishments	CUP	CUP	CUP		CUP ⁵			
Building material stores	P	P	P		P			
Formula Retail (<i>Applies to all forms of retail trade.</i>)	CUP		CUP	CUP				Sec. 10.44.240 (Formula Retail)
Full service supermarket				P				
Furniture, furnishings and equipment stores	P	P	P		P			
Grocery stores	P	P	P		P			
Jewelry stores – precious metals & gems	P	P						
Liquor stores	P	CUP	CUP					
Lumberyard				CUP				
Plant nurseries	CUP		CUP		CUP			
Recreational equipment sales and rentals	P	P			P	P		
Restaurants	P	CUP	CUP		P		CUP ¹⁵	10.44.210 (Restaurants) and 10.44.220 (– Outdoor Eating Areas)
Outdoor dining (on public right-of-way or private property)	MUP	MUP	MUP		MUP		MUP	
Retail stores, general merchandise (non-visitor-serving)	P	P	P					
Secondhand or thrift stores	P	P	P					
Visitor serving stores	CUP							10.44.230 (Visitor Stores)
Wholesale and retail fish sales	P	P	P		P	P	CUP	
Wine shops	P	P						

Memorandum

TO: City Council
FROM: Karen Warner, AICP, Principal, Karen Warner Associates
SUBJECT: **Accessory Dwelling Unit Program Status Update**
Sausalito 2009-2014 Housing Element Program #10a/b

Summary

Housing Element Program #10a states the following:

Adopt accessory dwelling unit (ADU) regulations in 2012 to facilitate the provision of ADUs for seniors, caregivers, and other lower and extremely low income households. Develop a brochure and make information available to the public on the City's website, at the City Hall public counter, and through other community resources. Seek to create 12 ADUs during the remaining 2012-2014 planning period. Monitor the City's progress in conjunction with the Annual Housing Element Report.

Housing Element Program #10b states the following:

Adopt and begin implementation of an ADU registration and amnesty program in 2012. Seek to legalize a minimum of 12 ADUs during the remaining 2012-2014 planning period, bringing them into the City's official housing stock and crediting them towards the RHNA. Monitor progress in conjunction with the Annual Housing Element Report and report to HCD in 2013. To the extent there is a shortfall in the number and affordability of legalized ADUs to address the RHNA, the City will amend the Housing Element to identify additional strategies.

The following summarizes the work that has been completed to date on these programs.

Amnesty ADUs

An amnesty ADU ordinance was adopted in November of 2012 and applications for amnesty ADUs were accepted beginning in 2013. Since that date the City has received 32 applications to legalize an ADU. Out of the 32 applications, **11 have been approved which can count towards addressing the RHNA**, 3 have been approved but cannot count towards addressing the RHNA as the unit was counted in the 2000 Census, and the remaining 18 applications are still in the process of being reviewed. The amnesty period is set to expire on March 31, 2014, at which point property owners must have complete applications in with the Community Development Department for consideration for amnesty. Based on discussions with HCD, the City maintains the option of crediting amnesty ADUs approved in 2014 towards its 2007-2014 RHNA, or the 2014-2023 RHNA for the upcoming Housing Element. The City will make this determination prior to submitting its draft Housing Element update to HCD based on the need to offset any shortfall in new ADUs and/or liveboards assumed in the 2009-2014 Housing Element sites inventory.

New ADUs

An ADU ordinance was adopted in November of 2012 and applications for ADUs were accepted beginning in 2013. Since that date the City has received 5 applications to construct/create a new ADU. Out of the 5 applications, **3 have been approved** and the remaining 2 applications are still in the process of being reviewed.

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City Council Meeting
February 25, 2014

Attachment 3
ADUs Memo
Item 6C - attach 3
02-25-14
Page 1 of 1

Memorandum

TO: City Council
FROM: Karen Warner, AICP, Principal, Karen Warner Associates
SUBJECT: **Liveaboard Program Status Update**
Sausalito 2009-2014 Housing Element Program #11

Summary

Housing Element Program #11 states the following:

Contact marina operators and facilitate any required local permitting in 2012. Report permitted liveaboards to the State Department of Finance (DOF) at the next reporting period in early 2013. Coordinate with Sausalito Yacht Harbor to ensure all BCDC and City permitting required for increasing liveaboard capacity to 10% is completed no later than 2013, and report permitted liveaboards to DOF in early 2014. Establish procedures for monitoring and enforcement of local low and moderate income occupancy requirements. Pursue means to improve mail service and public communication with the liveaboard community.

The following summarizes the work that has been completed to date on this program.

Existing Liveaboards

A. 2000 Census Count of Liveaboards

For purposes of the 2009-2014 Housing Element site inventory, the following methodology was utilized to quantify the number of existing liveaboards to be credited towards Sausalito's RHNA:

1. Document the number of liveaboards counted in the 2000 census and thus already reflected in ABAG's count of existing units in Sausalito in the 2009-2014 RHNA;
2. Document the number of existing "legal" liveaboards in each census block with permits from the San Francisco Bay Conservation and Development Commission (BCDC); and
3. Quantify the number of permitted liveaboards not counted by the 2000 census by census block or subsequently counted by the Department of Finance, and apply towards the City's RHNA.

Table 1 below (excerpted from the adopted Housing Element) compares the 2000 Census count of liveaboards by census block with the actual number of existing "legal" liveaboards as authorized by BCDC. As indicated by this table, the 2000 Census identifies 76 housing units¹ within the three census blocks which encompass the City's eight marinas. In contrast, a total of 108 existing liveaboards with BCDC permits are located within these census blocks (excluding the 38 berth Galilee Harbor which was occupied in 2003 and thus counted as a project for the prior planning period). A comparison of the 2000 Census housing unit count within each census block with the number of existing BCDC permitted liveaboards reflects a net Census undercount of 38 liveaboard units.

¹ The Census does not break down housing units by type of unit at the block level. However, the three 2000 census blocks which contain Sausalito's 8 marinas coincide with the waterfront and contain no housing units on land.

Table 1: Comparison of Existing Permitted Liveaboards and 2000 Census

Census Block # (Tract 1302, Block Group 1)	2000 Census Housing Unit Count	Marina	Existing Liveaboards in 2000 with BCDC Permits	2000 Census Undercount of Permitted Liveaboards
1000	8	Pelican Harbor	9	32
		Sausalito Yacht Harbor	31	
1001	10	Galilee Harbor*	(38)	6
		Schoonmaker Marina	16	
		Sausalito Marine Ways	--	
1020	58	Clipper Yacht Harbor	52	0
		Marina Plaza	--	
		Sausalito (Arques) Shipyard	--	
Totals	76 units		108	38 units

Source: 2000 U.S. Census; San Francisco Bay Conservation and Development Commission (BCDC) December 2011; City of Sausalito *Liveaboard Technical Report*, May 25, 2011.

*Note: As the new Galilee Harbor opened as a legally permitted marina in 2003, it is assumed none of the 10 units counted in 2000 in census block 1001 are attributable to Galilee Harbor.

In order to credit these 38 undercounted liveaboard units towards Sausalito's 2009-2014 RHNA, Program #11 in the City's adopted Housing Element (*Liveaboards and Houseboats*) commits the City to reporting these undercounted berths to the State Department of Finance, thus bringing all permitted liveaboards within the City's official housing stock. However, while the five marinas with BCDC authorized liveaboards have various permits on file with the City, only Galilee Harbor has a recorded CUP which explicitly permits liveaboards. In order to be recognized as a legal unit reportable to the State, liveaboards must also have the necessary City permits. City staff have evaluated the additional local permitting required for each of these 4 marinas with BCDC permits, and has concluded the following:

- Pelican Harbor: conforming status of liveaboards unknown, City to conduct additional research to determine if liveaboard use is a legal non-conforming use at this marina or if additional permits are needed.
- Sausalito Yacht Harbor: conforming status of liveaboards unknown, City to conduct additional research to determine if liveaboard use is a legal non-conforming use at this marina or if additional permits are needed. Will need a Conditional Use Permit to exceed 5% of the berths for liveaboards.
- Schoonmaker Marina: liveaboard use is a legal non-conforming use in the Marinship and therefore liveaboards are grandfathered and do not need additional City permits at this point in time.
- Clipper Yacht: liveaboard use is a legal non-conforming use in the Marinship and therefore liveaboards are grandfathered and do not need additional City permits at this point in time.

In summary, for purposes of the 2000 census undercount of 38 liveaboards, (6 units in Schoonmaker Marina, and 32 units in Pelican and Sausalito Yacht Harbors), only the liveaboards in Schoonmaker Marina have been confirmed to not require additional City permits and thus can be counted towards the 2009-2014 RHNA. In order to capture the 32 unit census undercount in Pelican and Sausalito Yacht Harbor, necessary City permitting in these marinas will need to be completed in calendar year 2014.

B. 2010 Census Count of Liveaboards

Discussions with the State Department of Finance (DOF) regarding appropriate reporting of undercounted liveaboards indicate that from this point forward, the City will need to evaluate any undercount in comparison with the housing unit counts from the 2010 Census. So while the 2009-2014 RHNA developed by ABAG is based on housing unit counts from the 2000 Census, the current housing unit counts reported by DOF now utilize the 2010 Census as the baseline.

Unfortunately, both the 2010 census block numbers and boundaries have changed significantly from the 2000 Census, with census blocks now encompassing both waterfront homes and marinas. As shown in Table 2, the 2010 housing unit count by census block now exceeds the number of BCDC permitted liveaboards.

Discussion of this issue with the State Department of Housing and Community Development (HCD) has confirmed the City's ability to continue to utilize the 2000 Census as the basis for the liveaboard undercount in the City's 2009-2014 Housing Element. However, while these undercounted units will not be reported to DOF, HCD has stressed that any liveaboards to be credited towards the 2009-2014 RHNA must have the necessary City permits in place in 2014.

Table 2: Comparison of Existing Permitted Liveaboards and 2010 Census

Census Block # (Tract 1302.02 Block Group 1)	2010 Census Housing Unit Count	Marina	Existing Liveaboards with BCDC Permits
1023	75	Clipper Yacht Harbor	52
1035	80	Galilee Harbor	38
		Schoonmaker Marina	16
1038	27	Sausalito Marine Ways	--
1039	62	Sausalito Yacht Harbor	31
		Pelican Harbor	9
Totals	244 units		146

Future Liveaboard Capacity

Similar to residential sites capacity under zoning, several marinas have additional capacity within their existing berths for liveaboards as authorized by BCDC. As illustrated in **Table 3** (excerpted from the Housing Element), BCDC has authorized 201 liveaboards within five marinas in the City whereas 146 permitted liveaboards currently exist in these marinas, providing capacity for 55 additional liveaboards.

Table 3: Additional Liveboard Capacity in Permitted Marinas

Marinas with BCDC Permits	Authorized Liveboards under BCDC Permit	Existing Permitted Liveboards	Additional Liveboard Capacity
Pelican Harbor	9	9	0
Sausalito Yacht Harbor	62	31	31
Galilee Harbor	38	38	0
Schoonmaker Marina	20	16	4
Clipper Yacht Harbor	72	52	20
Totals	201	146	55

Source: San Francisco Bay Conservation and Development Commission (BCDC) December 2011; City of Sausalito *Liveboard Technical Report*, May 25, 2011.

Two of the marinas with unused liveboard capacity (Clipper Yacht Harbor and Schoonmaker Marina) have the necessary BCDC permits in place, and are located within the Marinship where liveboards are grandfathered in as a legal non-conforming use, and thus can accommodate a combined total of 24 additional liveboards at any time. The BCDC permit for the third marina with additional liveboard capacity (Sausalito Yacht Harbor) currently authorizes 5%, or 31, liveboard berths; BCDC indicates the permit can be amended to increase liveboard berths to 10% upon the owner's request and demonstration of compliance with the San Francisco Bay Plan and Richardson's Bay Plan policies and requirements. The City has reviewed the requirements of these Plans with representatives of Sausalito Yacht Harbor, and will be required to provide sufficient parking and obtain a Conditional Use Permit to expand to 62 liveboard berths. In order to count towards Sausalito's 2009-2014 and 2015-2023 RHNA, the necessary City and BCDC permitting for Sausalito yacht harbor will need to be completed in calendar year 2014.

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STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE

Update: Implementation of 2007-2014 Housing Element and Update of 2015-2022 Housing Element

RECOMMENDED ACTION

For information only; no action required

SUMMARY

The Government Code requires jurisdictions to update their housing element every planning period and obtain certification from the HCD that the element complies with Housing Element law. The work involves **two tracks**. The **first track** involves adopting a variety of Zoning Ordinance Amendments which were committed to in the existing Housing Element adopted in 2012. Specifically, the programs which are required to be implemented are: Housing Element Programs 8a/8b (Vertical Mixed Use[VMU]/Horizontal Mixed Use[HMU]), 10a/10b (Accessory Dwelling Units), 11 (Liveboards), 19 (Density Bonus), 20 (Multi-family Standards), 21 (Special Needs) and 25 (Reasonable Accommodations). If these amendments are not implemented by the end of 2014, the eight year cycle reverts to a four year cycle and the City's next Housing Element will be due in 2018, instead of 2023. The **second track** is a minor update to the adopted Housing Element and gaining certification by the State by January 31, 2015. The second track is reliant on the zoning amendments being adopted. It is anticipated that the City will be making only minor updates to the Housing Element by using the goals and policies of the existing Housing Element in the upcoming update.

BACKGROUND

- For background information on the Housing Element Update process for 2015-2023 see **Attachment 1**.
- In September 2013 and January 2014 the Council appointed **Mayor Ray Withy** and **Vice-Mayor Tom Theodores** as the City Council representatives and **Chair Joan Cox** and **Commissioner Cleveland-Knowles** as the Planning Commission representatives on the Housing Element subcommittee to work with staff on preparation of the Zoning Ordinance amendments for implementation of the 2007-2014 Housing Element and Update of the 2015-2022 Housing Element Update.
- The full Subcommittee met on January 30, 2014, February 7, 2014 and February 13, 2014 to review the draft amendments.
- The draft ordinance amendments (**Attachments 2 and 5-7**) are recommended by the Subcommittee to be presented to the community at a community meeting on March 15.

ORDINANCE AMENDMENT OVERVIEW

- Housing Element **Programs 8a/8b (VMU/HMU)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 2**.
- Housing Element **Programs 10a/10b (Accessory Dwelling Units)**: Completed. See update in **Attachment 3**.
- Housing Element **Program 11 (Liveboards)**: Partially completed. See update in **Attachment 4**.

- Housing Element **Program 19 (Density Bonus)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 5**.
- Housing Element **Program 20 (Multi-family Standards)**: Planning Commission recommended draft ordinance to be reviewed by the City Council at a public hearing on March 4, 2014 (draft ordinance not included in this update).
- Housing Element **Program 21 (Special Needs)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 6**.
- Housing Element **Program 25 (Reasonable Accommodations)**: Needs to be implemented. See more information and draft ordinance amendments to implement in **Attachment 7**.
- New Definitions to address new terms in the draft ordinances above are in **Attachment 8**.

NEXT STEPS

The following are the next steps in the Implementation of 2007-2014 Housing Element and Update of 2015-2022 Housing Element (see **Attachment 9** for a flow chart):

Track One (Implementation of 2007-2014 Housing Element):

Event	Timeframe
Subcommittee meeting: review draft ordinance amendments	January 30, February 7 and February 13
Community meeting: discuss the ordinance amendments	Saturday, March 15, 10am-12pm, Bay Model
City Council meeting: update on ordinance amendments and housing element update	April
Planning Commission hearings: ordinance amendments	May/June
City Council hearings: to adopt ordinance amendments	June/July

Track Two (Update of 2015-2022 Housing Element):

Event	Timeframe
Subcommittee meeting: review draft Element	March
City Council meeting: update on ordinance amendments and Housing Element update	April
Community meeting: discuss the draft Element	May
City Council meeting: update on ordinance amendments and housing element update	June
Planning Commission hearings: recommend draft Element	June/July
City Council meeting: review of recommended draft Element	July
HCD: reviews draft Element	August/September
City Council hearings: to adopt updated Element	October/November

STAFF RECOMMENDATION

For information only; no action required

ATTACHMENTS:

1. Background Information
2. Programs 8a/8b (VMU/HMU)
3. Programs 10a/10b (Accessory Dwelling Units)
4. Program 11 (Liveboards)
5. Program 19 (Density Bonus)
6. Program 21 (Special Needs)
7. Program 25 (Reasonable Accommodations)
8. Definitions (to implement amendments)
9. Flow Chart

PREPARED BY:

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SUBMITTED BY:

Adam W. Politzer
City Manager

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Memorandum

TO: City Council

FROM: Geoff I. Bradley, AICP Principal, Metropolitan Planning Group
Dave Javid, AICP, LEED AP, Principal Planner, Metropolitan Planning Group
Karen Warner, AICP, Principal, Karen Warner Associates

SUBJECT: **Draft Density Bonus Ordinance**
Sausalito 2009-2014 Housing Element Program #19

BACKGROUND

Sausalito's adopted 2009-2014 Housing Element sets forth Program #19 "*Density Bonus and Other Incentives for Affordable Housing*" to bring the City into compliance with State Density Bonus Law (Government Code Section 65915). See **Exhibit A** for an excerpt from the Housing Element regarding Program #19. The purpose of the density bonus law is to encourage the development of affordable housing through granting density increases above that permitted under zoning, along with other incentives, **to developers of residential projects with five or more units** who commit to providing a certain percentage of affordable units within their projects.

State density bonus law (found in Government Code Sections 65915-65918) was first enacted in 1979, with significant changes to density bonus provisions enacted in 2005 pursuant to SB 1818. Jurisdictions are required to adopt local density bonus ordinances that meet the minimum standards set by this legislation. Jurisdictions who do not comply with the adoption of the density bonus ordinance and its provisions are considered to be in violation of State law.

In addition to offering density bonuses, incentives and concessions through the provision of affordable housing, applicants may opt to develop senior citizen units, donate land, or construct child care facilities as a method of achieving an awarded bonus.

PURPOSE

In compliance with Government Code Sections 65915-65918, and as specified under Program 19 of Sausalito's adopted Housing Element, the City is preparing the ordinance to amend Title 10 (Zoning) of the Sausalito Municipal Code (see **Exhibit B** for the draft Ordinance). The ordinance will establish applicability, requirements, density bonus awards, incentives, concessions, approval requirements and other criteria for use by the City and applicants in processing density bonus projects.

Although Sausalito currently has a Density Bonus Ordinance (see **Exhibit C**) in place within the Zoning Ordinance, it does not reflect many of the updated standards established under SB 1818, thus requiring updating and reorganization. A matrix comparing existing and revised standards are enclosed as **Exhibit D**. The State Density Bonus Law is attached as **Exhibit D**. A reference density bonus chart is included in **Exhibit F** for information only.

City Council Meeting
February 25, 2014

Attachment 5
Density Bonus Memo

Exhibits

- A. Program #19, Sausalito Housing Element
- B. Draft Density Bonus Ordinance (amending Zoning Ordinance Chapter xx)
- C. Existing Density Bonus Ordinance
- D. Comparison Matrix: Existing and Updated Density Bonus Ordinance
- E. State Density Bonus Law
- F. Density Bonus Chart (for information only)

Exhibit A: Housing Element Program #19

Goal 4.0: Reducing Governmental Constraints

18. Fee Deferrals and/or Waivers for Affordable Housing
(Policy 4.1 Regulatory Incentives for Affordable Housing)

The City collects various fees from development projects to cover the costs of processing permits and providing services and facilities. While these fees are assessed on a pro rata share basis, they are an element in the cost of housing and could potentially constrain the provision of affordable housing. The deferral, reduction or waiver of City fees can lower the production costs of affordable housing.

The City will continue to offer a reduction in City fees as an incentive for affordable housing. In order to specifically encourage the provision of housing affordable to extremely low income (ELI) households (<30% AMI), the City will waive 100% of application processing fees for projects with a minimum of 5% ELI units.

In addition, the California legislature passed AB 641 in 2007, which helps to address the cash flow challenges inherent in many affordable housing projects during the construction phase. For affordable housing developments in which at least 49 percent of the units are affordable to low or very low-income households, AB 641 prohibits local governments from requiring the payment of local developer fees prior to receiving a certificate of occupancy.

2009-2014 Objectives: Provide information to the affordable housing community that fee deferrals, reductions and waivers may be requested for affordable housing projects. Adopt a resolution waiving 100% of application processing fees for projects with a minimum of 5% ELI units.

19. Density Bonus and Other Incentives for Affordable Housing
(Policy 4.1 Regulatory Incentives for Affordable Housing)

Under Government Code section 65915-65918, for housing projects of at least five units cities must grant density bonuses ranging from 5% to 35% (depending on the affordability provided by the housing project) when requested by the project sponsor, and provide up to three incentives or concessions unless specific findings can be made. Local jurisdictions are required to adopt regulations that specify how compliance with the State's density bonus law will be implemented. The City is also required to establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures must include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

2009-2014 Objectives: Amend the Zoning Ordinance text to comply with current State requirements, including permit processing procedures as well as regulatory concessions and incentives. Define the relationship between HMU incentives, VMU Requirements, and State density bonus law.

Exhibit B: Draft Amendment to Zoning Ordinance Section 10.40.130

1 **10.40.130 Residential Density Bonus.**

2 **A. Purpose.** The purpose of this section is to demonstrate the standards and procedures in granting
3 affordable housing density bonuses for housing developments, in an effort to incentivize the
4 construction of Affordable Units within new developments in the City. This section implements the
5 requirements of Government Code Section 65915 ("State Density Bonus Law").
6

7 **B. Applicability.**

- 8 1. This section shall apply to all zoning districts within the City that allow residential use.
9 2. The bonus granted pursuant to this section shall apply only to residential projects or residential
10 components of mixed-use projects, not including units granted as a density bonus.
11 3. The proposed project shall have all of the following characteristics in order to qualify for a
12 density bonus:
13 a. The residential development must include a minimum of five (5) dwelling units.
14 b. The applicant seeks and agrees to provide housing units to very-low, low or moderate income
15 households or senior citizens at rates consistent with those specified in Table 10.40-2
16 (Density Bonus Standards).
17 c. The resulting density is beyond that permitted by the applicable zoning district.
18 d. The applicant agrees to retain the affordable status of housing units for at least thirty (30)
19 years through the recordation of a deed restriction.
20

21 **C. Application Requirements.**

- 22 1. Any applicant requesting a density bonus, incentives, and/or concessions must provide the City
23 with a written proposal.
24 2. The proposed project shall have all of the following characteristics in order to qualify for a
25 density bonus:
26 a. Requested Density Bonus.
27 i. Evidence that the project meets thresholds set by State Density Bonus Law, excluding
28 the units added by the granted density bonus;
29 ii. Calculations showing the maximum base density;
30 iii. Number or percentage of affordable units and the income level at which the units will
31 be restricted to;
32 iv. Number of market rate units to result from the granted density bonus;
33 v. Resulting density, described in units per square foot; and,
34 vi. A written acknowledgement that the project will be subject to a condition of approval
35 and deed restriction to retain affordability of the affordable unit(s) for at least thirty
36 (30) years.
37
38 b. Documentation of Requested Incentives or Concessions.

- 1 i. A pro forma or other report demonstrating that the requested incentives and
 2 concessions result in identifiable, financially sufficient and actual cost reductions
 3 necessary to ensure the financial feasibility of the proposed units shall be prepared.
 4 ii. A detailed report to allow the City to verify the conclusions of the report submitted in
 5 Section 10.40.130.D.2.b.i above shall be prepared. The City may require that an
 6 independent financial review be conducted and the applicant shall be responsible for
 7 all consulting costs for document preparation and review.
 8 iii. The proposal shall include a description of any proposed waivers of development
 9 standards and why they are necessary for making the project physically possible.
 10 iv. All requested incentives and concessions should not exceed the limits stated in Table
 11 10.40-3 (Incentives and Concessions).
 12 3. Payment of fees set by resolution of the City Council.

13 **D. Density Bonus Allowance.**

- 14 1. A request for a density bonus shall not require any discretionary approval by the City. A request
 15 for a density bonus pursuant to this section shall only be granted if the applicant agrees to
 16 construct one of the following:
 17 a. At least five percent (5%) of the units are dedicated to very-low income households;
 18 b. At least ten percent (10%) of the units are dedicated to very-low income and/or low income
 19 households;
 20 c. At least ten percent (10%) of the units are dedicated to moderate-income households and
 21 are developed as common interest developments (including condominium projects, planned
 22 developments, community apartment projects or stock cooperatives) and are available to the
 23 general public for sale; or,
 24 d. At least thirty-five (35) dwelling units are dedicated and available exclusively to persons aged
 25 fifty-five (55) and older and to those residing with them in accordance with State Density
 26 Bonus Law Section (65915(b)(1)(c)).
 27

Table 10.40-2. Density Bonus Standards

Target Group	Proportion of Total Affordable Dwelling Units	Maximum Density Bonus	Example Project with 10 Base Units (Except Senior Citizen Housing Development)			
			Base Units		Bonus Units ⁽⁴⁾	Maximum Number of Units
			Market Units	Minimum Affordable Units		
Very-Low Income ⁽¹⁾	5%	20%	9	1	1	11
	10%	33%	9	1	4	14
	11% or above	35%	8	2	4	14
Low Income ⁽²⁾	10%	20%	9	1	2	12
	20% or above	35%	8	2	4	14

Target Group	Proportion of Total Affordable Dwelling Units	Maximum Density Bonus	Example Project with 10 Base Units (Except Senior Citizen Housing Development)			
			Base Units		Bonus Units ⁽⁴⁾	Maximum Number of Units
			Market Units	Minimum Affordable Units		
Moderate Income ⁽³⁾ (Common interest developments)	10%	5%	9	1	1	11
	20%	15%	8	2	2	12
	40% or above	35%	4	6	4	14
Senior Citizen	35 units (minimum)	20%	35		7	42

- (1) For each 1% increase over 5% of the Target Units, the Density Bonus shall be increased by 2.5% up to a maximum of 35%
- (2) For each 1% increase over 10% of the Target Units, the Density Bonus shall be increased by 1.5% up to a maximum of 35%
- (3) For each 1% increase over 10% of the Target Units, the Density Bonus shall be increased by 1% up to a maximum of 35%
- (4) Rounded up to the next whole number

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2. The density bonuses available under this section shall not be combined.
3. All calculations resulting in fractional units shall be rounded up to the next whole number.

E. Floor Area Bonus and Concessions for Child Care Facilities.

1. When the applicant proposes to construct a housing development that includes affordable housing units as stated in Table 10.40-2 (Density Bonus Standards) and includes a "child care facility," as defined in State Density Bonus Law Section 65915(h)(4), to be located on the premises of, constructed as part of, or located adjacent to the housing development, the City shall grant either of the following to the applicant:
 - a. An additional density bonus in an amount that is equal to or greater than the total square footage of the child care facility; or
 - b. An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility.
2. A housing development shall be eligible for either the density bonus or concession described in this section once the granting authority makes all of the following findings:
 - a. The granted density bonus or concession would contribute to the economic feasibility of the construction of the child care facility.
 - b. The density bonus or concession would not have a significant adverse impact on public health, public safety or the physical environment to an extent which cannot be feasibly mitigated or avoided without compromising the affordability of very-low income, low income and moderate income housing units. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impacts, based on objective, identified, written public health or

1 safety standards, policies, or conditions as they existed on the date that application was
2 deemed complete.

- 3 c. The child care facility shall remain in operation for the same period of time in which
4 Affordable Units of the development are proposed and required to remain affordable.
- 5 d. Of the children attending the child care facility, the percentage of children of very-low
6 income, low income or moderate income households shall be equal to or greater than the
7 percentage of the dwelling units proposed to be affordable to very-low income, low income
8 and moderate income households.
- 9 e. The City shall not be required to grant a density bonus or concession if it determines, based
10 on substantial evidence, that the community has adequate child care facilities.
- 11 f. A floor area density bonus for the provision of a child care facility may be combined with a
12 density bonus granted for the provision of affordable housing units. The combined density
13 bonus for any residential development shall not exceed thirty-five percent (35%).

14
15 **F. Incentives and Concessions.**

- 16 1. The number of incentives or concession granted to the applicant shall be pursuant to the State
17 Density Bonus Law, as set forth in Table 10.40-3 (Incentives and Concessions).
- 18 2. Incentives and Concessions may include:
 - 19 a. Regulatory incentives proposed by the City or the applicant resulting in identifiable,
20 financially sufficient, and actual cost reductions. The incentive may include a direct financial
21 incentive, such as a reduced application fee.
 - 22 b. Site development standards that results in identifiable, financially sufficient and actual cost
23 reductions, such as reducing parking or setback requirements for the development.
 - 24 c. Waivers of development standards to enable development at an increased density provided
25 that the applicant must demonstrate that the project would be physically impossible to
26 construct otherwise.
- 27 3. The denial of an incentive is separate from a decision to approve or deny the project as a whole.
- 28 4. The granting of a density bonus, incentives or concessions shall not be interpreted to require a
29 General Plan amendment, Zoning Map amendment, or other discretionary action for approval. If
30 the base project requires discretionary approval, the City retains discretion whether to make the
31 required findings for the project's approval.

32 **Table 10.40-3. Incentives and Concessions**

Unit Affordability Level	Percentage of Total Housing Units	Number of Incentive(s) or Concession(s)
Very-Low Income	5%	1
Low Income	10%	1
Moderate Income	10%	1
Very-Low Income	10%	2
Low Income	20%	2

Unit Affordability Level	Percentage of Total Housing Units	Number of Incentive(s) or Concession(s)
Moderate Income	20%	2
Very-Low Income	15%	3
Low Income	30%	3
Moderate Income	30%	3

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5. The City reserves the right to deny density bonus incentives and concessions requests if written findings are made based upon substantial evidence demonstrating any of the following :
1. The concession or incentive would be contrary to State or Federal law;
 2. The concession or incentive is not required to provide for affordable housing costs or for rents for the targeted units to be set at affordable levels;
 3. The concession or incentive would have a specific adverse impact upon:
 - i. Public health or safety for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households;
 - ii. The physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households; or
 - iii. Any real property listed in the California Register of Historical Resources.
 4. Development is physically possible without granting a waiver of development standards.

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G. Alternative Parking Standards. For density bonus projects meeting the criteria set forth under Table 10.40-2 (Density Bonus Standards), upon a request by the applicant, the City shall allow the following modified parking requirements: :

- 20
21
22
1. Zero to one bedroom units – one off-street parking space per unit
 2. Two to three bedroom units – two off-street parking spaces per unit
 3. Four and more bedrooms – two and one-half off-street parking spaces per unit

23
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25

These spaces are inclusive of accessible and guest parking spaces. All fractions of numbers shall be rounded up. An applicant may use tandem or uncovered parking spaces to meet these parking requirements.

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H. Design and Quality.

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Affordable units must be constructed concurrently with market rate units and shall be dispersed within the development. The number of bedrooms of the affordable units shall be equivalent to the bedroom mix of the market rate units in the development. Affordable units shall be of equal design and quality as market rate units unless approved by the City. Exterior architectural appearance shall not differentiate between affordable and market rate units. Interior design, finishes and amenities of affordable units may differ from market rate units, but may not be of substandard or inferior quality as determined by the Community Development Director.

1
2 **I. Donation of Land.**

- 3 1. An applicant for a tentative subdivision map, parcel map, or other residential development who
4 donates land to the City, as provided for in this Section 10.40.130, shall be entitled to a fifteen
5 percent (15%) increase above the otherwise maximum allowable residential density under the
6 applicable zoning district and the Land Use Element of the General Plan for the entire
7 development. For each one percent increase above the minimum ten percent land donation for
8 very-low income units described in paragraph (3)(a) of this section, the Density Bonus shall be
9 increased by one percent, up to a maximum of thirty-five percent (35%) as shown in Table
10 10.40-4 (Density Bonus for Land Donations).
11
- 12 2. This increase shall be in addition to any increase in density allowed by Section E, up to a
13 maximum combined Density Bonus of thirty-five percent (35%) if an applicant seeks both the
14 increase required pursuant to this Section and Section E. When calculating the number of
15 permitted Density Bonus Units, any calculations resulting in fractional units shall be rounded to
16 the next larger integer.
17
- 18 3. An applicant shall be eligible for the increased density bonus described in this subsection I when
19 all of the following requirements are met:
20 a. The applicant shall donate and transfer the land no later than the date of approval of the
21 final tract or parcel map, or application for the construction of residential units.
22 b. The development acreage and zoning classification of the land being transferred shall be
23 sufficient to permit construction of units affordable to very-low income households in an
24 amount not less than ten percent of the number of residential units of the proposed
25 development.
26 c. The transferred land shall be at least one acre in size or of sufficient size to permit
27 development of at least forty (40) units, has the appropriate General Plan designation, is
28 appropriately zoned for development as affordable housing, and is or will be served by
29 adequate public facilities and infrastructure. The land shall have appropriate zoning and
30 development standards to make the development of the affordable units feasible.
31 d. No later than the date of approval of the final subdivision map, parcel map, or of the
32 residential development, the transferred land shall have all the permits and approval, other
33 than building permits, necessary for development of the very-low income housing units on
34 the transferred land except that the City may subject the proposed development to
35 subsequent design review to the extent authorized by subdivision (i) of Health and Safety
36 Code Section 65583.2, as amended from time to time, if the design is not reviewed by the
37 City prior to the time of transfer.
38 e. The land shall be transferred to the City of Sausalito, or to a housing developer approved by
39 the City of Sausalito.
40 f. The transferred land and the very-low income units constructed on the land will be subject to
41 a deed restriction ensuring continued affordability of the units constructed consistent with
42 this chapter, which restriction will be recorded on the property at the time of transfer.

- 1 g. The transferred land shall be within the boundary of the proposed development or, with the
- 2 approval of the City, within one-quarter mile of the boundary of the proposed development
- 3 h. A bonus shall not be granted unless a source of funding for the very-low income units has
- 4 been identified not later than the date of approval of the final parcel or tract map, or
- 5 application for the construction of residential units.
- 6

Table 10.40-4. Density Bonus for Land Donation

Percentage Very-Low Income Units	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

Exhibit C: Existing Sausalito Density Bonus Ordinance: Zoning Ordinance Section 10.40.130

be considered as providing required parking unless a Conditional Use Permit is secured per Chapter 10.60 (Conditional Use Permits) of this Title.

2. **Off-Site Parking.** The Planning Commission may, upon application by the owner or lessee of any property, authorize a Conditional Use Permit for off-site parking to serve a new use and/or structure subject to the following conditions:
 - a. If the required parking space(s) are located on a separate lot of record from the lot of record of the building, structure, improvement, or use requiring the parking space(s), a covenant shall be recorded in the office of the County Recorder of Marin County, State of California. Such owner or owners shall record the Covenant for the benefit of the City in a form approved by the City. Covenant shall provide that such owner or owners will continue to maintain such parking space so long as said building, structure or improvement is maintained within said City. The covenant shall stipulate that the title to and right to use the parcel or parcels upon which the parking space is to be provided will be subservient to the title to the premises upon which the building is to be erected. The covenant shall guarantee that said parcel or parcels are not and will not be made subject to any other covenant or contract for use without prior written consent of the City; and
 - b. The required parking space(s) must be located on an adjacent parcel or site that is readily accessible to the site containing the building, structure, improvement, or use requiring the parking space(s).

10.40.130 Residential Density Bonuses and Incentives

- A. **Purpose.** As required by California Government Code Section 65915, the purpose of this section is to offer incentives to developers for providing housing that is affordable by families of very low or lower income and senior citizens. In offering such incentives, it is the intent of this section to carry out the requirements of California Government Code Sections 65913 and 65915 et seq. This zoning ordinance includes additional density bonus provisions in Section 10.44.120 (Senior Housing Projects).
- B. **Eligibility for bonus and incentives.** In order to be eligible for a density bonus and other incentives as provided by this section, a proposed residential development project shall:
 1. Consist of five or more rental units; and
 2. Be designed and constructed so that at least one of following requirements are met:
 - a. 20 percent of the total number of proposed units are for lower income households, as defined in §50079.5 of the California Health and Safety Code; or

- b. 10 percent of the total number of proposed units are for very low income households, as defined in §50105 of the California Health and Safety Code; or
 - c. 50 percent of the total number of proposed units are for qualifying residents as determined by §51.3 of the California Civil Code (senior citizens of any income level); and
 - 3. Satisfy all other applicable provisions of this Title.
- C. Density bonus.** A housing development that satisfies all applicable provisions of this section shall be entitled to up to a 25 percent increase in the number of dwelling units normally allowed by the applicable zoning district as of the acceptance date of the project land use permit application. No single project shall be granted more than one density bonus pursuant to this section.
- D. Other incentives.** A qualifying housing development shall be entitled to at least one of the concessions or incentives identified by California Government Code §65915(b) and 65915(h), and the granting authority is hereby authorized to approve such measures, notwithstanding other provisions of this Title, The granting authority may limit its approval to a density bonus only if it makes a written finding that the additional concession or incentive is not required in order for rents for the targeted units to be set as specified by California Government Code §65915(c).
- E. Continued availability.** The land use permit application for the residential project shall include the procedures proposed by the developer to maintain the continued affordability of all lower income density bonus units as follows:
 - 1. **Projects with City or County Funding.** Projects receiving a direct financial contribution or other financial incentives from the City or other governmental agencies shall maintain the availability of all lower income density bonus units for a minimum of 30 years, as required by California Government Code §65915(c) and §65916.
 - 2. **Private projects - Density bonus only.** Privately-financed projects that receive a density bonus as the only incentive from the City shall maintain the availability of lower income density bonus units for a minimum of 10 years, consistent with California Government Code § 65915(c).
 - 3. **Private projects – Additional incentives.** Projects receiving a density bonus and at least one other concession or incentive as provided by subsection D (Other incentives) of this section shall maintain the availability of all lower income density bonus units for a minimum of 30 years, as required by California Government Code § 65915(c).
- F. Location of bonus units.** As required by California Government Code §65915(g), the location of density bonus units within the qualifying housing development may be at the discretion of the developer, and need not be in the same area of the project where the units for the lower income households are located.

Exhibit D: Comparison Matrix (for information only)

Comparison Matrix: Sausalito's Existing and Updated Density Bonus Ordinance

No.	Target Development Type	% of Affordable Units		Bonus Granted		Maximum allowed Density Bonus		Density Bonus Increase	% Affordable Units Required for Maximum Bonus
		State	Saus.	State	Saus.	State	Saus.		
A.	Very Low Income housing units	5%	10%	20%	up to 25%	35%	25%	2.5	11
B.	Lower Income housing units	10%	20%	20%	up to 25%	35%	25%	1.5	20
C.	Moderate Income housing units in a comment interest development	10%	N/A	5%	up to 25%	35%	25%	1	40
D.	Senior Housing	35 units	50%	20%	up to 25%	35%	25%	N/A	N/A
E.	Conversion of apartments to condominiums	33%	N/A	25%	N/A	N/A	N/A	N/A	N/A
F.	Housing Development with child care facility		N/A	equal to SF of facility	N/A	N/A	N/A	N/A	N/A

Exhibit E: State Density Bonus Law

GOVERNMENT CODE
SECTION 65915-65918

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city

and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 4100 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding,

based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be

interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
-----------------------------	--------------------------

10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate- Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22

28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density

mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial

rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from

granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

65915.5. (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the

Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either

(1) grant a density bonus or
(2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

65916. Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30

years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

65917. In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.5. (a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the

facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied

against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

65918. The provisions of this chapter shall apply to charter cities.

Exhibit F: Density Bonus Chart (for information only)

KMTG
REFERENCE GUIDE

Density Bonus Chart*

Affordable Unit Percentage**	Very Low Income Density Bonus	Low Income Density Bonus	Moderate Income Density Bonus	Land Donation Density Bonus	Senior Density Bonus ***
5%	20%	-	-	-	20%
6%	22.5%	-	-	-	20%
7%	25%	-	-	-	20%
8%	27.5%	-	-	-	20%
9%	30%	-	-	-	20%
10%	32.5%	20%	5%	15%	20%
11%	35%	21.5%	6%	16%	20%
12%	35%	23%	7%	17%	20%
13%	35%	24.5%	8%	18%	20%
14%	35%	26%	9%	19%	20%
15%	35%	27.5%	10%	20%	20%
16%	35%	29%	11%	21%	20%
17%	35%	30.5%	12%	22%	20%
18%	35%	32%	13%	23%	20%
19%	35%	33.5%	14%	24%	20%
20%	35%	35%	15%	25%	20%
21%	35%	35%	16%	26%	20%
22%	35%	35%	17%	27%	20%
23%	35%	35%	18%	28%	20%
24%	35%	35%	19%	29%	20%
25%	35%	35%	20%	30%	20%
26%	35%	35%	21%	31%	20%
27%	35%	35%	22%	32%	20%
28%	35%	35%	23%	33%	20%
29%	35%	35%	24%	34%	20%
30%	35%	35%	25%	35%	20%
31%	35%	35%	26%	35%	20%
32%	35%	35%	27%	35%	20%
33%	35%	35%	28%	35%	20%
34%	35%	35%	29%	35%	20%
35%	35%	35%	30%	35%	20%
36%	35%	35%	31%	35%	20%
37%	35%	35%	32%	35%	20%
38%	35%	35%	33%	35%	20%
39%	35%	35%	34%	35%	20%
40%	35%	35%	35%	35%	20%

* All density bonus calculations resulting in fractions are rounded up to the next whole number.

** Affordable unit percentage is calculated excluding units added by a density bonus.

*** No affordable units are required for senior housing units to receive a density bonus.

From "A Developer's Guide to the California Density Bonus Law." 2012, Kronick Moskowitz, et al.
Available online at http://www.kmtg.com/sites/default/files/publications/density_bonus_law_2012.pdf

Memorandum

TO: City Council

FROM: Geoff I. Bradley, AICP Principal, Metropolitan Planning Group
Dave Javid, AICP, LEED AP, Principal Planner, Metropolitan Planning Group
Karen Warner, AICP, Principal, Karen Warner Associates

SUBJECT: Zoning Text Amendments for Special Needs Housing
Sausalito 2009-2014 Housing Element Program #21

BACKGROUND

Sausalito's adopted 2009-2014 Housing Element sets forth Program #21 "Zoning Text Amendments for Special Needs Housing" to bring the City into compliance with State statutes by making various Zoning Ordinance provisions for special needs housing. The following summarizes the State requirements to be implemented through these Ordinance revisions. See **Exhibit A** for an excerpt from the Housing Element regarding Program #21.

In 2007, the State enacted legislation commonly referred to as Senate Bill 2 (SB 2). This legislation requires local agencies to address housing needs for homeless populations in their communities. Generally, SB 2 specifies that at least one zone in a city or county be identified where "emergency shelters" are a permitted use without a conditional use or other discretionary permit, subject to development and management standards permitted under Government Code Sections 65582, 65583 and 65589.5. Additionally, the jurisdiction must demonstrate that there is sufficient capacity within the designated zone to accommodate the current need for emergency shelters as identified in the Housing Element.

SB 2 further requires that a jurisdiction's Zoning Ordinance specify that "supportive housing" and "transitional housing" be considered a residential use of property, subject to the same standards as other residential uses of the same type in the same zone.

While not specified within SB 2, Government Code Section 65583 also requires jurisdictions to provide zoning for a variety of housing types, including "single room occupancy units", commonly referred to as SROs.

PURPOSE

In compliance with Government Code Sections 65582, 65583 and 65589.5, and as specified under Program 21 of Sausalito's adopted Housing Element, the City is preparing a draft Ordinance (**Exhibit 2**) to amend Title 10 (Zoning) of the Sausalito Municipal Code. The ordinance will establish approval requirements and development standards for emergency shelters, transitional and supportive housing, and single room occupancy units within the City. A comparison matrix (**Exhibit 3**) is provided which compares Emergency Shelter regulations adopted in other Marin County jurisdictions, as well as two southern California jurisdictions with socioeconomic characteristics similar to Sausalito. The City's adopted Housing Element designates the Public Institutional (PI) Zoning District as the zone in which Emergency Shelters will be principally allowed, subject to the specific use standards to be

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Attachment 6
Special Needs Memo

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adopted by the City. An inventory (**Exhibit 4**) and map (**Exhibit 5**) of all parcels zoned Public Institutional (PI) is provided as well.

Exhibits

- A. Sausalito Housing Element Program #21
- B. Special Needs Ordinance Amendments (create a new Section 10.44.350, amend Tables 10.20-1, 10.22-1, 10.24-1)
- C. Comparison Matrix
- D. Inventory of PI Parcels
- E. Map of PI Parcels

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Exhibit A: Housing Element Program #21

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Attachment 6, Exhibit A
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20. Multi-family Development in Multi-family Districts
(Policy 4.3 Efficient Use of Multi-Family Zoning)

Encourage two-family and multi-family development on R-2-5, R-2-2.5 and R-3 residentially-zoned sites, and discourage the development of single-family homes on such sites, by evaluating the establishment of minimum density thresholds and/or varied development standards for multiple units on a sliding scale (e.g., reduced Floor Area Ratio or Lot Coverage Ratio for projects with a lower density). These would apply except where there are physical or environmental constraints, or significant incompatibility with neighborhood character.

Evaluate options for provision of an ADU or payment of an in-lieu housing fee as an alternative to developing multi-family units (*this measure is currently under study by a Planning Commission subcommittee*).

Evaluate the following incentives for addition to the Zoning Ordinance, for projects that propose the maximum number of units allowed on parcels, or projects that propose multiple units:

- Adoption of new parking standards specifically for projects with multiple units;
- Tandem parking opportunities; and
- Processing priority and expedited plan checks for projects that propose multiple units.

Amend the Design Review regulations in the Zoning Ordinance to add requirements for the submittal of schematic site design to demonstrate the feasibility of constructing the maximum number of units allowed under zoning, or reserving site capacity for the future addition of an Accessory Dwelling Unit on the subject parcel.

***2009-2014 Objectives:** Develop and adopt standards within the Zoning Ordinance in 2012 that promote and incentivize the development of two-family and multi-family developments in multi-family zoning districts, and discourage the development of single-family homes in such districts.*

21. Zoning Text Amendments for Special Needs Housing
(Policy 4.5 Zoning for Special Needs, Policy 5.4 Housing for Persons with Disabilities)

Consistent with Senate Bill 2 (Government Code sections 65582, 65583 and 65589.5) the City will specify transitional and supportive housing to be treated as a residential use under the Zoning Ordinance, identify a zoning district where emergency shelters will be permitted by right, and specify provisions for Single-Room Occupancy buildings. The City will establish procedures to encourage and facilitate the creation of emergency shelters and transitional housing, by:

- Adding transitional housing and supportive housing to the Zoning Ordinance's definition section, and regulate as a permitted use within residential zoning districts;

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- Adding single room occupancy (SRO) facilities within the Zoning Ordinance's definition section, and conditionally allow within the CC, CR and CN-1 commercial zoning districts; and
- Identifying emergency shelters as a permitted use in the Public Institutional Zoning District and in local churches.

Emergency shelters will be subject to the same development and operational standards as other permitted uses in the Public Institutional Zoning District. However, the City will develop written, objective standards to regulate the following, as permitted under SB 2:

- The maximum number of beds or persons permitted to be served nightly by the facility;
- Off-street parking based on demonstrated need, but not to exceed parking requirements for other residential or commercial uses in the same zoning district;
- The size and location of exterior and interior onsite waiting and client intake areas;
- The provision of onsite management;
- The proximity of other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart;
- The length of stay;
- Lighting; and
- Security during hours that the emergency shelter is in operation.

2009-2014 Objectives: Adopt text amendments to the Zoning Ordinance to make explicit provisions for a variety of special needs housing. Develop objective standards to regulate emergency shelters as provided for under SB 2, and amend the Zoning Ordinance text within one year of Housing Element adoption.

Exhibit B: Draft Amendments for Special Needs Housing

1 **AMEND CHAPTER 10.44 – SPECIFIC USE REGULATIONS (add a new Section 350)**

2 **10.44.350 Emergency Shelters**

- 3 A. Purpose. These emergency shelter regulations are intended to allow the provision of
4 shelter for homeless persons or others in need of a temporary (six months or less) shelter,
5 while ensuring the shelter is operated in a manner that is compatible with surrounding
6 areas. The purpose of this chapter is also to comply with Government Code Section 65583
7 relating to emergency shelters.
8
- 9 B. Applicability. Emergency shelters shall be a permitted use on parcels within the Public
10 Institutional (PI) zoning district.
11
- 12 C. Development Standards. The following development standards shall apply to emergency
13 shelters:
- 14 1. Property Development Standards. The shelter shall conform to all property
15 development standards of the zoning district in which it is located except as modified
16 by these performance standards.
- 17 2. Shelter Capacity. An emergency shelter for homeless persons shall contain no more
18 than twenty (20) beds and shall serve no more than twenty (20) persons nightly. The
19 physical size of the shelter shall not be larger than necessary for the number of
20 persons the shelter serves.
- 21 3. Parking. On-site parking for residents shall be based on one space for every four
22 beds, and staff parking shall be based on one space for each employee on the
23 maximum staffed shift.
- 24 4. Lighting. Adequate external lighting shall be provided for security purposes. The
25 lighting shall be stationary and designed, arranged and installed so as to confine
26 direct rays onto the premises and to direct light away from adjacent structures and
27 public rights-of-way. External lighting shall be of an intensity compatible with the
28 neighborhood.
- 29 5. On-site Waiting and Intake Areas. An interior waiting and intake area shall be
30 provided which contains a minimum of 200 square feet. Waiting and intake areas
31 may be used for other purposes (excluding sleeping) as needed during operations of
32 the shelter.
33
- 34 D. Common Facilities. The development may provide one or more of the following specific
35 common facilities for exclusive use of the residents and staff, provided that such facilities
36 do not substantially increase the overall size of the shelter facility:
- 37 1. Central cooking and dining room.
38 2. Recreation room.

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- 3. Laundry facilities to serve the number of occupants at the shelter.
- 4. Other uses that are considered ancillary to the primary use such as office and storage, not to exceed 10% of the total floor area of the shelter facility, exclusive of items 1, 2, and 3 above.

E. On-site Staff. At least one manager shall be on-site during all hours of operation of the facility. Such manager must be an individual who does not utilize the shelter's beds or other services and who resides off-site. The manager must be accompanied by one supporting staff member for every fifteen (15) beds occupied in the facility.

F. Security. Security personnel shall be provided during operational hours whenever clients are on the site. A security plan shall be submitted to the City prior to issuance of a certificate of occupancy.

G. Concentration of Uses. No more than one emergency shelter shall be permitted within a radius of 300 feet of another emergency shelter.

H. Emergency Shelter Operations. The agency or organization operating the emergency shelter shall comply with the following requirements:

- 1. Hours of Operation. Clients shall only be on site and admitted to the facility between 5:00 p.m. and 8:00 a.m.
- 2. Length of stay. Each emergency shelter resident shall stay for no more than 90 days (cumulative, not consecutive) in a 365 day period. Extensions up to a total stay of 180 days in a 365-day period may be granted by the shelter provider if no alternative housing is available.
- 3. Management Plan. Prior to commencing operation, the shelter operator shall provide a written management plan to the Director for approval. The management plan shall address: hours of operation, admission hours and process, staff training, neighborhood outreach and privacy, security, resident counseling and treatment, maintenance plans, residency and guest rules and procedures, and staffing needs.
- 4. Annual report. The provider shall provide an annual report of the use of the facility and determination of compliance with the City's development standards for the use.

1 **AMEND TABLE 10.20-1 – LAND USES ALLOWED IN OPEN SPACE AND PUBLIC DISTRICTS**
 2

Table 10.20-1 LAND USES ALLOWED IN OPEN SPACE AND PUBLIC DISTRICTS

Land Use	Open Space Public Zoning Districts*				See SMC
	OS	PP	PI	OA	
Service Uses					
<u>Emergency Shelters</u>			<u>P</u>		<u>SMC 10.44.350 (Emergency Shelters)</u>
* Zoning permit required for all uses			Chapter 10.52 SMC		
P Permitted use					
MUP Minor use permit required			Chapter 10.58 SMC		
CUP Conditional use permit required			Chapter 10.60 SMC		

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AMEND TABLE 10.22-1 – LAND USES ALLOWED IN RESIDENTIAL DISTRICTS

Table 10.22-1 LAND USES ALLOWED IN RESIDENTIAL DISTRICTS*

Land Use	Residential Zoning Districts						See SMC
	R-1	R-2	PR	R-3	H	A	
Residential Uses							
<u>Supportive Housing</u> ¹	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>SMC 10.88.040 (Definitions)</u>
<u>Transitional Housing</u> ¹	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>SMC 10.88.040 (Definitions)</u>
* Zoning permit required for all uses			Chapter 10.52 SMC				
P Permitted use							
MUP Minor use permit required			Chapter 10.58 SMC				
CUP Conditional use permit required			Chapter 10.60 SMC				
¹ <u>Supportive Housing and Transitional Housing shall be subject to those restrictions that apply to other residential dwellings of the same type in the same zoning district. For example, such housing structured as single-family is permitted in the R-1, R-2, PR and R-3 residential zoning districts, whereas transitional and supportive housing structured as multi-family is limited to the PR and R-3 residential zoning districts.</u>							

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1 **AMEND TABLE 10.24-1 – LAND USES ALLOWED IN COMMERCIAL DISTRICTS**
 2

Table 10.24-1 LAND USES ALLOWED IN COMMERCIAL DISTRICTS*

Land Use	CC	CR	CN	SC	CW	W	W-M	See SMC
Residential Uses								
<u>Single Room Occupancy Housing</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>					SMC 10.88.040 (Definitions)
<u>Supportive Housing, levels above first (street or ground) only</u> ¹	<u>P</u>	<u>P</u>	<u>P</u>					SMC 10.88.040 (Definitions)
<u>Transitional Housing, levels above first (street or ground) only</u> ¹	<u>P</u>	<u>P</u>	<u>P</u>					SMC 10.88.040 (Definitions)
* Zoning permit required for all uses Chapter 10.52 SMC P Permitted use MUP Minor use permit required Chapter 10.58 SMC CUP Conditional use permit required Chapter 10.60 SMC								
¹ <u>Supportive Housing and Transitional Housing shall be subject to those restrictions that apply to other residential dwellings of the same type in the same zoning district.</u>								

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Exhibit C: Comparison Matrix—Zoning Standards for Emergency Shelters

	Marin County Jurisdictions*						Other Upper Income Cities	
	Belvedere	Larkspur	Marin Co.	Ross	San Rafael	Tiburon	Agoura Hills	Beverly Hills
Status of By-Right Emergency Shelter Zoning	Adopted	Adopted	Adopted	Adopted	Draft ordinance	Adopted	Adopted	Adopted
Zones Where Permitted By-Right	R (Recreation)	A-P (Administrative Professional) and where A-P uses are permitted (e.g. Planned Development Districts)	C1 (Retail Business) CP (Planned Commercial)	C-D (Civic District)	By right in GC and LI/O (Light Industrial/Office) overlay. CUP in HR, C/O, R/O, I, CCI/O, and LMU zones. CUP in GC and LI/O areas outside overlay.	NC Neighborhood Commercial	By right in CRS (Commercial Retail Service). CUP in CS, CN and CS-MU zones.	Special Needs Housing Overlay Zone
Maximum Capacity Permitted	3 persons	20 persons	40 persons	Not specified	Determined by the occupancy limits est. under Building Code.	10 persons	20 persons	Min floor area of 150 sf/occupant up to 50 persons
Parking Requirements	1 space per bed	25% of total client beds + staff parking at 10% of total beds	25% of total client beds + staff parking at 10% of total beds	None specified.	Resid zones: 1 space/on duty employee + 1 space per 5 beds Comm/Lt Indus zones: 1 space/on duty employee + 1 space per 10 beds	Not specified	1 space per 250 sf gross floor area, consistent with requirements for commercial retail uses in CRS zone	1 space per 10 beds, plus 0.5 space/ bdrn for families, plus 1 space per employee on duty. 25% parking reduction if w/in 1000' transit stop.

* Note: Marin County cities of San Anselmo, Corte Madera, Fairfax and Novato do not currently specify provisions for emergency shelters within their Municipal Codes, as referenced on each city's website.

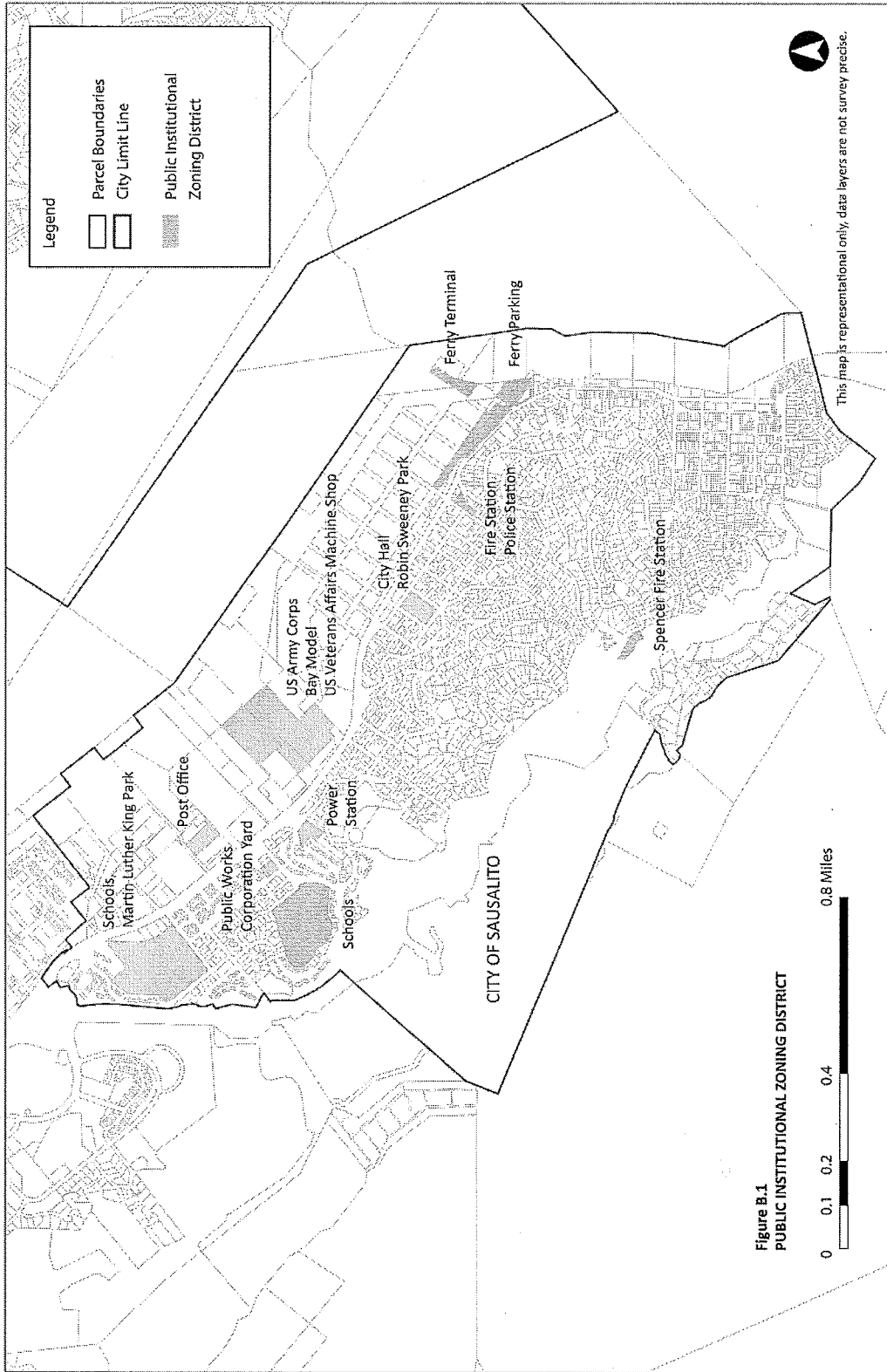
City Council Meeting
February 25, 2014

Attachment 6, Exhibit C
Special Needs Memo

Exhibit D: Inventory of Parcels Zoned Public Institutional (PI)

<u>Existing Use</u>	<u>APN</u>	<u>Owner</u>	<u>Address</u>	<u>Parcel Size (SqFt)</u>
Electrical Power Station	064-345-01	PG&E		0
Post Office	064-341-04	SAUSALITO CITY OF	530 NEVADA ST	18,000
Post Office	064-341-10	SAUSALITO CITY OF		7,500
Spencer Fire Station	065-181-44	SAUSALITO CITY OF	300 SPENCER AVE	50,057
Parking	065-073-03	SAUSALITO CITY OF		88,890
Fire Station on Johnson St	065-061-04	SAUSALITO CITY OF		18,771
Fire Station on Johnson St	065-061-05	SAUSALITO CITY OF		4,067
Fire Station on Johnson St	065-061-06	SAUSALITO CITY OF	333 JOHNSON ST	4,300
Parking	065-041-11	SAUSALITO CITY		41,058
Parking	065-073-02	SAUSALITO CITY OF		26,920
Parking	065-073-01	SAUSALITO CITY OF		7,440
Parking	065-042-06	SAUSALITO CITY OF	780 BRIDGEWAY	14,000
Parking	065-042-05	SAUSALITO CITY OF		14,160
Parking	065-042-03	SAUSALITO CITY OF		5,100
Parking	065-042-02	SAUSALITO CITY OF		14,184
Parking	065-042-01	SAUSALITO CITY OF		2,700
Parking	065-021-04	SAUSALITO CITY		89,298
Schools, Martin Luther King Jr Park	063-170-03	SAUSALITO SCHOOL DISTRICT	100 EBBTIDE AVE	740,520
US Veterans Affairs				
Machine Shop	063-110-14	U S MARITIME COMMISSION		345,430
Post Office	063-130-03	US POSTAL SERVICE	150 HARBOR DR	90,169
Army Corps of Engineers		UNITED STATES OF AMERICA		
Bay Model	063-100-11	AMERICA	2100 BRIDGEWAY	626,828
City Hall	064-165-12	SAUSALITO CITY OF	420 LITHO ST	0
Bayside Elementary School and Willow Creek Academy		SAUSALITO SCHOOL DISTRICT		
School	064-322-01	DISTRICT	630 NEVADA ST	581,526
Johnson Police Station	065-062-24	SAUSALITO CITY OF	407 JOHNSON ST	5,810
			TOTAL PI ZONING	2,796,728 sq.ft.
				64.2 acres

Exhibit E: PI Parcel Map



City Council Meeting
February 25, 2014

Attachment 6, Exhibit E
Special Needs Memo

Memorandum

TO: City Council
FROM: Geoff I. Bradley, AICP Principal, Metropolitan Planning Group
Dave Javid, AICP, LEED AP, Principal Planner, Metropolitan Planning Group
Karen Warner, AICP, Principal, Karen Warner Associates
SUBJECT: Reasonable Accommodation Ordinance
Sausalito 2009-2014 Housing Element Program #25

BACKGROUND

Sausalito's adopted 2009-2014 Housing Element sets forth Program #25 "*Reasonable Accommodation Procedures*" to establish specific written procedures for requesting and granting a reasonable accommodation consistent with State and Federal statutes, as summarized below. See **Exhibit A** for an excerpt from the Housing Element regarding Program #25.

Pursuant to the Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, jurisdictions are required to have in place a process by which persons with disabilities can request reasonable accommodations (modifications or exceptions) to the jurisdiction's codes, rules, policies, practices or services, necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling. Section 804 of the Fair Housing Amendments Act specifically cites a refusal to provide reasonable accommodation through rules, policies, practices, or services as an act of discrimination. These laws prohibit discrimination against individuals with disabilities and eliminate practices that deny housing opportunities to this population.

In order to comply with State and Federal law, the City must amend the Zoning Ordinance and develop procedures for granting reasonable accommodations with respect to zoning, permit processing and building regulations. Procedures must provide clear rules, policies, and procedures for obtaining reasonable accommodation. The implemented ordinance must be monitored to ensure consistent compliance with the previously stated fair housing laws.

PURPOSE

The purpose of the attached draft Reasonable Accommodation Ordinance (**Exhibit B**) is to remove potential constraints for persons with disabilities to enjoy equal access to housing by facilitating requests for reasonable accommodation to the City's zoning, permit processing and building regulations. **Exhibit C** is an example request form that could be used. City staff are currently evaluating where to integrate the Reasonable Accommodation Ordinance within the Municipal Code, and will number the Ordinance accordingly once a determination has been made.

Exhibits

- A. Sausalito Housing Element Program #25
- B. Reasonable Accommodation Ordinance
- C. Application Request Form

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City Council Meeting
February 25, 2014

Attachment 7
Reasonable Accommodations Memo

Item 6C - attach 7
02-25-14
Page 1 of 10

Exhibit A: Housing Element Program #25

24. Home Sharing and Tenant Matching Opportunities (Policy 5.2 Senior Housing)

"Home Connection of Marin" is a free shared housing program which matches very low income home seekers with home providers interested in sharing their homes. Housing counselors interview each potential roommate and obtain references and background checks, leaving the decision to the potential roommates whether to make a match. Sharing a home promotes independent living, provides additional income for the provider, an affordable rent for the seeker, and the potential for deeper relationships for both. The average age of community members in Sausalito is growing older, and over 330 seniors currently live alone in single-family homes in the City. Shared housing promotes the efficient use of the housing stock, and can help address the housing needs of seniors in our community.

2009-2014 Objectives: Implement a homesharing/matching program for homeseekers and single-family homeowners with excess space. Collaborate with Marin Housing and Sausalito Village Senior Services to actively promote "Home Connection of Marin" within Sausalito.

25. Reasonable Accommodation Procedures (Policy 5.4 Housing for Persons with Disabilities)

It is the policy of the City to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning and building regulations. Depending on the nature and extent of a requested accessibility modification, the City would accommodate such requests either through a building permit, an administrative adjustment, or a zoning permit. While Sausalito has not identified any constraints on the development, maintenance or improvement of housing for persons with disabilities, the City does not have in place specific procedures for requesting and granting a reasonable accommodation. As a means of facilitating such requests and removing constraints for persons with disabilities, the City will develop specific written reasonable accommodation procedures.

2009-2014 Objectives: Amend the Zoning Ordinance and develop written procedures to allow the Community Development Director to authorize reasonable accessibility accommodations with respect to zoning, permit processing, and building regulations. Procedures will specify who may request an accommodation, time frame for decision-making and modification provisions.

1 **Exhibit B: Draft Amendment to Establish Reasonable Accommodations (new Section in SMC or**
2 **amendment of Title 10: Zoning TBD)**

3
4 **Purpose.**

5 The purpose of this chapter is to establish a procedure for requesting reasonable accommodation for
6 persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the
7 California Fair Employment and Housing Act (the Acts) in the application of zoning and building laws and
8 other land use regulations, policies and procedures.

9
10 **Applicability.**

11 A. Definition of Disability. Under the Acts, an individual with a disability is someone who has a
12 physical or mental impairment that limits one or more major life activities; anyone who is
13 regarded as having such impairment; or anyone with a record of such impairment. Individuals in
14 recovery from drug or alcohol abuse are protected by federal and state fair housing laws
15 although individuals currently using illegal substances are not protected under the law unless
16 they have a separate disability. This chapter is intended to apply to those persons who are
17 defined as disabled under the Acts.

18
19 B. Scope of Accommodation. A request for a reasonable accommodation may include a
20 modification or exception to the rules, standards and practices for the siting, development and
21 use of housing or housing-related facilities that would eliminate regulatory barriers and provide
22 an individual with a disability equal opportunity to housing of their choice. Requests for
23 reasonable accommodation shall be made in the manner prescribed by Section X (Application
24 Contents and Submittal), and shall not require a fundamental alteration to the City's zoning or
25 building laws, policies, and/or procedures, as defined under the Acts. A modification approved
26 under this chapter is considered a personal accommodation for the individual applicant and
27 does not run with the land.

28
29 C. Eligibility to Request Accommodation. A request for reasonable accommodation may be made
30 by any individual with a disability, his or her representative, or a developer or provider of
31 housing for individuals with disabilities, when the application of a land use, zoning or building
32 regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

33
34 **Notice to the Public of Availability of Accommodation Process.**

35 Notice of the availability of reasonable accommodation shall be displayed at the public information
36 counter in the Community Development Department advising the public of the availability of the
37 procedure for eligible individuals. Forms for requesting reasonable accommodation shall also be made
38 available.

1 **Application Contents and Submittal.** Requests for reasonable accommodation shall be submitted on an
2 application form provided by the Community Development Department and shall contain the following
3 information:

- 4 1. The applicant's name, address and telephone number.
- 5 2. Address of the property for which the request is being made, and the name, address and
6 telephone number of the property owner.
- 7 3. The current existing use of the property.
- 8 4. The basis for the claim that the individual is considered disabled under the Acts.
- 9 5. The zoning code provision, regulation or policy from which reasonable accommodation is
10 being requested.
- 11 6. Reason the requested accommodation may be necessary to make the specific property
12 accessible to the individual.

13
14 **Authority.**

- 15 A. Community Development Director. Requests for reasonable accommodation shall be reviewed
16 by the Director of Community Development, or his/her designee (Director) if no approval is
17 sought other than the request for reasonable accommodation.
- 18
19 B. Other Review Authority. Requests for reasonable accommodation submitted for concurrent
20 review with another discretionary land use application shall be reviewed by the authority
21 reviewing the discretionary land use application.

22
23 **Review Procedure.**

- 24 A. Director Review. The Community Development Director, or his/her designee, shall make a
25 written determination within 45 days of submittal of a complete application and either grant,
26 grant with modifications, or deny a request for reasonable accommodation in accordance with
27 Section X (Findings and Decision). The Director shall mail a notice of a request for reasonable
28 accommodation to contiguous owners of property, as shown on the latest equalized Marin
29 County assessment roll, but may include other property owners as determined by the Director.
30 Said notice shall be mailed at least ten days prior to making a determination.
- 31
32 B. Other Reviewing Authority. Written determinations on requests for reasonable accommodation
33 submitted for concurrent review with another discretionary land use application shall be made
34 by the authority responsible for reviewing the discretionary land use application. The written
35 determination to grant or deny the request for reasonable accommodation shall be made in
36 accordance with Section X (Findings and Decision).
- 37
38 C. Additional Information. If necessary to reach a determination on the request for reasonable
39 accommodation, the reviewing authority may request further information from the applicant
40 consistent with the Acts, specifying in detail the information that is required. In the event that a
41 request for additional information is made, the 45 day period to issue a decision is stayed until
42 the applicant responds to the request.

- 1
2 D. The reviewing authority may approve an alternative reasonable accommodation that provides
3 the applicant an opportunity to use and enjoy a dwelling equivalent to that provided by the
4 specific accommodation requested, where such an alternative accommodation would:
5 1. Reduce impacts to neighboring properties or the surrounding area; or
6 2. Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code or
7 would require less of a deviation than the requested accommodation.
8

9 **Findings and Decision.**

- 10 A. Findings. The reasonable accommodation shall be approved, with or without conditions, if the
11 reviewing authority finds, based upon all of the evidence presented, that all of the following
12 findings can be made:
13 1. The housing, which is the subject of the request, will be occupied by an individual
14 considered disabled under the Acts.
15 2. The requested accommodation is necessary to provide a disabled individual with an equal
16 opportunity to use and enjoy a dwelling.
17 3. The requested accommodation would not impose an undue financial or administrative
18 burden on the City, as defined under the Acts.
19 4. The requested accommodation would not require a fundamental alteration to the City's
20 zoning or building laws, policies, and/or procedures, as defined under the Acts. In
21 considering whether the accommodation would require such a fundamental alteration, the
22 reviewing authority may consider, among other factors:
23 a. Whether the requested accommodation would fundamentally alter the character of
24 the neighborhood;
25 and
26 b. Whether the requested accommodation would substantially undermine any express
27 purpose of either Sausalito's General Plan or an applicable specific plan.
28 5. There are no other reasonable accommodation(s) that would allow the applicant to use and
29 enjoy the dwelling which would:
30 a. Be less impactful to neighboring properties or the surrounding area; or
31 b. Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code
32 or would require less of a deviation than the requested accommodation.
33
34 B. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing
35 authority may impose any conditions of approval deemed reasonable and necessary to ensure
36 that the reasonable accommodation would comply with the findings required by Subsection A
37 above, including but not limited to the following:
38 1. Inspection of the property periodically, as specified, to verify compliance with this section
39 and any conditions of approval.
40 2. Recordation of a deed restriction requiring removal of the improvements when the need for
41 which the accommodation was granted no longer exists, except where the Director finds

1 that removal would constitute an unreasonable financial burden and/or is physically
2 integrated with the structure and cannot feasibly be removed.

- 3 3. Time limits and/or expiration of the approval if the need for which the accommodation was
4 granted no longer exists.
5 4. Measures to reduce the impact on surrounding uses.
6 5. Measures in consideration of the physical attributes of the property and structures.
7 6. Other conditions necessary to protect the public health, safety and welfare.

- 8
9 C. Written Decision. The written decision on the request for reasonable accommodation shall
10 explain in detail the basis of the decision, including the reviewing authority's findings required
11 by Subsection A above. All written decisions shall give notice of the applicant's right to appeal
12 and to request reasonable accommodation in the appeals process as set forth below.

13
14 **Appeals.**

- 15 A. A determination by the reviewing authority to grant or deny a request for reasonable
16 accommodation may be in compliance with Chapter 10.84 (Appeals) of the Sausalito Municipal
17 Code. Appeals shall be submitted on an application form provided by the Community
18 Development Department. If an individual needs assistance in filing an appeal on an adverse
19 decision, the City will provide assistance to ensure the appeals process is accessible.

APPLICATION FOR REQUEST FOR REASONABLE ACCOMMODATION

NOTE: If you need help in completing this request form, the Department will assist you. Please contact the Community Development Director at 415-289-4133 or help@sausalto.org.

1. Name of Applicant

Telephone Number

2. Applicant Address

3. Address of housing at which accommodation is requested.

4. Property owner name, address and telephone number.

5. Describe the accommodation you are requesting and the specific regulation(s) and/or procedure(s) from which accommodation is sought.

6. Give the reason that the reasonable accommodation may be necessary for you or the individual with disabilities. You do not need to tell us the name or extent of your disability or that of the individual seeking the housing.

7. If we have questions about your request for reasonable accommodation and you would like us to contact someone assisting you with this request, instead of you, please give us that person's name, address and telephone number.

8. Signature of Applicant _____ Date _____

Please attach any documents that support your request for reasonable accommodation and would assist city staff in considering your request.

NOTICE OF DECISION ON REASONABLE ACCOMMODATION REQUEST

1. Date of Application: _____

2. Date of Decision: _____

3. The request for Reasonable Accommodation is:
_____ Granted _____ Denied (See Notice below regarding right to appeal decision)

4. The reasons for this decision are as follows:

5. The facts relied on in making this decision:

Signature of Designee _____ Date _____

NOTICE: If your request for accommodation was denied, you may appeal the reviewing authority's decision to the Planning Commission within ten (10) days of the date of this decision. To file an appeal, complete and file an Appeal of Denial of Reasonable Accommodation Request form with the Department.

APPEAL OF DENIAL OF REASONABLE ACCOMMODATION REQUEST

1. Date of Adverse Decision: _____

2. Date Appeal Filed: _____

3. State why you think the denial of your request for accommodation was wrongly decided:

4. Provide any new information, facts or documents that support your request for accommodation:

5. Signature _____ Date _____

NOTICE: Please attach to this appeal form:

- (1) A copy of your reasonable accommodation request along with any attachments submitted with the request; and**
- (2) The notice of the decision denying your accommodation request.**

Memorandum

TO: City Council

FROM: Geoff I. Bradley, AICP Principal, Metropolitan Planning Group
Dave Javid, AICP, LEED AP, Principal Planner, Metropolitan Planning Group
Karen Warner, AICP, Principal, Karen Warner Associates

SUBJECT: Definitions

PURPOSE

The attached definitions, which are to be used with the proposed Zoning Ordinance amendments, are to be inserted into SMC Section 10.88.080.

Exhibits

A. New Definitions

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Exhibit A: New Definitions (for Chapter 10.88)

Amend Section 10.88.040

Affordable Ownership Housing Cost. The Total Housing Costs paid by a qualifying household, which shall not exceed a specified fraction of their gross income as specified in California Health and Safety Code Section 50052.5.

Affordable Units. Units within a residential development which will be reserved for sale or rent to, and made available at an affordable rent or affordable ownership cost to very low, low or moderate income households.

Affordable Rent. The Total Housing Costs, including a reasonable utility allowance, paid by a qualifying household, which shall not exceed a specified fraction of their gross income as specified in California Health and Safety Code Section 50053.

Area Median Income (AMI). The median family income of a geographic area of the State, as published annually by the California Department of Housing and Community Development pursuant to Health and Safety Code Section 50093.

Director. The Director of Community Development or his designee.

Emergency shelter. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. *(Health and Safety Code Section 50801(e))*

Granting Authority. Includes the Building Official, Director, Zoning Administrator, Historic Landmarks Board, Planning Commission and City Council.

Horizontal Mixed Use (HMU). A development with commercial and residential land uses occupying the ground floor space, or exclusively a residential development located within a commercial zone. HMU developments typically feature residential uses adjacent to commercial uses on the ground floor rather than arranged in one building on separate floors.

Household Income Levels: Very Low, Low and Moderate. Households whose gross incomes do not exceed the qualifying very low, low and moderate income limits established in Section 6932 of the California Code of Regulations, and amended periodically based on the U.S. Department of Housing and Urban Development (HUD) estimate of median income in Marin County, and as adjusted by the State Department of Housing and Community Development (HCD). Pursuant to Code Sections 6926, 6928 and 6930, these income limits are equivalent to the following:

- Very low income household: 50 percent of area median income, adjusted for household size appropriate for the unit and other factors determined by HUD
- Low income household: 80 percent of area median income, adjusted for household size appropriate for the unit and other factors determined by HUD
- Moderate income households: 120 percent of area median income adjusted for household size appropriate for the unit and other factors determined by HUD

Pursuant to the Code of Federal Regulations (24 CFR 5.609(b)(3) and 24 CFR 5.603(b)), and consistent with the income eligibility criteria utilized by Marin Housing, "interest, dividends, and other net income of any kind from real personal property" are included in the calculation of annual household income.

Single Room Occupancy Housing (SRO). Refers to a residential facility where individual secure rooms are rented to a one or two person household. Rooms are generally 150 to 375 square feet in size and include a sink, closet and toilet, with shower and kitchen facilities typically shared. SRO units are rented to tenants on a weekly or monthly basis.

Supportive housing. Permanent affordable housing with no limit on length of stay that is occupied by the target population as defined in the Health & Safety Code Section 53260(d), and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. *(Health and Safety Code Section 50675.14(b))*

Target population. Adults with low income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 of the Welfare and Institutions Code, commencing with Section 4500) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people. *(Health and Safety Code Section 53260(d))*

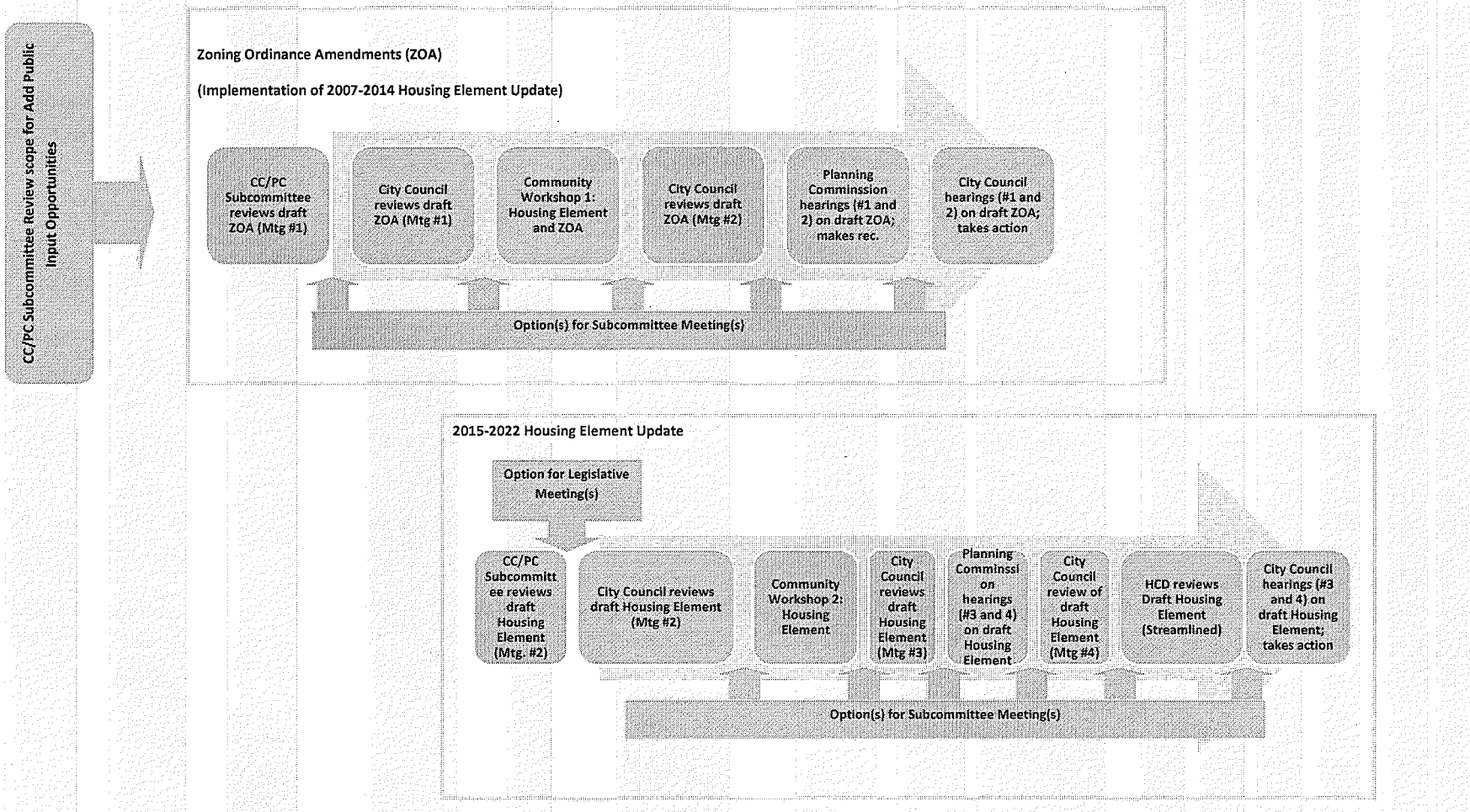
Total Housing Cost. The total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs include the monthly rent payment and utilities. For an ownership unit, total housing costs include the mortgage payment (principal and interest), homeowner's association dues, mortgage insurance, taxes, utilities, and any other related assessments.

Transitional housing and transitional housing development. Buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. *(Health and Safety Code Section 50675.2(h))*. The housing may take several forms such as group housing and multi-family units and may include supportive services to allow individuals to gain necessary life skills in support of independent living.

Housing Element Implementation and Update Flow Chart

Draft: 12/3/13

Nov Dec Jan Feb Mar Apr May June July Aug Sep Oct Nov Dec Jan



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Attachment 9