



# COUNCIL REPORT

**DATE:** March 26, 2024

**CATEGORY:** Public Hearing

**DEPT.:** Community Development

**TITLE:** **Housing Element Annual Report and  
Emergency Shelters Amendment**

## **RECOMMENDATION**

1. Consider the 2023 Annual Progress Report: 2023-31 Housing Element and direct staff to forward the report to the California Department of Housing and Community Development and the Governor’s Office of Planning and Research (Attachment 1 to the Council report).
2. Introduce an Ordinance of the City of Mountain View Approving Amendments to Chapter 36 (Zoning) of the City Code Amending the Development Standards and Permitting Process For Emergency Shelters, and Finding the Amendment to Be Categorically Exempt Under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, to be read in title only, further reading waived, and set a second reading for April 23, 2024 (Attachment 2 to the Council report).
3. Adopt a Resolution of the City Council of the City of Mountain View Amending the El Camino Real Precise Plan to Add Emergency Shelters as a Permitted/Provisionally Permitted Use and to Include Permitting Process for Shelters, Consistent with the Housing Element Program 1.1.f, and Finding the Amendment to Be Categorically Exempt Under the California Environmental Quality Act, Pursuant to CEQA Guidelines Section 15061(b)(3), to be read in title only, further reading waived (Attachment 3 to the Council report).

## **BACKGROUND**

### **Annual Progress Report**

The Housing Element is one of the seven mandated General Plan elements. It is the only General Plan element subject to mandatory review by a state agency, the California Department of Housing and Community Development (HCD). The Housing Element’s purpose is to examine the housing needs of residents; create, update, and guide housing policies; and identify locations to accommodate the City’s Regional Housing Need Allocation (RHNA).

On April 11, 2023, the City Council adopted the Sixth-Cycle Housing Element, which covers the eight-year planning period of 2023 to 2031. This adoption was the culmination of almost two years of work devoted to preparing the update. It further marks the beginning of a new reporting period.

Government Code Section 65400 requires cities to prepare an annual progress report on Housing Element implementation using forms and definitions adopted by HCD. These reports are submitted to HCD and the Governor's Office of Planning and Research. They provide data on annual building permit activity, overall progress in meeting the City's RHNA, and the status of Housing Element program implementation. There are some key changes to the Annual Progress Report (APR) forms from the previous cycle. These include:

- Ministerial Permit Reporting: Reporting if a project was ministerial (no discretion in project approval, such as Senate Bill (SB) 35 projects) or discretionary (some discretion) per [Assembly Bill \(AB\) 1743](#);
- New Units: Reporting of units counted as part of the City's RHNA. In the previous Housing Element cycle, the City reported net new units (proposed units minus demolished units) for RHNA but, per changes made through [AB 2653](#), all new units will be reported for RHNA; and
- Accessory Dwelling Unit (ADU) Affordability: Jurisdictions in the Bay Area may use Association of Bay Area Governments' (ABAG) ADU affordability assumptions in this year's APR. Previously, assumptions categorized ADUs as all above moderate income. ABAG's affordability assumption used in the APR assumes the following affordability levels:
  - 30% very low income;
  - 30% low income;
  - 30% moderate income; and
  - 10% above moderate income.

### Regional Housing Needs Allocation

State law requires local jurisdictions to provide for their fair share of regional housing needs. Per Government Code Section 65584, HCD is mandated to determine the statewide housing needs and provides this data to ABAG.

ABAG is the Bay Area's metropolitan planning organization and is responsible for assigning the Bay Area's RHNA to each city and county in the nine-county Bay Area. Housing Element law acknowledges that in order for the private market to adequately address the housing needs of California, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain) housing development. The local jurisdictions are,

therefore, required to zone adequate developable land to build these units and to implement other Housing Element requirements to facilitate housing production across incomes.

The RHNA allocation methodology assigns units by income category—specifically, units serving very-low-, low-, moderate-, and above-moderate-income households. Households are categorized in these income groups based on household size and percentages of the Area Median Income (AMI). These income limits are established annually by HCD. The 2023 AMI for Santa Clara County for a household of four was \$181,300 (see Attachment 4). The City’s Current RHNA allocation for 2023-2031 is 11,135 units (see Table 1), which is a substantial increase in the number of units from the Fifth Cycle of 2,926 units. This reflects the trend and focus on increasing housing units statewide.

**Table 1: City of Mountain View Sixth-Cycle RHNA**

Income Group	Area Median Income %	Units
Very Low	0%-50%	2,773
Low	51%-80%	1,597
Moderate	81%-120%	1,885
Above Moderate	120%+	4,880
<b>TOTAL</b>		<b>11,135</b>

**HCD Submission Deadline**

The 2023 Annual Progress Report for the 2023-2031 Housing Element is due to HCD on April 1, 2024. HCD continues to accept new or revised annual progress reports for previous reporting years; therefore, if there are changes to this report, the City can resubmit at any time.

**Housing Element Programs for Emergency Shelters**

As indicated above, the City adopted the Sixth-Cycle Housing Element in April 2023. One of the programs identified in the Housing Element is implementation of [AB 2339](#), which includes zoning requirements to facilitate development for emergency shelters. Consistent with AB 2339, the Housing Element program includes the following:

1. Identifies the El Camino Real Precise Plan as a location for allowing emergency shelters by-right;
2. Directs the City to adopt updates to the Zoning Ordinance and El Camino Real Precise Plan as necessary to ensure state law compliance; and

3. Directs the City to prepare analysis for vacant and nonvacant sites in the El Camino Real Precise Plan that would meet the City's projected demand for emergency shelters.

### **Homeless Response—Emergency Shelters**

Emergency shelters are one type of housing for those experiencing homelessness and is defined as “housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person.”<sup>1</sup> Other types of housing for people experiencing homelessness include: Supportive Interim/Transitional Housing and Permanent Supportive Housing. Supportive Interim/Transitional Housing is linked to permanent housing, has no limits on stay unlike emergency shelters, and provides additional services for residents to maintain stable housing. Permanent Supportive Housing is designed for the chronically homeless and other highly vulnerable individuals or families who need long-term support to stay housed. Community-Based Housing is housing without a designated length of stay and includes both Permanent Supportive Housing and Rapid Rehousing. Rapid Rehousing provides short-term financial assistance and support (four to six months, on average) to quickly rehouse homeless households in their own independent permanent housing.

Emergency shelters are typically coordinated and run by the County of Santa Clara. To date, the City has not received any planning applications to build emergency shelters. AB 2339 does not require funding or construction for emergency shelters but requires they be allowed in additional areas of the City, consistent with the requirements of state law.

The City's efforts to increase housing opportunities for the unhoused is focused on permanent housing and interim housing. The City has and will continue efforts to facilitate increasing the supply of permanent affordable housing, such as nearly 200 units of rapid rehousing/permanent supportive housing units infused with services and case management to support the success of residents. These Rapid Rehousing/Permanent Supportive Housing units are at different stages in the City affordable housing pipeline, with the first project anticipated to be completed mid-2024.

The City is also evaluating options to add other types of housing to address the continuum of housing needs, including interim housing such as the LifeMoves Mountain View development on 2566 Leghorn Street. Interim and permanent housing provide the longer-term and supportive living environments that unhoused persons need to become stably housed. Finally, the City's limited housing funds are targeted for such housing because they provide the greatest impact, and it is what the funds are intended for.

No additional zoning changes have been required for supportive and transitional housing types of uses as state law, [AB 2162](#), requires these housing types to be uses that are permitted by-right in any zoning district that allows residential uses. AB 2339, however, allows local jurisdictions

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<sup>1</sup> [California Code, Health and Safety Code Section 50801](#)

some discretion on what zones to allow emergency shelters by-right and, thus, Zoning Code amendments are needed and identified in the Housing Element.

### **Environmental Planning Commission Recommendation**

On February 21, 2024, the Environmental Planning Commission (EPC) held a public hearing to review the proposed code amendments to Chapter 36 and to the El Camino Real Precise Plan and provide a recommendation to the City Council. The City received 10 written comments prior to the meeting, and five people spoke at the meeting. The EPC recommendation and public comments are provided in the Analysis section below.

### **Santa Clara County Airport Land Use Commission Public Hearing**

Because some of the proposed Code and Precise Plan Amendments for emergency shelters affect parcels located in the Moffett Airport Influence Area (AIA), the California Public Utilities Code requires that the proposed amendments be sent to the Santa Clara County Airport Land Use Commission (ALUC) for review to ensure compatibility with the adopted Moffett Field (NUQ) Comprehensive Land Use Plan (CLUP). The proposed amendments were initially scheduled to be reviewed by ALUC for consistency with the CLUP on February 28, 2024, however, the emergency shelter item was not heard on that date. The proposed amendments are now scheduled to be reviewed by ALUC at a special meeting on March 25, 2024, and County staff has recommended finding that the proposed amendments are consistent with the CLUP. City staff will confirm ALUC's findings at the March 26, 2024, City Council meeting.

## **ANALYSIS**

### **Annual Progress Report Overview**

The annual progress report provides the state with information on the City's yearly building permit activity between January 31, 2023 and December 31, 2023 for net new housing units (see Table 2 below and Attachment 1, Table A2). The projection period, identified as June 30, 2022 to January 30, 2023, may also be counted toward the Sixth-Cycle RHNA. The progress report also includes Housing Element policy and program implementation status (see Attachment 1, Table D).

**Table 2: Sixth-Cycle (2023-2031) RHNA Progress**

<b>Affordability by Household Income</b>	<b>Sixth-Cycle RHNA</b>	<b>Building Permits Issued During Projection Period June 30, 2022 to January 30, 2023</b>	<b>Permits on or after January 31, 2023 to December 31, 2023</b>	<b>Total Units to Date</b>	<b>Percent of RHNA Allocation</b>
Very Low 0%-50% AMI	2,773	10	132	142	5.1%
Low 51%-80% AMI	1,597	46	49	95	5.9%
Moderate 81%-120% AMI	1,885	118	29	147	7.8%
Above Moderate 121%+ AMI	4,880	774	104	878	18%
<b>TOTAL</b>	<b>11,135</b>	<b>948</b>	<b>314</b>	<b>1,262</b>	<b>9.2%</b>

As noted in Table 2, only 10% of the total RHNA allocation has been completed during this annual report period and more progress will be needed in the next seven years to meet the RHNA targets. The City continues to experience a high level of residential development activity as listed below:

- There are currently 1,357 new residential units (284 affordable units) under construction.
- Approximately 1,448 new residential units (373 affordable units) have been recently approved but are not yet under construction.<sup>2</sup>
- 4,358 new residential units (755 affordable units) are under entitlement review, including 523 new residential units (224 affordable units) with applications deemed complete.

Housing Policies and Programs

The Housing Element includes policies and programs that are intended to remove constraints to housing production, produce housing for all income levels, provide housing assistance, address displacement and homelessness, and create solutions for housing through partnerships and other means. Table D in Attachment 1 summarizes current measures that have been completed to support the Housing Element’s goals with recent efforts summarized below.

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<sup>2</sup> Note: one site has been approved but includes a new application under entitlement review.

**Goal 1: An increase in the quantity and diversity of housing options, focusing on active nodes, and walkable neighborhoods with amenities and services.**

- a. Updated Zoning Regulations: In December 2023, the City updated the Zoning Code to include provisions that support different housing types and to remove barriers to housing. These amendments addressed compliance with state legislation to complete Housing Element Programs 1.1.a through 1.1.e and removed parking requirements for affordable housing projects to complete Program 1.2.a. Upon further analysis of Programs 1.1.a, no additional edits to Precise Plans are required (i.e., staff initially indicated changes to permit low-barrier navigation centers by-right, but as this is state-mandated, no additional edits to the Precise Plan areas are required).
- b. Gatekeeper Process: The Gatekeeper process is an authorization process to permit legislative updates (Zoning or General Plan amendments) that could potentially result in private development projects that support the City’s housing priorities. The City Council discussed the Gatekeeper framework and process on December 5, 2023 and January 23, 2024. Per Council direction at the January 23, 2024 meeting, staff is accepting applications from March 1, 2024 to June 28, 2024 and will hold a Council authorization hearing in fall 2024, utilizing the existing Gatekeeper process. This ensures compliance with Housing Element Program 1.3, which targets acceptance of Gatekeeper applications before June 30, 2024.
- c. No Net Loss: Program 1.11 of the Housing Element includes instructions for monitoring no net loss, including the preparation of a “provisional inventory” that will give the City advance notice of impending approvals that would reduce the inventory below the RHNA at any income level.<sup>3</sup> In addition, the program requires the City to account separately for lower-income capacity in the highest-opportunity areas of the City—south of El Camino Real and the area around downtown (bounded by El Camino Real, Mariposa Avenue, Central Expressway, and State Route 85 and State Route 237).

As of January 1, 2024, there was one formal application submitted on a Housing Element inventory site—1500 North Shoreline Boulevard. In addition, there have been several applications on sites outside the inventory and several minor modifications to previous applications. The official and provisional inventories are shown in Table 3. No individual income level is below 5% in either the official or provisional inventories; therefore, it is not currently necessary to identify additional opportunity sites or rezonings to meet the City’s RHNA requirements. The current inventory, updated as of January 1, 2024, can be found on the City’s Housing Element webpage.<sup>4</sup>

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<sup>3</sup> The program stipulates that lower-income sites in the inventory can be converted to moderate-income sites. Therefore, the identification of new sites to address no net loss is only begun when the lower-income inventory buffer is below 5% after reallocating sites to the moderate-income category.

<sup>4</sup> [www.mountainview.gov/our-city/departments/community-development/planning/regulations/housing-element](http://www.mountainview.gov/our-city/departments/community-development/planning/regulations/housing-element).

**Table 3: No Net Loss, Official and Provisional Inventories**

Affordability by Household Income	RHNA	2023 Inventory* (Official/ Provisional)	2023 Project Updates (Official/ Provisional)	Inventory on January 1, 2024 (Official/ Provisional)	Percent Buffer (Official/ Provisional)
Lower (0% to 80% AMI)	4,370	4,921 4,921	6 371	4,927 5,292	12.7% 21.1%
Lower, South of El Camino Real and Downtown Area	830	1,039 1,039	10 27	1,049 1,066	26.4% 28.4%
Moderate	1,885	2,121 2,121	7 -93	2,128 2,028	12.9% 7.6%
Above Moderate	4,880	8,823 8,823	4 882	8,827 9,705	80.9% 98.9%

\* Inventory counts do not include Accessory Dwelling Units.

**Goal 2: An inclusive and equitable community with available and accessible housing assistance.**

- a. Reasonable Accommodation: The December 2023 zoning amendments implemented Program 2.3 by removing requirements and findings associated with reasonable accommodation applications and updates the informational materials on the program.
- b. Outreach for Mediation and Fair Housing: Staff continues to implement Program 2.5 by hosting ongoing outreach/education events of housing programs to tenants, local property owners, and managers on a biweekly basis. These events utilize multilingual services.

**Goal 3: A comprehensive suite of housing opportunities and services to prevent, respond to, and address displacement and homelessness.**

- a. Funding and Partnerships for Homelessness Prevention: Program 3.1 supports strategies and partnerships that focus on homelessness prevention and providing services for the unhoused. In alignment with this program, the City has extended operations of safe parking lots and executed various agreements to provide annual and one-time funding for homeless service programs. The City has entered into agreements with the Community Services Agency of Mountain View, Los Altos, and Los Altos Hills to conduct outreach to those living in vehicles. Additionally, in June 2023, the City entered into a shared funding agreement with the County of Santa Clara for a two-year operational funding commitment for the LiveMoves Mountain View Interim Housing Community.



- b. Tenant Displacement Response Strategy: In October 2023, Council supported developing local replacement requirements for demolished rent-stabilized units as part of a redevelopment project in alignment with Program 3.2 for Displacement Prevention and Mitigation. These requirements will be modeled on those required by SB 330 and would go into effect when SB 330 sunsets (currently scheduled for 2030). On March 19, 2024, Council held a Study Session to provide direction for advancing acquisition/preservation efforts, community ownership action, and other efforts to address tenant displacements within the Housing Element timelines.

**Goal 4: A city that is an effective steward of housing solutions through funding, advocacy, partnerships, and community outreach and engagement.**

- a. Funding for Subsidized Housing: The City's funding leveraged other funding sources that affordable housing developers apply for, such as tax credits, bond financing, and state funding. The City secured \$5.3 million in funding across two state grants that further the affordable housing development pipeline and home-buying assistance. It is likely that these funding sources will continue to be used to produce subsidized rental units to help meet RHNA requirements consistent with Program 4.3.

Environmental Planning Commission Recommendation

On February 21, 2024, the EPC reviewed and recommended that the Council consider the Annual Progress Report. The EPC also commented that future program implementation discussions should occur if the City continues to stay off track with its RHNA numbers.

Upcoming Housing Element Program Implementation

Programs that are anticipated to be in process in the upcoming year are summarized in Table 4 below:

**Table 4: Summary of Upcoming Housing Element Programs**

Program	Description	Status/Timelines
<i>Program 1.1—Ensure Zoning and General Plan for all sites is consistent with the Housing Element Site inventory and pipeline projects</i>	Rezone areas to allow residential or allow at higher densities, including small commercial areas, the Transit Center, and Moffett Boulevard.	Moffett Boulevard Precise Plan: In progress.  Other Areas: Beginning in late 2024/early 2025.  Housing Element deadline: December 31, 2025
<i>Program 1.2—Eliminate Minimum Parking Standards for Residential in Transit-Oriented Areas, Affordable Housing Developments, and Other Cases</i>	Reduce parking-related constraints on residential housing developments. This includes: <ul style="list-style-type: none"> <li>- Remove minimum parking ratios in the El Camino Real, San Antonio, Downtown, and East Whisman Precise Plans, and Moffett Boulevard Change Area.</li> <li>- Adopt a TDM Ordinance.</li> </ul>	Remove Minimum Parking Ratios in Precise Plans.  Housing Element deadline: December 31, 2024.  TDM Ordinance: In progress. Anticipated completion in 2024.  Housing Element deadline: December 31, 2026
<i>Programs 1.4 and 2.6—Religious and Community Assembly Sites for Housing/ Affirmatively Further Fair Housing</i>	Increase affordable housing units south of El Camino Real (highest opportunity neighborhoods).	Outreach to church sites and affordable housing developers in progress.  Housing Element deadline: December 31, 2024
<i>Program 3.1—Homelessness Prevention and Services for the Unhoused</i>	Develop strategies and create partnerships to move unhoused populations into permanent housing.	Displacement response strategy in progress.  Housing Element deadlines and status provided in <a href="#">March 19, 2024 Displacement Response Strategy Study Session Report</a>

Program	Description	Status/Timelines
<p><i>Program 4.1—Development Streamlining and Processing Revisions</i></p>	<p>Improve procedure and technology to make project review for residential development more efficient.</p>	<p>Online permitting system for Planning and Public Works permits to be launched in mid-2024, which will improve electronic processing of residential development, allow customers to use one City platform for all development permits Citywide, and provide real-time status information to applicants.</p> <p>Housing Element deadline: December 31, 2024</p>

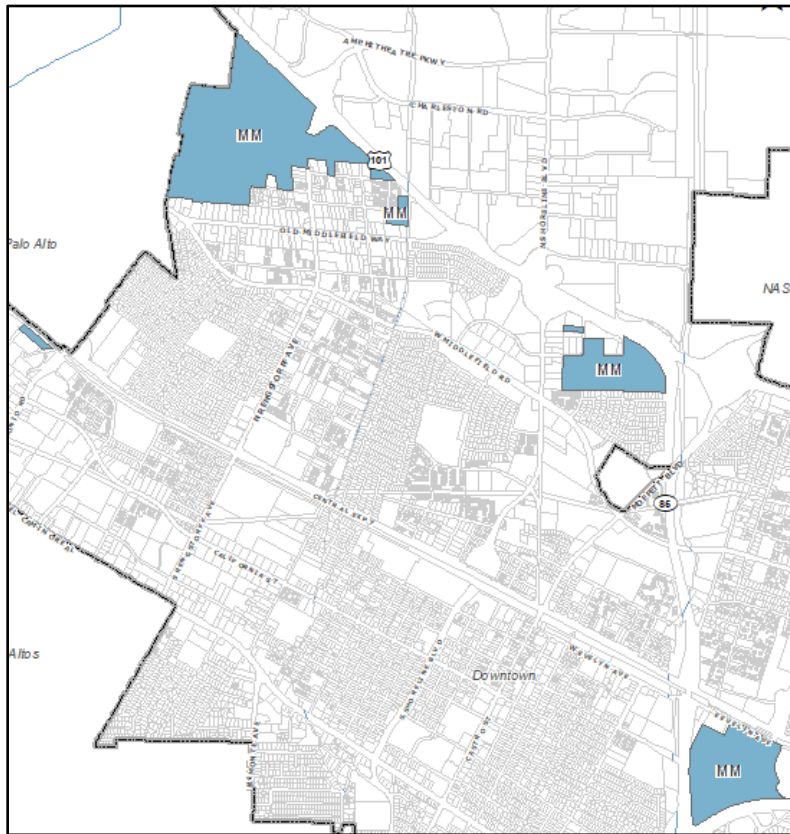
**Staff Recommendation**

**Staff recommends that the Council consider the 2023 Annual Progress Report in Attachment 1 and direct staff to forward the report to HCD and the Governor’s Office of Planning and Research prior to April 1, 2024.**

## **Emergency Shelter Amendments**

Pursuant to AB 2339, the City of Mountain View must:

1. Identify a zoning designation that allows residential uses where emergency shelters are allowed without a discretionary permit. Currently, emergency shelters are permitted by-right (without a discretionary permit) in only the General Industrial (MM) Zoning District, where residential uses are not allowed (see Figure 1);<sup>5</sup>



**Figure 1: General Industrial (MM) Zoning District**

2. Identify viable sites in the zoning designation that allows emergency shelters by-right to house the City's unhoused population. The City of Mountain View's shelter need, as identified by the latest Santa Clara County Point-in-Time Report on Homelessness and adjusted by pipeline developments, is 6,400 square feet of land area (32 individuals at 200 square feet per person). This means that the zoning designation chosen to permit emergency shelters by-right must have 6,400 square feet of land area that can be a viable

<sup>5</sup> Emergency shelters are also currently allowed with a discretionary Conditional Use Permit in the Commercial Neighborhoods (CN), Commercial Service (CS), Commercial Office (CO), Commercial-Residential-Arterial (CRA), Limited Industrial (ML), and Public Facilities (PF) Zoning Districts.

site for an emergency shelter. The City must conduct a site analysis demonstrating the site's viability, which is included in the analysis below; and

3. Update the development standards for emergency shelters to align with state law as needed and discussed below.

### Housing Element and AB 2339

In response to the requirements of AB 2339, the City's Housing Element Program 1.1.f includes the following: "Amend the ordinance and/or applicable precise plan(s) to allow emergency shelters by-right consistent with AB 2339. At minimum, this will include the El Camino Real Precise Plan (consistent with the analysis provided in the sites inventory, Appendix E). In addition, identify at least one additional site consistent with the AB 2339 methodology and the nonvacant sites analysis in Appendix E, and amend the subject Zoning District or Precise Plan as necessary."

### Site Analysis

As part of the Housing Element process, staff conducted a Citywide survey to find viable sites and zoning districts that would meet the requirements of AB 2339. However, since many sites were already identified as part of the Housing Element Site inventory or were properties that were not likely to redevelop in this planning period, there were limited zoning designations that would meet the requirements of AB 2339.

The only vacant site in the City that met all the requirements of AB 2339 was a property in the El Camino Real Precise Plan, 860 Bay Street, which was included in the Housing Element's site analysis for emergency shelters. Prior to adoption of the Housing Element, a development project was proposed for 860 Bay Street, which, if constructed, would remove this as a potential emergency shelter site under AB 2330 requirements. The project has since been withdrawn due to inactivity and is, therefore, included in the below analysis.

The nonvacant sites analysis identified as part of Program 1.1.f was crafted to ensure that there are back-up sites where emergency shelters could be allowed. Since adoption of the Housing Element, three additional viable sites were identified in the El Camino Real Precise Plan and have been included in the site analysis below. Two of the four sites that have potential are located in the Castro/Miramonte Sub-Area 1, one in the Castro/Miramonte Sub-Area 2, and one in the Medium-Intensity Corridor. These sites are shown below in Table 5.

**Table 5: Site Analysis**

Address and ECR PP Sub-Area	Lot Size and Type of Property	Analysis
<p><b>860 Bay Street, APN: 158-01-039</b></p> <p>Medium-Intensity Corridor</p>	<p>10,400 square feet</p> <p>Vacant sites with mixed-use zoning.</p> <p><i>Note:</i> A development proposal was submitted on this site but was withdrawn due to inactivity.</p>	<p>Located near transit, and other amenities and services, such as but not limited to:</p> <ul style="list-style-type: none"> <li>• Access to transit (550’ from VTA Route 22 stop with service to Downtown Mountain View and major commercial and job centers);</li> <li>• Less than 1,500’ to two major shopping centers (Nob Hill, 99 Ranch, Nijiya), a pharmacy (Walgreens), and other goods and services; and</li> <li>• Less than one mile to El Camino Hospital.</li> </ul>
<p><b>1098 West El Camino Real, APN: 158-07-028</b></p> <p>Castro/ Miramonte Sub-Area 1</p>	<p>12,100 square feet</p> <p>Nonvacant site that is suitable for use as a shelter or that can be redeveloped for a shelter in the current Housing Element period.</p>	<p>Site is suitable for redevelopment as it is an underutilized site due to the following site characteristics:</p> <ul style="list-style-type: none"> <li>• Existing use is a single-family residence, which is a nonconforming use. Therefore, there are limitations on the improvements that are feasible, making it viable for redevelopment to a permitted use; and</li> <li>• Structure was built in 1924. The age of the structure makes it viable for redevelopment, and it does not meet criteria for potential historic designation.</li> </ul>

Address and ECR PP Sub-Area	Lot Size and Type of Property	Analysis
<p><b>1065 West El Camino Real, APN: 189-01-146</b></p> <p>Castro/ Miramonte Sub-Area 2</p>	<p>5,200 square feet</p> <p>Nonvacant site that is suitable for use as a shelter or that can be redeveloped for a shelter in the current Housing Element period.</p>	<p>Site is suitable for redevelopment as it is an underutilized site due to the following site characteristics:</p> <ul style="list-style-type: none"> <li>• Existing use is a single-family residence. This is a nonconforming use. Therefore, there are limitations on the improvements that are feasible, making it viable for redevelopment to a permitted use;</li> <li>• Structure was built in 1940. The age of the structure makes it viable for redevelopment, and it does not meet criteria for potential historic designation; and</li> <li>• The site is currently on the market.</li> </ul>
<p><b>836 West El Camino Real, APN: 158-007-016</b></p> <p>Castro/ Miramonte Sub-Area 1</p>	<p>7,600 square feet</p> <p>Nonvacant site that is suitable for use as a shelter or that can be redeveloped for a shelter in the current Housing Element period.</p>	<p>Site is suitable for redevelopment as it meets many requirements identified in the Housing Element analysis of nonvacant opportunity sites:</p> <ul style="list-style-type: none"> <li>• Existing use is commercial;</li> <li>• Structure was built in 1930. The age of structure makes it viable for redevelopment and it does not meet criteria for potential historic designation;</li> <li>• Low floor area ratio (FAR). Site has less than 0.35 FAR (existing FAR is 0.18 FAR), which is considered low and likely to redevelop per market trends; and</li> <li>• Demonstrates some level of tenant vacancy per several site visits and research.</li> </ul>

The site analysis above is intended to show that El Camino Real Precise Plan includes viable sites for emergency shelters. The sites analysis must provide information that the use is likely to be discontinued during the planning period, considering current uses, market conditions, and incentives for shelter development. The projected land area need, as identified by the Housing Element, is 6,400 square feet (assuming 200 square feet per person). The four sites included in

the analysis exceed the minimum land area identified in the Housing Element, totaling about 35,300 square feet.

**No projects for an emergency shelter are currently proposed. The site analysis provided is intended to demonstrate compliance of the zoning designation with state law.** The City contacted the property owners of these properties to notify them that their sites were used as part of the site analysis to fulfill the requirements of AB 2339.

### **Council Strategic Priority—Historic Preservation Ordinance**

In April 2022, Council authorized updates to the Historic Preservation Ordinance and the Register of Historic Resources. This project is included in the Council's Fiscal Year 2023-2025 Work Plan and designated Priority B (High Priority). One of the project deliverables is a historic survey to understand if additional properties not currently existing on the City's existing register would have historic significance and could be eligible for the City's historic register. The City received the results of the reconnaissance survey in October 2023. The survey identified eight potential sites in the El Camino Real Precise Plan that may have historic significance (Attachment 5—El Camino Real Precise Plan Potential Historic Sites) at a local, state, or even national level. These sites are undergoing further analysis to determine if they are historically significant and eligible for the City's Historic Register. The results of this analysis are expected to be available by the end of 2024.

The Housing Element program identifies the El Camino Real Precise Plan as the zoning designation to rezone for consistency with AB 2339. When the Housing Element was adopted by Council in April 2023, the reconnaissance survey had not been conducted and staff was unaware that several potential historic resources currently exist in the Precise Plan area.

The typical development project located on a site containing a historic resource would involve environmental review to determine the impacts on the community over the loss of the resource(s). When a development is allowed by-right (no discretionary permits), there is no environmental review, and the City cannot require a Historic Preservation Permit to protect, or mitigate for the loss of, a historic resource.

### **CEQA Prohibits Rezoning the Entire Precise Plan By-Right Without More Environmental Review**

The City Council certified an Environmental Impact Report (EIR) for the Housing Element on January 23, 2024, and a California Environmental Quality Act (CEQA) memorandum was prepared on March 6, 2023 to analyze the additional changes that were made to the Housing Element following the EIR adoption (Attachment 6—CEQA Memorandum), including the provision for emergency shelters. The CEQA memorandum noted conditions in which a subsequent EIR would be needed with later discretionary actions. One of those conditions is new information of



substantial importance, which was not known and could not have been known and could have more significant effects not discussed in the previous EIR.

In this case, the potential historic resources were not known and, therefore, not analyzed in the original EIR, so potential impacts to historic resources need to be analyzed if the El Camino Real Precise Plan is amended to permit emergency shelters by-right in areas with historic resources.

As Council direction on this action must be informed by the possible risk to historic resources, **if the City Council is interested in amending the entire Precise Plan to allow emergency shelters by-right, a decision that could result in the loss of one or more historic resources, further CEQA analysis must be conducted by the City prior to that action.**

Emergency shelters are not the only development type where discretionary permits are prohibited and CEQA would not apply. [AB 2162](#) also mandates that supportive housing<sup>6</sup> projects are a use by-right (without a discretionary permit) in zoning designations that permit multi-family and mixed-use and are exempt from CEQA; therefore, it is possible that a supportive housing project may also impact potential historic resources. However, CEQA only applies when the City has discretion, and the City has no discretion over where AB 2162 applies. The City does have discretion over where to apply the emergency shelter rezoning.

### **Staff Recommendation**

As noted previously in this report, to be compliant with AB 2339, the City must zone a prescribed amount of land (6,400 square feet) for by-right emergency shelter use (consistent with Attachment 3) but may continue to require a conditional use permit in other areas. As the conditional use permit is a discretionary permit, it serves to protect the historic resources because CEQA would apply when the City considers the use permit.

**In light of the above, staff developed a recommendation that would comply with AB 2339, be compliant with CEQA, and meet the deadline of the Housing Element related to emergency shelters.** The recommendation is to rezone the Castro/Miramonte Sub-Area 1 of the El Camino Real Precise Plan to allow emergency shelters by-right. Sub-Area 1 currently contains two viable sites to comply with the site analysis of AB 2339 (each more than 6,400 square feet) and does not include any potential historic resources (see orange highlight in sub-area analysis in Table 6 below and Figure 2).

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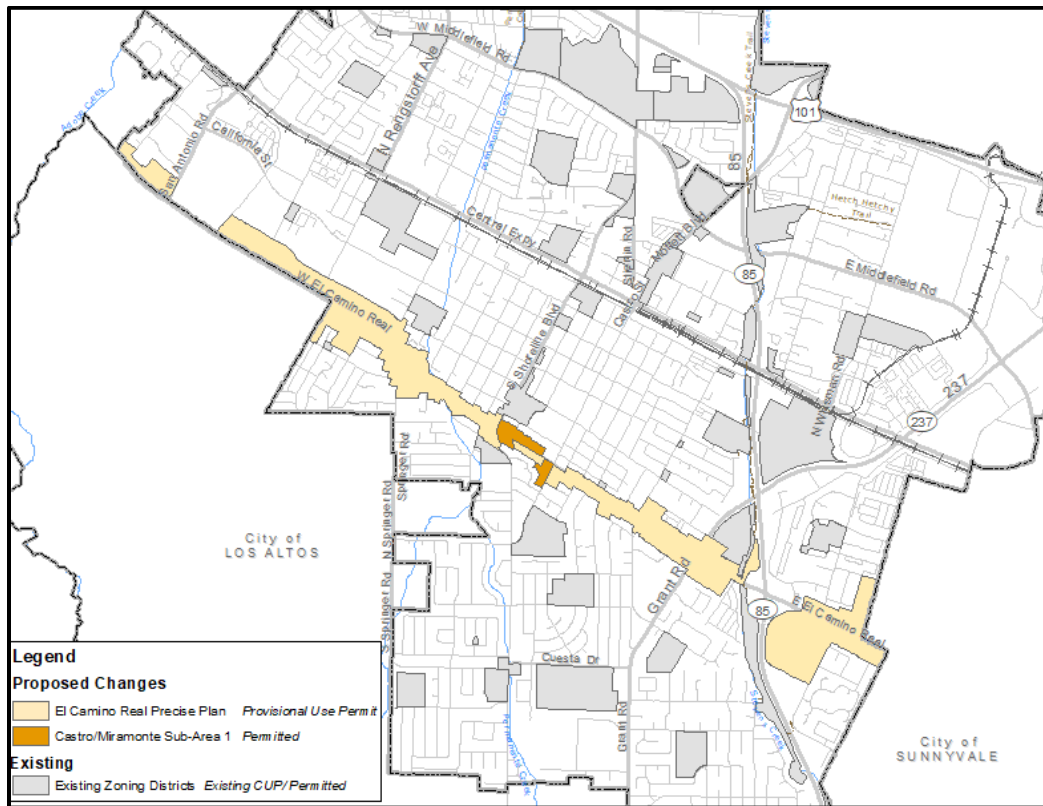
<sup>6</sup> Supportive housing, as defined in California Health and Safety Code Section 50675.14(b)(2), is “housing with no limit on length of stay, that is occupied by the target population, and that is linked of onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live/work in the community.”

**Table 6: Sub-Area Analysis**

<b>El Camino Real Precise Plan Sub-Areas</b>	<b>Viable Sites (square feet)</b>	<b>Number of Potential Historic Sites</b>
Castro-Miramonte Sub-Area 1	19,700	0
Castro-Miramonte Sub-Area 2	5,200	1
Village Centers	0	2
Medium-Intensity Corridor	10,400	3
Low-Intensity Corridor	0	2
Residential Only	0	0

The recommended resolution to amend the El Camino Real Precise Plan (Attachment 3) also includes rezoning all other sub-areas to allow emergency shelters with a conditional use permit. An additional clarification to the residential only sub-areas and areas bounded by Highway 237, El Camino Real, and Highway 87 have been added to Attachment 3, Exhibit 1, as this was previously not included in the original EPC resolution but was intended to be conditionally permitted.

**In summary, staff recommends Council adopt a resolution to amend the El Camino Real Precise Plan that permits emergency shelters by-right in the Castro/Miramonte Sub-Area 1 and allows emergency shelters in all other sub-areas of the Precise Plan with a provisional (also known as a conditional) use permit (Attachment 3).**



**Figure 2: El Camino Real and Castro/Miramonte Sub-Area 1**

**Options to Expand Allowing Emergency Shelters by-Right in Precise Plan Area**

While the recommended actions above technically satisfy AB 2339 and the Housing Element by amending the Precise Plan to allow emergency shelters by-right in Sub-Area 1, there has been community input of expectations that the entirety of the Precise Plan area would allow emergency shelters by-right. Accordingly, staff has developed two options for Council consideration that would expand the area where emergency shelters are permitted by-right to include more or all of the Precise Plan.

**Option 1: Commence Work on an Environmental Impact Report**

If Council’s preference is to allow emergency shelters by-right throughout the Precise Plan, with no exceptions for historic resources, CEQA environmental review will be required. Under this option, staff would scope the environmental review and hire a consultant to analyze the impacts under CEQA. Based on past and ongoing environmental work done within the Precise Plan, and staff experience and knowledge, this would likely result in a focused EIR with significant and unavoidable impacts due to the potential loss of the resources. When the environmental analysis is complete, the City Council would then decide whether to adopt an amendment to the Precise Plan that would allow emergency shelters by-right throughout the Precise Plan that would likely

include a decision on certifying the environmental document with significant and unavoidable impacts. For this option, staff could return to Council by 2025 to take action on the EIR and further amend the Precise Plan.

**Option 2: Develop Other Regulatory Solutions**

If Council’s preference is to expand the areas in the El Camino Real Precise Plan where emergency shelters are allowed by-right while avoiding potentially impacting historic resources, staff would bring forward a recommended regulatory solution to amend the Precise Plan. Under this option, staff would complete the analysis on the historic significance of the El Camino Real sites to confirm which sites are eligible for the City’s Historic Register. Staff would then identify regulatory solutions that could maintain discretion over the loss of those resources to ensure they are protected. For example, the City could adopt an overlay zone that would allow emergency shelters by-right but would avoid the up to eight sites with historic resources. This option would not require additional work under CEQA. For this option, staff could return to Council by 2025 to further amend the Precise Plan

**Staff requests Council direction on whether to proceed with Option 1 or 2 for expanding where emergency shelters are permitted by right in the Precise Plan area.**

Other Emergency Shelter Code Amendments

State law<sup>7</sup> prescribes the development standards that the City can apply and prohibits application of development standards other than those. Table 7 below includes a summary of code updates required under this law. These code updates are included in Attachment 2.

**Table 7: Emergency Shelter—Objective Standards**

<b>Standard Permitted by State Law</b>	<b>Existing Code</b>	<b>Proposed Code Compliant with State Law</b>
<b>Maximum Number of Beds</b>	150 beds maximum.	Five beds per 1,000 square feet of lot size, but no greater than 150 beds.
<b>Parking Requirement</b>	0.35 parking space per bed plus one parking space per employee.	One parking space per employee if parking is otherwise required for commercial uses in the zoning district.
<b>Size and Location of Waiting and Intake Client Intake Areas</b>	Shall have a waiting and intake area.	Minimum of 200 square foot indoor private area.

<sup>7</sup> Government Code Section 65583.

Standard Permitted by State Law	Existing Code	Proposed Code Compliant with State Law
<b>Proximity to other Emergency Shelters, maximum 300'</b>	None.	None.
<b>Provision of On-Site Management</b>	On-site management required.	No changes.
<b>Length of Stay</b>	30 days, with extensions up to 180 days.	180 days.
<b>Lighting</b>	Outdoor lighting for security.	Outdoor lighting must have minimum of one footcandle on parking surfaces and walkways.
<b>Security</b>	On-site security and/or cameras.	Added hours of security and location of security cameras.
<b>Other Development Standards</b>	Underlying development standards and common facilities are additional standards currently in the code.	Additional requirements are removed; not permitted per state law.

**Staff recommends that Council introduce the ordinance in Attachment 2 amending the development standards and permitting process for emergency shelters consistent with the objective standards in Table 7.**

Public Comments

City staff received 10 written comments prior to the EPC hearing (see Attachment 7). Additionally, five speakers were in attendance at the meeting. Comments raised include:

- Concerns that the Housing Element identified, at minimum, the El Camino Real Precise Plan to allow emergency shelters by-right. The proposal to zone only a sub-area for emergency shelters by-right is not aligned with the Housing Element program and calls for the EPC to recommend allowing emergency shelters by-right in the entirety of the El Camino Real Precise Plan.

- Balancing historic preservation and combatting homelessness is illegal. There are no historic sites per the City's historic register as of September 2022.
- Support for policies to make it easier to establish shelters.
- Request for greater detail on the APR on timeline updates on density bonus, Council meeting results for Gatekeepers and 4.1.a (Streamlining), and that Item 1.1 is not finished as Precise Plan updates are needed.
- Provide additional information and correction on the draft annual progress report to clarify implementation, such as Programs 1.1, 1.3, 1.4, 1.5, 1.9, 1.10, 1.11, 2.6, 3.1, 4.1, and 4.2.
- Request for improved outreach notification as there was insufficient information on the postcards and was not in languages other than English. (League of Women Voters)
- Desire for a larger noticing radius.
- Desire for emergency shelters to be in areas more accessible to services and transit.
- Provide more information about how sites were considered. Provide opportunities to study environmental and parking impacts.
- Focus new emergency shelters on families.

#### EPC Recommendation

The EPC voted 3-2-2<sup>8</sup> (Cranston, Nunez no; Clark, Gutierrez recused) to recommend that Council:

1. Adopt the attached ordinance amending the Zoning Code (Attachment 2);
2. Adopt the attached resolution amending the El Camino Real Precise Plan to allow emergency shelters by right in the Castro-Miramonte subarea 1 and with a provisional use permit in the remaining areas of the Precise Plan (Attachment 3); and
3. Further study the affected historic resources and return with updates to the Precise Plan and/or Zoning Ordinance, considering more options for allowing emergency shelters by right in more locations in the El Camino Real Precise Plan (this is most similar to Option 2 above).

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<sup>8</sup> Two Commissioners recused from the action due to the location of their residences.

The two Commissioners that voted against the recommendation voiced concerns that rezoning a portion of the Precise Plan did not meet the requirements of the Housing Element program and that the entirety of El Camino Real Precise Plan should be amended to allow emergency shelters by-right.

Also of note, the original staff recommendation to the EPC included modifications to the MM Zoning District that would have made the emergency shelter use allowable through a conditional use permit instead of as a by-right use (as currently zoned). After receiving public comment on the change, and conducting further evaluation, staff modified this recommendation on the day of the EPC hearing and recommended that no change be made to the existing permitted use table for the MM Zoning District. The EPC carried this forward in their motion. Therefore, no changes are proposed to the permitted use table for the MM Zoning District under staff's current recommendation.

Several Commissioners also suggested that staff confirm the City's approach for complying with AB 2339 and the Housing Element with HCD.

#### HCD Consultation

Staff will seek input from HCD regarding the approach the City has taken to comply with AB 2339 and the Housing Element and will inquire about what if any enforcement action cities will be subject to if they are unable to meet a specific Housing Element deadline but can nevertheless demonstrate a good-faith effort to meet the deadline and progress towards doing so. Staff will share any response received from HCD with Council.

#### **FISCAL IMPACT**

There is no fiscal impact associated with considering the 2022 Annual Progress Report for the 2015-2023 Housing Element, introducing the ordinance in Attachment 2, or adopting the resolution in Attachment 3.

If Council directs staff to prepare a focused EIR to further amend the Precise Plan to allow Emergency Shelters by-right (Option 1), consultant services will be required at a cost between \$75,000 and \$150,000. There is no fiscal impact to implement Option 2. Completion of the historic resources analysis is already funded, and no consultant assistance is required to develop a recommended regulatory solution for amending the Precise Plan.

#### **CONCLUSION**

Staff recommends Council consider the Annual Progress Report and direct staff to forward the report to HCD and Office of Planning and Research prior to the April 1 deadline.

Staff also recommends that Council introduce the ordinance in Attachment 2 amending the development standards and permitting process for emergency shelters and adopt the resolution in Attachment 3 amending the El Camino Real Precise Plan to allow emergency shelters by-right in Sub-area 1 and as a conditional use in the remainder of the Precise Plan. Taking these actions prior to March 31, 2024 will comply with AB 2339 and be within the timelines in the Housing Element.

Staff requests Council direction on whether to proceed with Option 1 or 2 for expanding where emergency shelters are permitted by right in the Precise Plan area:

- Option 1: Direct staff to commence work on an Environmental Impact Report.
- Option 2: Direct staff to develop other regulatory solutions that would avoid impacting historic resources.

#### **ALTERNATIVES**

1. Direct staff to modify the Housing Element Annual Progress Report.
2. Approve the Zoning Ordinance and/or El Camino Real Precise Plan amendments with modifications.
3. Defer adoption of the Zoning Ordinance and/or El Camino Real Precise Plan Amendments until Option 1 or 2 is completed and direct staff to discuss extending the timeline with HCD.
4. Provide other direction.



**PUBLIC NOTICING**

Agenda posting, newspaper publication, posting on the City’s AB 2339 webpage, and a copy of the report on the City website. A newspaper notice has been circulated for this meeting, notification of this meeting has been sent to all property owners within a 750’ radius of the El Camino Real Precise Plan and zoning districts permitting emergency shelters, neighborhood associations were notified of this meeting, and notification of this meeting has been posted on the City’s Emergency Shelter webpage.

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City Manager

- Attachments:
1. 2023 Annual Progress Report
  2. Ordinance
  3. Resolution Amending El Camino Real Precise Plan
  4. 2023 AMI for Santa Clara County
  5. El Camino Real Precise Plan Potential Historic Sites
  6. CEQA Addendum Memo
  7. Public Comments Received