



# City of San Juan Bautista

*The "City of History"*

[www.san-juan-bautista.ca.us](http://www.san-juan-bautista.ca.us)

## **AGENDA**

### **REGULAR PLANNING COMMISSION MEETING**

CITY HALL COUNCIL CHAMBERS  
311 Second Street  
San Juan Bautista, California

**TUESDAY ~ SEPTEMBER 3, 2019**

*In compliance with the American with Disabilities Act, if you need special assistance to attend or participate in the meeting, please call the City Clerk's Office at (831) 623-4661, extension 13 at least 48 hours prior to the meeting.*

*Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the City Clerk's office located at City Hall, 311 Second Street, San Juan Bautista, California during normal business hours.*

**1. Call to Order**  
**Roll Call**

**6:00 PM**

**2. Public Comment**

**3. Informal Project Review**

Any potential and/or future project applicant may present their project to the Commission during Informal Project Review for the purpose of gaining information as preliminary feedback only. No formal application is required and no action will be taken by the Commission on any item at this time.

**4. Consent Agenda**

All matters listed under the Consent Agenda may be enacted by one motion authorizing actions indicated for those items so designated. There will be no separate discussion of these items unless requested by a member of the Commission, a staff member, or a citizen.

- A. Approve Affidavit of Posting Agenda**
- B. Approve Affidavit of Posting Public Hearing Notice**
- C. Approve Affidavit of Mailing Public Hearing Notice**
- D. Approve Minutes for the March 12, 2019 Meeting**
- E. Approve Minutes for the April 2, 2019 Meeting**

**5. Action Items**

- A. Consider a recommendation from the Historic Resources Board for a Minor Alteration to a building at 205 Third Street (APN 002-19-001) in the Downtown Historic District, to include paint and signage.**

**6. Public Hearing Items**

- A. Recommend to the City Council Adoption of the City's General Plan Housing Element that covers the State of California's 5th Cycle requirements. This item is subject to California Environmental Quality Act (CEQA) requirements.**
  - (1) Recommend to the City Council Approval of a Mitigated Negative Declaration for the Housing Element Update.**

- (2) Recommend to the City Council an Amendment to the Municipal Code – Reasonable Accommodation**
- (3) Recommend to the City Council an Amendment to the Municipal Code – Sewer and Water Service Priority**
- (4) Recommend to the City Council an Amendment to the City Zoning Ordinance – Accessory Dwelling Units, Transitional and Supportive Housing, Emergency Shelters, and Special Development Standards for Rezoned Site**
- (5) Recommend to the City Council General Plan Amendments and Zone Changes for Adequate Sites for APN 002-320-007 and APN 002-350-030 on Muckelemini Street (currently zoned Commercial to be amended to High Density Residential) and APN 002-520-001 on Lang Street (currently zoned Low Density Residential to be amended to High Density Residential).**
- (6) Recommend Approval of the San Juan Bautista 2015-2019 Housing Element**

**6. Discussion Items**

- A. Transient Occupancy Tax on Short Term Rentals**

**7. Comments**

- A. Planning Commissioners**
- B. Associate City Planner**
- C. City Manager**

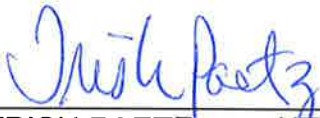
**9. Adjournment**

### **AFFIDAVIT OF POSTING**

I, TRISH PAETZ, DO NOW DECLARE, UNDER THE PENALTIES OF PERJURY THAT I AM THE DEPUTY CITY CLERK IN THE CITY OF SAN JUAN BAUTISTA AND THAT I POSTED THREE (3) TRUE COPIES OF THE ATTACHED PLANNING COMMISSION AGENDA. I FURTHER DECLARE THAT I POSTED SAID AGENDA ON THE 28<sup>th</sup> DAY OF AUGUST 2019, AND I POSTED THEM IN THE FOLLOWING LOCATIONS IN SAID CITY OF SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA.

1. ON THE BULLETIN BOARD AT CITY HALL, 311 SECOND STREET.
2. ON THE BULLETIN BOARD AT THE CITY LIBRARY, 801 SECOND STREET.
3. ON THE BULLETIN BOARD AT THE ENTRANCE TO THE UNITED STATES POST OFFICE, 301 THE ALAMEDA

SIGNED AT SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA,  
ON THE 28<sup>th</sup> DAY OF AUGUST 2019.



TRISH PAETZ, DEPUTY CITY CLERK

**AFFIDAVIT OF POSTING**

I, TRISH PAETZ, DO NOW DECLARE, UNDER THE PENALTIES OF PERJURY THAT I AM THE DEPUTY CITY CLERK IN THE CITY OF SAN JUAN BAUTISTA AND THAT I POSTED THREE (3) TRUE COPIES OF THE ATTACHED PLANNING COMMISSION PUBLIC HEARING NOTICE. I FURTHER DECLARE THAT I POSTED SAID NOTICE ON THE 16<sup>th</sup> DAY OF AUGUST 2019, AND I POSTED THEM IN THE FOLLOWING LOCATIONS IN SAID CITY OF SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA.

1. ON THE BULLETIN BOARD AT CITY HALL, 311 SECOND STREET.
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SIGNED AT SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA,  
ON THE 28<sup>TH</sup> DAY OF AUGUST 2019.



TRISH PAETZ, DEPUTY CITY CLERK

## NOTICE OF PUBLIC HEARING CITY OF SAN JUAN BAUTISTA

Pursuant to Government Code Section 65090, the Planning Commission of the City of San Juan Bautista gives notice of a public hearing on **September 3, 2019** at 6:00 p.m. in the Council Chambers at San Juan Bautista City Hall, 311 Second Street. During the public hearing, the following items will be discussed:

- Consider a recommendation for approval of a Mitigated Negative Declaration for the Housing Element Update.
- Consider a recommendation for Municipal Code Amendment – Reasonable Accommodation
- Consider a recommendation for a Municipal Code Amendment – Sewer and Water Service Priority
- Consider a recommendation for a Zoning Ordinance Text Amendment – Accessory Dwelling Units, Transitional and Supportive Housing, Emergency Shelters, and Special Development Standards for Rezoned Site.
- Consider General Plan Amendments and Zone Changes for Adequate Sites for the parcels 002-320-007 and 002-320-008 on Muckelemi Street (currently zoned Commercial to be amended to High Density Residential), 002-350-030 on Muckelemi Street (currently zone Commercial to be amended to High Density Residential), and 002-520-001 on Lang Street (currently zoned Low Density Residential to be amended to High Density Residential).
- Consider recommending approval for the San Juan Bautista 2015-2019 Housing Element.

Staff reports and the full text of all items to be discussed will be available for public review at City Hall on **August 27, 2019**. All members of the public are encouraged to attend the meeting and may address the City Council on the issue during the public hearing. Written comments may be hand delivered or mailed to City Hall (311 Second Street, P.O. Box 1420, San Juan Bautista, CA 95045), or e-mailed to [cityplanning@san-juan-bautista.ca.us](mailto:cityplanning@san-juan-bautista.ca.us), not later than **5:00 p.m., September 3, 2019**.

If a challenge is made on the action of the proposed project, pursuant to Government Code Section 65009 court testimony may be limited to only those issues raised at the public hearing described in this notice or in written correspondence delivered to the City at or prior to the public hearing.

Posted: August 23, 2019

**PROOF OF PUBLICATION  
(2015.5 C.C.P.)  
STATE OF CALIFORNIA  
County of San Benito**

I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years, and not a party to or interested in the above entitled matter.

I am the printer and principal clerk of the publisher of the Free Lance, published on line, printed and published in the city of Hollister, County of San Benito, State of California, **FRIDAY, AND ON LINE** for which said newspaper has been adjudicated a newspaper of general circulation by the **Superior Court of the County of San Benito, State of California, under the date of June 19, 1952, Action Number 5330**, that the notice of which the annexed is a printed copy had been published in each issue. Thereof and not in any supplement on the following dates:  
**AUGUST 23, 2019**

I, under penalty of perjury that the foregoing is true and correct. This declaration has been executed **ON AUGUST 23, 2019**

**HOLLISTER FREE LANCE  
350 Sixth Street,  
Hollister CA 95023**



/S/ Stacy Sutherland /  
Legal Publications Specialist  
Classified Advertising  
Hollister Free Lance,  
Gilroy Dispatch, Morgan Hill Times,  
Phone # (408) 842-5079  
Fax # (408) 842-3817  
E-mail: [ssutherland@newsmedia.com](mailto:ssutherland@newsmedia.com)  
Website: [www.sanbenitocountytoday.com](http://www.sanbenitocountytoday.com)

**942 HOL - Public  
Notice**

**NOTICE OF PUBLIC HEARING  
CITY OF SAN JUAN BAUTISTA**

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Recommend to City Council approval of municipal code amendments for reasonable accommodations, sewer and water service priority, zoning ordinance text amendments (accessory dwelling units, transitional and supportive housing, emergency shelters), special development standards for rezoning, and approval of the San Juan Bautista 2015-2019 Housing Element.

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**(PUB HF 8/23)**

**AFFIDAVIT OF POSTING**

I, TODD KENNEDY, DO NOW DECLARE, UNDER THE PENALTIES OF PERJURY THAT I AM THE ASSOCIATE PLANNER IN THE CITY OF SAN JUAN BAUTISTA AND THAT I MAILED COPIES OF THE ATTACHED PLANNING COMMISSION PUBLIC HEARING NOTICE TO OWNERS OF PROPERTY WITHIN 300 FEET OF THE PROPERTIES AFFECTED BY CHANGES TO THE HOUSING ELEMENT. I FURTHER DECLARE THAT I MAILED SAID NOTICE ON THE 21<sup>ST</sup> DAY OF AUGUST 2019 FROM THE SAN JUAN BAUTISTA POST OFFICE IN THE CITY OF SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA.

SIGNED AT SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA,  
ON THE 28<sup>TH</sup> DAY OF AUGUST 2019.

  
TODD KENNEDY, ASSOCIATE CITY PLANNER

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Posted: August 23, 2019



**CITY OF SAN JUAN BAUTISTA  
PLANNING COMMISSION REGULAR MEETING  
MARCH 12, 2019  
DRAFT MINUTES**

**1. CALL TO ORDER** – Chairperson Freels called the meeting to order at 6:46 p.m.

**B. ROLL CALL**      **Present:**      Commissioners Freels, Brewer, Medeiros,  
Matchain and Delgado

**Staff Present:** Associate Planner Kennedy, Interim City  
Manager Tewes and Administrative Services  
Manager Paetz

**2. PUBLIC COMMENT**  
No comments were received.

**3. INFORMAL PROJECT REVIEW**  
Nothing presented.

**4. ACTION ITEMS**

**A. Approve Affidavit of Posting Agenda**

A motion was made by Commissioner Medeiros and seconded by Commissioner Delgado to approve the affidavit of posting agenda. The motion passed unanimously, 5-0.

**B. Consider the Recommendation of the Historic Resources Board for Placement of E Clampus Vitus Monument on City Hall Grounds at 311 Second Street**

Associate Planner Kennedy reported the Historic Resources Board supported placing the monument near the flag outside the Fire Department on Polk Street. No public comment was received.

A motion was made by Commissioner Medeiros and seconded by Vice Chairman Matchain to approve Resolution 2019-07 approving a site and design review for the placement of a stone monument with plaque on City property in front of the former San Juan Bautista Volunteer Fire Department located at 24 Polk Street. The motion passed unanimously, 5-0.

**C. Consider Proposed New Signs at Valero Gas Station located at 63 Muckelemei Street (APN 002-320-002). Application is to install new signs and update the logo on the existing signs. Applicant: Sal Pablo (Continued from February)**

Associate Planner Kennedy provided a report. No public comment was received.

A motion was made by Commissioner Delgado and seconded by Commissioner Medeiros to approve Resolution 2019-08 approving a design review for a sign permit for changes to the existing sign package for the Valero Gas Station at 63 Muckelemei Street. The motion passed unanimously, 5-0.

**D. Consider Revised Plans and Updates for a Site and Design Review for new construction for two modular homes and one accessory building located on Lasuen Drive (APN 002-540-010). Approval of the Site and Design Review is exempt from CEQA pursuant to Article 19, Sections 15300.2 and 15303. Applicants: Dave McGovert and Kevin McGovert. (Continued from February)**

Associate Planner Todd provided a report stating the sewer was approved by the City Engineer and the temporary cargo container temporary is approved until their house is built. The staff and engineer feel installment of curb, gutter and sidewalk is not necessary, or should be deferred. The applicant's engineer, Matt Kelly, was present. During public comment, Jolene Cosio reads from the written comments previously submitted to the Planning Commission. Commissioner Medeiros was concerned with subsequent deterioration of the road and the number and square footage of the two residences and garage being built.

A motion was made by Commissioner Delgado and seconded by Commissioner Brewer to approve Resolution 2019-09 approving a site and design review for new construction of two manufactured homes and one accessory building on a four acre parcel zoned low density residential and located on Lasuen Drive with the added conditions that the container could remain on the property for six months, and trees will be planted. The motion passed unanimously, 5-0.

**5. DISCUSSION ITEMS**

**A. Harvey's Lockup Status Report**

Associate Planner Kennedy provided an update.

**B. Report from Commissioners on the Planning Commissioners Academy**

Commissioners reported on the New Planning Commissioner's Academy they attended.

**C. Report from Planner on current and upcoming projects.**

Associate Planner Kennedy explained specific projects on the report and responded to questions posed by Commissioners.

**6. COMMENTS & REPORTS**

**A. Planning Commissioners**

No comments received.

**B. City Planner**

No comments received.

**C. City Manager**

No comments received.

**7. ADJOURNMENT**

The meeting adjourned at 8:52 p.m.

**CITY OF SAN JUAN BAUTISTA  
REGULAR PLANNING COMMISSION MEETING  
APRIL 2, 2019  
DRAFT MINUTES**

**1. CALL TO ORDER** –Chairperson Freels called the meeting to order at 7:03 P.M.

**ROLL CALL Present:** Chairperson Freels, Vice Chairperson Matchain,  
Commissioners Brewer, Delgado and Medeiros

**Staff Present:** Interim City Manager Tewes, City Clerk Cent, Associate  
Planner Kennedy

**2. PUBLIC COMMENT**

There was no public comment.

**3. INFORMAL PROJECT REVIEW**

Associate Planner Kennedy reported there were no projects at this time.

**4. ACTION ITEMS**

**A. Approve Affidavit of Posting Agenda**

Commissioner Brewer made a motion to approve the affidavit of posting the agenda.  
Second by Commissioner Medeiros. Motion passed 5-0.

**B. Consider a Recommendation by the Historic Resources Board for a Sign  
Permit for 312A Third Street. Applicant is Jeremy VanderKraats with Signs by  
Van.**

There was no public comment. Commissioner Medeiros made a motion to Approve  
Resolution 2019-10 Approving a Sign Review for a New Retail Business Located at  
312A Third Street, San Juan Bautista, APN 022-170-001, for the larger 60" x 30" sign.  
Second by Commissioner Delgado. Motion passed 5-0.

**5. DISCUSSION ITEMS**

**A. Report from Planner on Current and Upcoming Projects**

Associate Planner Kennedy reviewed his report. Commissioners asked questions on  
items on the report and staff responded. Public comment was received from Cara Vonk  
regarding the Housing Element Update, requesting to see the draft before it went to the  
State. Commissioners continued to question staff about projects in the report.

**6. COMMENTS**

**A. Planning Commissioners**

Commissioner Brewer asked about the 500-foot recusal buffer as the map she had  
received had only 300 feet marked. Staff will supply the correct map to the  
Commissioners. Chairperson Freels asked about the Wastewater Treatment Plant  
capacity and where the City was at the present. Chairperson Freels reported on the Arts  
& Crafts Festival the previous weekend. There were no other comments received.

**B. City Planner**

Associate Planner Kennedy reported on a conference about CEQA he recently attended.

**C. City Manager**

No comments received.

**7. ADJOURNMENT**

The meeting was adjourned at 7:30 P.M.

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Scott Freels, Chairman

ATTEST:

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Laura Cent, City Clerk

## **CITY OF SAN JUAN BAUTISTA**

### **PLANNING COMMISSION**

#### **STAFF REPORT**

**DATE:** September 3, 2019

**Item:** **Consider a Minor Historic Alteration, including signage, and exterior paint design**

**Location:** 205 Third Street, San Juan Bautista, APN #002-190-011

#### **DISCUSSION:**

Staff received an application for a Minor Historic Alteration that covers both exterior and interior improvements. The subject site is located within the Downtown Third Street Historic District at 205 Third Street, and the property is zoned Mixed-Use (MU). The building is listed in the City's Historic Resource Inventory as well. The scope of work is as follows.

On the exterior, the proposal is for a new sign, and new paint scheme for the window slats and the exterior wall. A tenant improvement for interior work will take place as well. These changes will be improvements to the building.

The colors include a grey façade, black and white trim, and a red door. The whole of the façade will be gray. The exact grey color is called "Anchors Away". The proposed black color will cover all the cornices, eaves and outline wood of the front door and windows. The exact black color is called "Black Truffle". The proposed white color will cover the lower panels below the windows. The exact white color is called "Designer White" and the front door will be painted red. All of these four colors are recognized in the City Paint Color Palette on file at City Hall. It is staff's determination that these colors in the proposed combination will significantly improve the aesthetics of the façade of the building.

The new sign will include a rustic design that has a wood panel background and had black lettering with a logo included. The sign will be placed in the same location on the front façade, replacing the previous business' sign. The proposed sign will be the same size as well, covering roughly 4.5 square feet.

The sign appears to meet the size requirements of the Sign Ordinance and appears to meet the City Design Guidelines.

**ACTION:**

Historic Resources Board and Planning Commission to consider this item for approval. There are no issues or any significant changes to the site identified by staff with this proposal. This proposal is required to be reviewed and approved by a tenant improvement permitting process that will include Building and Fire Review prior to being issued a business license and an ABC license.

**ATTACHED:**

Draft Resolution

## **RESOLUTION 2019 - xx**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA APPROVING A MINOR HISTORIC ALTERATION FOR EXTERIOR CHANGES FOR A TENANT IMPROVEMENT FOR A NEW TAVERN LOCATED AT 205 THIRD STREET IN SAN JUAN BAUTISTA. APN 002-190-011**

**WHEREAS**, the Historic Resources Board conducted a public hearing on August 6, 2019 to review the proposed Minor Historic Alteration, and

**WHEREAS**, the Historic Resources Board received oral comments, written correspondence, electronic communication and public testimony at the public hearing, and

**WHEREAS**, the Historic Resources Board made a recommendation to postpone the proposed Minor Historic Alteration to the Planning Commission, and

**WHEREAS**, the Planning Commission conducted a public hearing on August 6, 2019 to review the proposed Minor Historic Alteration, and

**WHEREAS**, the Planning Commission moved to postpone the item to a future public hearing, and

**WHEREAS**, the Historic Resources Board conducted a public hearing on September 3, 2019 to review the proposed Minor Historic Alteration, and

**WHEREAS**, the Historic Resources Board received oral comments, written correspondence, electronic communication and public testimony at the public hearing, and

**WHEREAS**, the Historic Resources Board made a recommendation of approval of the proposed Minor Historic Alteration to the Planning Commission, and

**WHEREAS**, the Planning Commission conducted a public hearing on September 3, 2019 to review the proposed Minor Historic Alteration, and

**WHEREAS**, the Planning Commission has considered the recommendation from the Historic Resources Board and makes the following finding to approve the Minor Historic Alteration request.



1. That the proposed Minor Historic Alteration request is compatible with the historic context of the Historic District and that it does not have any impacts on the historic character of the property and buildings.

**NOW, THEREFORE, BE IT RESOLVED,** that the Planning Commission of the City of San Juan Bautista hereby approves the Minor Historic Alteration located at 205 Third Street in San Juan Bautista, subject to the following conditions.

1. The proposed scopes of work indicated on the submitted plans for this Minor Historic Alteration is subject to all applicable Planning, Building, and Fire Codes.
2. As part of the tenant improvement for the proposed tavern at 205 Third Street, any substantial changes to the building will require further review by City Planning Staff and/or the Historic Resources Board/Planning Commission.
3. Any proposed use or accessory uses onsite shall be subject to the requirements and standards of the Mixed-Use Zone, Historic Resources Ordinance, and any applicable Zoning, Building, and/or Fire standards.

**PASSED AND ADOPTED** by the Planning Commission of the City of San Juan Bautista at a regular meeting held on September 3, 2019 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Scott Freels, Chairperson

ATTEST:

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Trish Paetz, Deputy City Clerk

## **CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION**

### **STAFF REPORT**

**DATE:** September 3, 2019

**Item:** Recommend to the City Council Adoption of the City's General Plan Housing Element that covers the State of California's 5<sup>th</sup> Cycle requirements. This item is subject to the California Environmental Quality Act (CEQA) requirements.

### **BACKGROUND:**

Included with this report is the Housing Element packet that includes the Implementing Ordinances, the Draft Housing Element, and the Draft Mitigated Negative Declaration for CEQA review. The staff reports, resolutions and supporting documents for this item are contained in the Implementing Ordinances Packet. The six bulleted action items cover CEQA, zoning and city code text amendments, Zoning and General Plan Amendments for adequate sites, and the Draft Housing Element all for Planning Commission Review and Recommendation.

City Staff contracted with EMC Planning Group to assist with the Housing Element Update. Both City Staff and EMC Staff have been working on the Housing Element update to 5<sup>th</sup> Cycle standards since January of 2019. Several activities took place during that time including public workshops on February 20, 2019 and August 13, 2019, Planning Commission and City Council updates, and a State Review of the document.

Planning Commission discussed the Draft Housing Element at a hearing on August 6, 2019. Providing Planning Commission makes a recommendation, the Draft Housing Element will move on to the City Council for review and adoption at their October 15, 2019 Regular Meeting.

### **ACTION: (Adopt 7 Resolutions)**

**Adopt a Resolution** Recommending Approval of a Mitigated Negative Declaration Prepared for the Adoption of the San Juan Bautista General Plan Housing Element (2015-2019 Cycle) and Various Implementing Actions, Including: 1. Reasonable Accommodation Ordinance, 2. Public Services Priorities Ordinance, 3. Municipal Code Title 11 (Zoning) Text Amendments Ordinance, 4. General Plan Amendment for One (1) Affordable Housing Site, 5. Zone Change or One (1) Affordable Housing Site

**Adopt a Resolution** Recommending Approval of Amendments to Chapter 2-5 (Reserved) of Title 2 (Government Organization and Administration) of the San Juan Bautista Municipal Code to Address Reasonable Accommodation

**Adopt a Resolution** Recommending Approval of Amendments to Section 5-9-310 (Application for Sewer Permits) of Chapter 5-9 (Uniform Wastewater Regulation) Of Title 5 (Public Health, Safety and Welfare) and Section 6-4-105 (Extension of Water Mains) Of Chapter 6-4 (Water Service) of Title 6 (Public Services) of the San Juan Bautista Municipal Code, to Address Priority Utility Services for Affordable Housing

**Adopt a Resolution** Recommending Approval of Amendments to Various Sections of Title 11 (Zoning) of the San Juan Bautista Municipal Code, Including Section 11-02-050 (Permitted and Conditional Uses By Zoning District, Use Matrix), Section 11-03-010 (Development Standards Matrix), Section 11-04-050 Secondary Dwelling Units), Section 11-29-010 (Definitions); all for the Purpose of Implementing the San Juan Bautista General Plan Housing Element

**Adopt a Resolution** Recommending to the City Council the Amendment of the General Plan Land Use Diagram for APN [APN to be inserted] from "[Existing Designation To Be Inserted]" To "High Density Residential," for the Purpose of Implementing the San Juan Bautista Housing Element

**Adopt a Resolution** Recommending to the City Council a Zone Change for APN [APN to be inserted] from "[Existing Zoning to be inserted]" to R-3, High Density Residential," for the Purpose of Implementing the San Juan Bautista Housing Element

**Adopt a Resolution** Recommending to the City Council Adoption of the General Plan Housing Element (2015-2019 Cycle), Consistent with Section 65580 Et. Seq. of the California Government Code

**Attached:**

1. Table of Contents
2. Planning Commission Packaging Material (Implementing Ordinances) that include Items 1-6 (Table of Contents) for complete implementation
3. Draft Housing Element Document
4. Draft Mitigated Negative Declaration

## TABLE OF CONTENTS

### ITEM 1

Recommended Approval of Mitigated Negative Declaration  
(staff report, resolution, and public review initial study placeholder)

### ITEM 2

Municipal Code Amendment – Reasonable Accommodation  
(staff report, resolution, and ordinance)

### ITEM 3

Municipal Code Amendment – Sewer and Water Service Priority  
(staff report, resolution, and ordinance)

### ITEM 4

Zoning Ordinance Text Amendment – Accessory Dwelling Units  
Transitional and Supportive Housing, Emergency Shelters,  
and Special Development Standards for Rezoned Site  
(staff report, resolution, and ordinance)

### ITEM 5

General Plan Amendment and Zone Change for Adequate Site  
(staff report, resolution for general plan amendment, and resolution for zone  
change)

### ITEM 6

Recommended Approval for the San Juan Bautista 2015-2019  
Housing Element  
(staff report, resolution, and final San Juan Bautista 2015-2019 Housing Element  
placeholder)



## CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION STAFF REPORT

**AGENDA TITLE:** **RECOMMENDATION OF APPROVAL FOR MITIGATED NEGATIVE DECLARATION IN SUPPORT OF HOUSING ELEMENT ADOPTION AND APPROVAL OF VARIOUS HOUSING ELEMENT IMPLEMENTING ACTIONS**

**DATE:** September 3, 2019

**DEPARTMENT HEAD:** Todd Kennedy, Associate Planner

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**RECOMMENDED ACTION:** Receive a staff report from City staff and housing element consultant and approve Resolution PC-2019-XX (Attachment 1), which recommends approval of a Mitigated Negative Declaration in support of Housing Element adoption and various Housing Element implementing actions.

**BACKGROUND INFORMATION:** Tonight's Planning Commission agenda contains five agenda items related to the adoption of the San Juan Bautista General Plan Housing Element and various implementing actions, including:

1. Reasonable Accommodation ordinance
2. Public Services Priorities ordinance
3. Title 11 (Zoning) text amendments ordinance
4. General plan amendment resolution and zone change ordinance for one (1) affordable housing site
5. Housing Element adoption resolution

In accordance with the California Environmental Quality Act (CEQA), an Initial Study has been prepared that evaluates the environmental effects of each of the actions items on tonight's agenda. The Initial Study has determined that, with mitigations, the proposed actions would have a less than significant effect on the environment, and a Mitigated Negative Declaration can be adopted. A "Notice of Intent to Adopt a Mitigated Negative Declaration" was circulated and published for public review and comment in accordance with the requirements of CEQA. While the public review period is still open for this public review, as of this date, no comments have been submitted. This Initial Study and the "Notice of Intent to Adopt a Mitigated Negative Declaration" is attached (see Attachment 2).

**Attachments:**

1. Resolution Recommending approval of Mitigated Negative Declaration
2. Public Review Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration

**RESOLUTION PC-2019-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA RECOMMENDING APPROVAL OF A MITIGATED NEGATIVE DECLARATION PREPARED FOR THE ADOPTION OF THE SAN JUAN BAUTISTA GENERAL PLAN HOUSING ELEMENT (2015-2019 CYCLE) AND VARIOUS IMPLEMENTING ACTIONS, INCLUDING:**

- 1. REASONABLE ACCOMMODATION ORDINANCE**
- 2. PUBLIC SERVICES PRIORITIES ORDINANCE**
- 3. MUNICIPAL CODE TITLE 11 (ZONING) TEXT AMENDMENTS ORDINANCE**
- 4. GENERAL PLAN AMENDMENT FOR ONE (1) AFFORDABLE HOUSING SITE**
- 5. ZONE CHANGE FOR ONE (1) AFFORDABLE HOUSING SITE**

**WHEREAS**, the City of San Juan Bautista is requesting adoption of the San Juan Bautista General Plan Housing Element (2015-2019 Cycle); and

**WHEREAS**, the City of San Juan Bautista is also requesting the approval of various ordinances and resolution implementing the Housing Element, including:

1. Reasonable Accommodation Ordinance;
2. Public Services Priorities Ordinance;
3. Municipal Code Title 11 (Zoning) Text Amendments Ordinance;
4. General Plan Amendment for one (1) Affordable Housing Site; and
5. Zone Change for one (1) Affordable Housing Site; and

**WHEREAS**, the City, as lead agency under the California Environmental Quality Act (Pub. Res. Act § 21000 et seq.) has prepared an Initial Study to evaluate the potentially significant environmental effects of the project; and

**WHEREAS**, the mitigation measures provided in the Initial Study would reduce significant impacts to a less than significant level and therefore, the project with mitigation measures incorporated, would not have a significant effect on the environment; and

**WHEREAS**, the City prepared a Mitigated Negative Declaration for the Project pursuant to the requirements of CEQA Guidelines Section 15070 and the applicant has agreed to the mitigation measures; and

**WHEREAS**, the City prepared a Notice of Completion of a Mitigated Negative Declaration and a Notice of Intent to Adopt the Mitigated Negative Declaration and sent the

notices along with the Mitigated Negative Declaration to the State Clearinghouse, as well as to local and regional public agencies and service providers; and

**WHEREAS**, the Notice of Intent for adoption of the Mitigated Negative Declaration, pursuant to the requirements of CEQA Guidelines Section 15072, was posted with the San Benito County Clerk and published in the local San Juan Bautista newspaper; and

**WHEREAS**, the Mitigated Negative Declaration was circulated for the required 30-day public review period, ending on August 30, 2019, and was made available for review pursuant to the requirements of CEQA Guidelines Section 15073; and

**WHEREAS**, several comments were received on the Mitigated Negative Declaration.

**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Juan Bautista hereby recommends the City Council adopt the Mitigated Negative Declaration prepared for the San Juan Bautista General Plan Housing Element (2015-2019 Cycle) and various ordinances and resolution implementing the Housing Element, and make the following findings:

1. The Mitigated Negative Declaration has been completed in compliance with CEQA and its implementing guidelines; and
2. On the basis of the whole record, including the Initial Study and comments received on the Mitigated Negative Declaration during the public review period, there is no substantial evidence that the project will have a significant effect on the environment; and
3. The Mitigated Negative Declaration reflects the City's independent judgement and analysis; and
4. Documents and other materials constituting the record of the proceedings upon which the City's decision and its findings are based are located at the Office of the City Clerk of the City of San Juan Bautista, 311 2nd Street, San Juan Bautista, CA 95045.

**THE FOREGOING RESOLUTION** was moved to recommend approval to the San Juan Bautista City Council at a special meeting of the Planning Commission of the City of San Juan Bautista held on the 3<sup>rd</sup> day of September, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Planning Commission Chair, Scott Freels

**ATTEST:**

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Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

City Attorney





## CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION STAFF REPORT

**AGENDA TITLE:** PUBLIC HEARING AND RECOMMENDATION OF APPROVAL FOR REVISIONS TO CHAPTER 2-5 (RESERVED) OF TITLE 2 (GOVERNMENT ORGANIZATION AND ADMINISTRATION) OF THE SAN JUAN BAUTISTA MUNICIPAL CODE TO ADDRESS REASONABLE ACCOMMODATION

**DATE:** September 3, 2019

**DEPARTMENT HEAD:** Todd Kennedy, Associate Planner

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**RECOMMENDED ACTION:** Receive a staff report from City staff and housing element consultant; hold a public hearing; and approve Resolution PC-2019-XX (Attachment 1), which recommends revisions to Chapter 2-5 (Reserved) of Title 2 (Government Organization and Administration) of the San Juan Bautista Municipal Code to address reasonable accommodation.

**BACKGROUND INFORMATION:** The federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing.

In response to these state and federal mandates, the San Juan Bautista General Plan Housing Element, Housing Program 5.2, calls for the creation of a procedure wherein persons with disabilities, including persons with developmental disabilities, seeking equal access to housing may request reasonable accommodation in the application of zoning laws and other land use regulations, policies, and procedures. The proposed revision to Chapter 2-5 (Reserved) of Title 2 (Government Organization and Administration) of the San Juan Bautista Municipal Code that is now before the Planning Commission implements Housing Program 5.2. This revision (in the form of a draft ordinance) is attached (see Attachment 2).

**CEQA REVIEW:** The proposed amendments to the municipal code are supported by an Initial Study and Mitigated Negative Declaration that evaluated the environmental effects of the policies and programs contained in the General Plan Housing Element, including Housing Program 5.2. The Initial Study found that, with mitigations, the changes discussed above would engender no substantial effects on the environment. Earlier in the evening the Planning Commission considered the Initial Study and Mitigated Negative Declaration and recommended approval of the environmental document.

**Attachments:**

1. Resolution Recommending approval of Municipal Code Revisions
2. Draft Ordinance Amending Municipal Code

**RESOLUTION PC-2019-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA RECOMMENDING APPROVAL OF AMENDMENTS TO CHAPTER 2-5 (RESERVED) OF TITLE 2 (GOVERNMENT ORGANIZATION AND ADMINISTRATION) OF THE SAN JUAN BAUTISTA MUNICIPAL CODE TO ADDRESS REASONABLE ACCOMMODATION**

**WHEREAS**, pursuant to Article XI, section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 5.2, calls for the creation of a procedure wherein persons with disabilities, including persons with developmental disabilities, seeking equal access to housing may request reasonable accommodation in the application of zoning laws and other land use regulations, policies, and procedures; and

**WHEREAS**, the Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities; and

**WHEREAS**, a fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the jurisdiction's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities; and

**WHEREAS**, the subject Ordinance protects the public health, safety and welfare by amending the San Juan Bautista Municipal Code to be consistent with mandates imposed by federal and state statute related to housing; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found

**ATTACHMENT 1**

the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for the proposed changes to Municipal Code, to be less than significant, with mitigation.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Juan Bautista hereby recommends approval of amendments to Chapter 2-5 (Reserved) of Title 2 (Government Organization and Administration) of the San Juan Bautista Municipal Code to address reasonable accommodation.

**THE FOREGOING RESOLUTION** was moved to recommend approval of the proposed changes to the municipal code to the San Juan Bautista City Council at a special meeting of the Planning Commission of the City of San Juan Bautista held on the 3<sup>rd</sup> day of September, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Planning Commission Chair, Scott Freels

**ATTEST:**

\_\_\_\_\_  
Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JUAN BAUTISTA,  
STATE OF CALIFORNIA, REVISING CHAPTER 2-5  
(RESERVED) OF TITLE 2 (GOVERNMENT ORGANIZATION  
AND ADMINISTRATION) OF THE SAN JUAN BAUTISTA  
MUNICIPAL CODE TO ADDRESS REASONABLE  
ACCOMMODATION**

**WHEREAS**, pursuant to Article XI, section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, the San Juan Bautista City Council recognizes that the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 5.2, calls for the creation of a procedure wherein persons with disabilities, including persons with developmental disabilities, seeking equal access to housing may request reasonable accommodation in the application of zoning laws and other land use regulations, policies, and procedures; and

**WHEREAS**, the Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities; and

**WHEREAS**, a fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the jurisdiction's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities; and

**WHEREAS**, this Ordinance protects the public health, safety and welfare by amending the San Juan Bautista Municipal Code to be consistent with mandates imposed by federal and state statute related to housing; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found

the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for the proposed changes to the municipal code, to be less than significant, with mitigation.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES ORDAIN AS FOLLOWS:**

SECTION 1. RECITALS. All of the recitals set forth above are held to be true and correct and by this reference are hereby incorporated herein as findings.

SECTION 2. REVISIONS. Chapter 2-5 (Reserved) of Title 2 (Government Organization and Administration) of the San Juan Bautista Municipal Code is hereby revised to read in full as set forth in the attached Exhibit A, incorporated by this reference.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase should be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in force 30 days after its adoption and shall be published by required by law.

**PASSED AND ADOPTED** on this \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mayor César Flores

**ATTEST:**

\_\_\_\_\_  
Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**Chapter 2-5  
REASONABLE ACCOMMODATION**

**Sections:**

**Article 1. General Provisions**

- 2-5-100 Intent and Purpose
- 2-5-200 Applicability
- 2-5-300 Application Process
- 2-5-400 Approval Process
- 2-5-500 Findings and Decision
- 2-5-600 Appeals determination

**Article 1. General Provisions**

**2-5-100 Intent and purpose.**

This Chapter is established pursuant to the provisions of California Government Code Sections 12927(c)(1) and 12955(1) to provide a formal procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures, and to establish relevant criteria to be used when considering such requests.

**2-5-200 Applicability.**

(A) In order to make specific housing available to an individual with a disability, any person may request a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of his or her choice.

(B) A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This Chapter applies only to those persons who are defined as disabled under the Acts.

**2-5-300 Application process.**

(A) In order to make housing available to an individual with a disability, an applicant may request a reasonable accommodation in zoning and other land use regulations, policies, practices and procedures.

(B) All requests shall be reasonable and limited to the minimum that the applicant believes is necessary to accommodate the disability. Requests for reasonable accommodation shall be submitted via a form approved by the Planning Department, together with the appropriate fee, and shall be filed with the Planning Department. The applicant is requested to provide the following information:

- (1) Name and address of the applicant;
- (2) Name and address of the property owner(s);
- (3) Address of the property for which accommodation is requested;
- (4) The current use of the property for which accommodation is requested;
- (5) Description of the requested accommodation, and the regulation(s), policy or procedure for which accommodation is sought, which could include site plans, floor plans, and/or details as necessary to define the extent of the accommodation;
- (6) The basis for the claim that the fair housing laws apply to the individual(s) with a disability and evidence supporting the claim, which may be in the form of a letter from a medical doctor or other licensed healthcare professional, a handicapped license, or other appropriate evidence;
- (7) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the property; and
- (8) How the property will be used by the applicant and individual(s) with disabilities.

(C) Any information identified by the applicant as confidential shall be retained by the City in a manner so as to respect the privacy rights of the individual with a disability and shall not be made available for public inspection, subject to the requirements of the California Public Records Act and other applicable law.

(D) A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an applicant's obligation to comply with other applicable regulations not at issue in the requested reasonable accommodation.

(E) If a person needs assistance in making the request for reasonable accommodation, the city will provide assistance to ensure that the process is accessible. Such assistance shall be limited to that which can be provided by existing city staff, and in no case shall the city be responsible for hiring any outside expert to assist an individual.

(F) The fee for an application for reasonable accommodation shall be established by resolution of the City Council.



## **2-5-400 Approval process.**

### **(A) Approval Authority:**

(1) Administrative Review – The City Manager or an appointed designee has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this Chapter. The City Manager or appointed designee may refer the matter to the Planning Commission, as appropriate.

(2) Planning Commission Review – The Planning Commission has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this Chapter, when referred by the City Manager or when a reasonable accommodation request includes any encroachment into the front yard setback area, results in a building size increase above what is allowed in the applicable zoning district with respect to height, lot coverage and floor area ratio maximums, or whenever a reduction in required parking is requested.

(B) Notice: No advance notice or public hearing is required for consideration of reasonable accommodation requests by the City Manager. Requests for reasonable accommodation subject to review by the Planning Commission shall require a public hearing, and advance notice shall be given pursuant to the requirements of Section 11-17-020 (Notice of Hearing) of Chapter 11-17 (Permit Application Submittal) of Title 11 (Zoning) of the San Juan Bautista Municipal Code.

(C) Decision: The City Manager or an appointed designee shall render a decision or refer the matter to the Planning Commission within 30 days after the application is complete, and shall approve, approve with conditions or deny the application, based on the findings set forth in Section 2-5-500(A). The decision shall be in writing and mailed to the applicant.

(1) If the application for reasonable accommodation involves another discretionary decision, the reviewing body for that decision shall accept as final the determination regarding reasonable accommodation by the City Manager or an appointed designee, unless the reasonable accommodation request has been referred by the City Manager or an appointed designee to the Planning Commission for consideration.

(2) If the application for reasonable accommodation is referred to, or reviewed by, the Planning Commission, a decision to approve, approve with conditions, or deny the application shall be rendered within 20 working days after the close of the public hearing, based on the findings set forth above.

**2-5-500 Findings and decision.**

(A) Any decision on an application under this Chapter shall be supported by written findings addressing the criteria set forth in this section. An application under this Chapter for a reasonable accommodation shall be granted if all of the following findings are made:

- (1) The housing, which is the subject of the request, will be used by an individual disabled as defined under the Acts.
- (2) The requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
- (3) The requested reasonable accommodation would not impose an undue financial or administrative burden on the city.
- (4) The requested reasonable accommodation would not require a fundamental alteration in the nature of a city program or law, including but not limited to land use and zoning.
- (5) There are no reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the city's applicable rules, standards and practices.

(B) In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Section 2-5-500(A) above.

**2-5-600 Appeals determination.**

Any decision on an application under this Chapter shall be subject to appeal pursuant to Chapter 11-25 (Appeals) of Title 11 (Zoning) of the San Juan Bautista Municipal Code.



## CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION STAFF REPORT

**AGENDA TITLE:** PUBLIC HEARING AND RECOMMENDATION OF APPROVAL FOR REVISIONS TO SECTION 5-9-310 (APPLICATION FOR SEWER PERMITS) AND SECTION 6-4-105 (EXTENSION OF WATER MAINS), OF THE SAN JUAN BAUTISTA MUNICIPAL CODE, TO ADDRESS PRIORITY UTILITY SERVICES FOR AFFORDABLE HOUSING

**DATE:** September 3, 2019

**DEPARTMENT HEAD:** Todd Kennedy, Associate Planner

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**RECOMMENDED ACTION:** Receive a staff report from City staff and housing element consultant; hold a public hearing; and approve Resolution PC-2019-XX (Attachment 1), which recommends revisions to Section 5-9-310 (Application for Sewer Permits) of Chapter 5-9 (Uniform Wastewater Regulation) of Title 5 (Public Health, Safety and Welfare) and Section 6-4-105 (Extension of Water Mains) of Chapter 6-4 (Water Service) of Title 6 (Public Services) of the San Juan Bautista Municipal Code, to address priority utility services for affordable housing.

**BACKGROUND INFORMATION:** Government Code §65589.7 requires water and sewer providers to grant priority for service allocations to proposed developments that include housing units affordable to lower-income households. In response to this state mandate, the San Juan Bautista General Plan Housing Element, Housing Program 5.3, calls for the amendment of the San Juan Bautista Municipal Code to grant priority sewer and water service to affordable housing development when service capacity is limited. The proposed revisions to Section 5-9-310 (Application for Sewer Permits) and Section 6-4-105 (Extension of Water Mains) that are now before the Planning Commission implements Housing Program 5.3. These revisions (in the form of a draft ordinance) are attached (see Attachment 2).

**CEQA REVIEW:** The proposed amendments to the municipal code are supported by an Initial Study and Mitigated Negative Declaration that evaluated the environmental effects of the policies and programs contained in the General Plan Housing Element, including Housing Program 5.3. The Initial Study found that, with mitigations, the changes discussed above would engender no substantial effects on the environment. Earlier in the evening the Planning Commission considered the Initial Study and Mitigated Negative Declaration and recommended approval of the environmental document.

**Attachments:**

1. Resolution Recommending Approval of Municipal Code Revisions
2. Draft Ordinance Amending Municipal Code

**RESOLUTION PC-2019-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA RECOMMENDING APPROVAL OF AMENDMENTS TO SECTION 5-9-310 (APPLICATION FOR SEWER PERMITS) OF CHAPTER 5-9 (UNIFORM WASTEWATER REGULATION) OF TITLE 5 (PUBLIC HEALTH, SAFETY AND WELFARE) AND SECTION 6-4-105 (EXTENSION OF WATER MAINS) OF CHAPTER 6-4 (WATER SERVICE) OF TITLE 6 (PUBLIC SERVICES) OF THE SAN JUAN BAUTISTA MUNICIPAL CODE, TO ADDRESS PRIORITY UTILITY SERVICES FOR AFFORDABLE HOUSING**

**WHEREAS**, pursuant to Article XI, section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, the San Juan Bautista City Council recognizes that Government Code §65589.7 requires water and sewer providers to grant priority for service allocations to proposed developments that include housing units affordable to lower-income households; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 5.3, calls for the amendment of the San Juan Bautista Municipal Code to grant priority sewer and water service to affordable housing development when service capacity is limited; and

**WHEREAS**, the subject Ordinance protects the public health, safety and welfare by amending the San Juan Bautista Municipal Code to be consistent with mandates imposed by federal and state statute related to housing; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for the proposed changes to Municipal Code, to be less than significant, with mitigation.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Juan Bautista hereby recommends approval of amendments to Section 5-9-310 (Application for sewer permits), of Chapter 5-9 (Uniform Wastewater Regulation), of Title 5 (Public Health, Safety and Welfare) and to Section 6-4-105 (Extension Of Water Mains), of Chapter 6-4 (Water Service), of Title 6 (Public Services), both of the San Juan Bautista Municipal Code.

**ATTACHMENT 1**

**THE FOREGOING RESOLUTION** was moved to recommend approval of the proposed changes to the municipal code to the San Juan Bautista City Council at a special meeting of the Planning Commission of the City of San Juan Bautista held on the 3<sup>rd</sup> day of September, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Planning Commission Chair, Scott Freels

**ATTEST:**

\_\_\_\_\_  
Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

City Attorney

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JUAN BAUTISTA, STATE OF CALIFORNIA, REVISING SECTION 5-9-310 (APPLICATION FOR SEWER PERMITS) OF CHAPTER 5-9 (UNIFORM WASTEWATER REGULATION) OF TITLE 5 (PUBLIC HEALTH, SAFETY AND WELFARE) AND SECTION 6-4-105 (EXTENSION OF WATER MAINS) OF CHAPTER 6-4 (WATER SERVICE) OF TITLE 6 (PUBLIC SERVICES) OF THE SAN JUAN BAUTISTA MUNICIPAL CODE, TO ADDRESS PRIORITY UTILITY SERVICES FOR AFFORDABLE HOUSING**

**WHEREAS**, pursuant to Article XI, section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, the San Juan Bautista City Council recognizes that Government Code §65589.7 requires water and sewer providers to grant priority for service allocations to proposed developments that include housing units affordable to lower-income households; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 5.3, calls for the amendment of the San Juan Bautista Municipal Code to grant priority sewer and water service to affordable housing development when service capacity is limited; and

**WHEREAS**, this Ordinance protects the public health, safety and welfare by amending the San Juan Bautista Municipal Code to be consistent with mandates imposed by federal and state statute related to housing; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for the proposed changes to the municipal code, to be less than significant, with mitigation.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS.** All of the recitals set forth above are held to be true and correct and by this reference are hereby incorporated herein as findings.

**SECTION 2. REVISIONS.** Section 5-9-310 (Application for sewer permits) of Chapter 5-9 (Uniform Wastewater Regulation) of Title 5 (Public Health, Safety and Welfare) of the San Juan Bautista Municipal Code shall be revised to read in full as follows:

**Sec. 5-9-310. Application for sewer permits.**

Applications for building sewer permits shall be on forms provided by the City, which forms may be combined with forms for other permits required by the City. The applicant shall submit such forms, specifications, supplemental information and material as may be required by the City Manager. No permit shall be issued until all fees due the City have been paid.

During any period of threatened or actual shortage of essential services that are provided by the city, the city shall have the right to apportion its available sewage capacity among consumers in such manner as appears most equitable under the circumstances then prevailing and with due regard to public health and safety. Such apportionment shall grant priority to housing with units affordable to lower income housing.

SECTION 3. REVISIONS. Section 6-4-105 (Extension of water mains) of Chapter 6-4 (Water Service) of Title 6 (Public Services) of the San Juan Bautista Municipal Code shall be revised to read in full as follows:

**Sec. 6-4-105. – Extension of water mains.**

Where application is made for water service for any premises located on a street in which there exists no water main in front of the premises, the City Manager will estimate the total cost of labor and materials for the extension of the nearest main to the front of such premises, and upon payment by the applicant of such estimated cost, the City Manager will proceed to make such extension.

Whenever it appears that such cost has been underestimated, the City Manager will re-estimate such cost, and further work on such extension shall cease until the applicant has paid to the City such additional estimated cost. Any excess payment shall be returned to the applicant.

Except that during any period of threatened or actual shortage of essential services that are provided by the city, the city shall have the right to apportion its available water capacity among consumers in such manner as appears most equitable under the circumstances then prevailing and with due regard to public health and safety. Such apportionment shall grant priority to housing with units affordable to lower income housing.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and

phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase should be declared invalid.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect and be in force 30 days after its adoption and shall be published as required by law.

**PASSED AND ADOPTED** on this \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mayor César Flores

**ATTEST:**

\_\_\_\_\_  
Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney





## CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION STAFF REPORT

**AGENDA TITLE:** PUBLIC HEARING AND RECOMMENDATION OF APPROVAL FOR REVISIONS TO SECTION 11-02-050 (PERMITTED AND CONDITIONAL USES BY ZONING DISTRICT, USE MATRIX); SECTION 11-03-010 (DEVELOPMENT STANDARDS MATRIX); SECTION 11-04-050 (SECONDARY DWELLING UNITS); AND SECTION 11-29-010 (DEFINITIONS) OF TITLE 11 (ZONING) OF THE SAN JUAN BAUTISTA MUNICIPAL CODE, ALL FOR THE PURPOSE OF IMPLEMENTING THE SAN JUAN BAUTISTA GENERAL PLAN HOUSING ELEMENT

**DATE:** September 3, 2019

**DEPARTMENT HEAD:** Todd Kennedy, Associate Planner

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**RECOMMENDED ACTION:** Receive a staff report from City staff and housing element consultant; hold a public hearing; and approve Resolution PC-2019-XX (Attachment 1), which recommends revisions to Section 11-02-050 (Permitted and Conditional Uses by Zoning District, Use Matrix); Section 11-03-010 (Development Standards Matrix); Section 11-04-050 (Secondary Dwelling Units); and Section 11-29-010 (Definitions), of the San Juan Bautista Municipal Code. These actions are necessary to implement the San Juan Bautista General Plan Housing Element.

**BACKGROUND INFORMATION:** The San Juan Bautista General Plan Housing Element contains three housing programs designed to bring the Housing Element into compliance with State Housing Law. A description of each housing program, the Zoning Ordinance section affected, and a summary of the proposed change, is presented in Table 1 below.

**Table 1. Summary of Proposed Changes**

<b>Housing Program Description</b>	<b>Zoning Ordinance Section Affected</b>	<b>Proposed Change</b>
Housing Program 3.1 (Adequate Sites Program)	Section 11-03-010 (Development Standards Matrix)	<p>The following special development conditions would apply to the site chosen for re-zoning to R-3 (i.e. Affordable Housing Site):</p> <ul style="list-style-type: none"> <li>• Special standards and conditions apply only through the year 2024;</li> <li>• Allowable density for each site is a minimum of 20 units per acre and a maximum of 24 units per acre;</li> <li>• Twenty (20) percent of the development on each site must be owner-occupied and/or rental multi-family uses that are affordable to lower-income households; and</li> <li>• All development on these sites must be permitted by right (i.e., no conditional use permit, planned development permit, or other discretionary review or approval).</li> </ul>
Housing Program 3.6 (Transitional Housing, Supportive Housing, Emergency Shelters, and Special Needs and Developmental Disability Groups)	<p>Section 11-02-050 (Permitted and Conditional Uses by Zoning District, Use Matrix)</p> <p>Section 11-29-010 (Definitions)</p>	<p>Emergency shelters allowed in the PF (Public Facilities) Zoning District by right (as a permitted use)</p> <p>“Secondary Dwelling Units” renamed to “Accessory Dwelling Units”</p> <p>Transitional and supportive housing allowed by right (as a permitted use) in the R-1, R-2, R-3, C, MU, and PF Zoning Districts</p>
Housing Program 4.4 (Accessory Dwelling Unit Ordinance Program)	Section 11-04-050 (Secondary Dwelling Units)	This is a new set of provisions that replaces the existing language and addresses conformity with changes in state law related to parking requirements, maximum unit size, and utility metering, and to address differences that may apply to attached or detached units
Housing Program 4.4 (Accessory Dwelling Unit Ordinance Program):	Section 11-29-010 (Definitions)	Replace its definition of “second dwelling unit” with a definition of “accessory dwelling unit.”

The proposed revisions to Section 11-02-050 (Permitted and Conditional Uses by Zoning District, Use Matrix); Section 11-03-010 (Development Standards Matrix); Section 11-04-050 (Secondary Dwelling Units); and Section 11-29-010 (Definitions), that are now before the Planning Commission implements these Housing Programs. These revisions (in the form of a draft ordinance) are attached (see Attachment 2).

**CEQA REVIEW:** The proposed amendments to the Title 11 (Zoning) are supported by an Initial Study and Mitigated Negative Declaration that evaluated the environmental effects of the policies and programs contained in the General Plan Housing Element, including Housing Programs 3.1, 3.6, and 4.4. The Initial Study found that, with mitigations, the changes discussed above would engender no substantial effects on the environment. Earlier in the evening the Planning Commission considered the Initial Study and Mitigated Negative Declaration and recommended approval of the environmental document.

**Attachments:**

1. Resolution Recommending Approval of Zoning Ordinance Changes
2. Draft Ordinance Amending Title 11 (Zoning)

**RESOLUTION PC-2019-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA RECOMMENDING APPROVAL OF AMENDMENTS TO VARIOUS SECTIONS OF TITLE 11 (ZONING) OF THE SAN JUAN BAUTISTA MUNICIPAL CODE, INCLUDING:**

- **SECTION 11-02-050 (PERMITTED AND CONDITIONAL USES BY ZONING DISTRICT, USE MATRIX);**
- **SECTION 11-03-010 (DEVELOPMENT STANDARDS MATRIX)**
- **SECTION 11-04-050 (SECONDARY DWELLING UNITS)**
- **SECTION 11-29-010 (DEFINITIONS);**

**ALL FOR THE PURPOSE OF IMPLEMENTING THE SAN JUAN BAUTISTA GENERAL PLAN HOUSING ELEMENT**

**WHEREAS**, pursuant to Article XI, Section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 3.1 (Adequate Sites Program), calls for the amendment of the San Juan Bautista Municipal Code to include the implementation of special development standards for new affordable housing sites; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 3.6 (Transitional Housing, Supportive Housing, Emergency Shelters, and Special Needs and Developmental Disability Groups), calls for the amendment of the San Juan Bautista Municipal Code to better accommodate transitional, supportive, and emergency housing, per Senate Bill 2 of 2007, and allow these housing types by right in all zoning districts that allow residential uses; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 4.4 (Accessory Dwelling Unit Ordinance Program), calls for the amendment of the San Juan Bautista Municipal Code to update its Accessory Dwelling Unit Ordinance for conformity with changes in state law related to parking requirements, maximum unit size, and utility metering, and to address differences that may apply to attached or detached units; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 4.4 (Accessory Dwelling Unit Ordinance Program), also calls for the amendment of the San Juan

Bautista Municipal Code to replace its definition of “second dwelling unit” with a definition of “accessory dwelling unit;” and

**WHEREAS**, the subject Ordinance protects the public health, safety and welfare by amending the San Juan Bautista Municipal Code to be consistent with mandates impose by federal and state statute related to housing; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for the proposed changes to Title 11 (Zoning), to be less than significant, with mitigation.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Juan Bautista hereby recommends approval of amendments to Section 11-02-050 (Permitted and Conditional Uses by Zoning District, Use Matrix); to Section 11-03-010 (Development Standards Matrix); Section 11-04-050 (Secondary Dwelling Units); and to Section 11-29-010 (Definitions), all of the San Juan Bautista Municipal Code, to implement the San Juan Bautista General Plan Housing Element.

**THE FOREGOING RESOLUTION** was moved to recommend approval of the proposed changes to Title 11 (Zoning) to the San Juan Bautista City Council at a special meeting of the Planning Commission of the City of San Juan Bautista held on the 3<sup>rd</sup> day of September, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Planning Commission Chair, Scott Freels

**ATTEST:**

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Trish Patz, Deputy City Clerk

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JUAN BAUTISTA, STATE OF CALIFORNIA, REVISING VARIOUS SECTIONS OF TITLE 11 (ZONING) OF THE SAN JUAN BAUTISTA MUNICIPAL CODE, INCLUDING:**

- **SECTION 11-02-050 (PERMITTED AND CONDITIONAL USES BY ZONING DISTRICT, USE MATRIX);**
- **SECTION 11-03-010 (DEVELOPMENT STANDARDS MATRIX)**
- **SECTION 11-04-050 (SECONDARY DWELLING UNITS)**
- **SECTION 11-29-010 (DEFINITIONS);**

**ALL FOR THE PURPOSE OF IMPLEMENTING THE SAN JUAN BAUTISTA GENERAL PLAN HOUSING ELEMENT**

**WHEREAS**, pursuant to Article XI, Section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 3.1 (Adequate Sites Program), calls for the amendment of the San Juan Bautista Municipal Code to include the implementation of special development standards for new affordable housing sites; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 3.6 (Transitional Housing, Supportive Housing, Emergency Shelters, and Special Needs and Developmental Disability Groups), calls for the amendment of the San Juan Bautista Municipal Code to better accommodate transitional, supportive, and emergency housing, per Senate Bill 2 of 2007, and allow these housing types by right in all zoning districts that allow residential uses; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 4.4 (Accessory Dwelling Unit Ordinance Program), calls for the amendment of the San Juan Bautista Municipal Code to update its Accessory Dwelling Unit Ordinance for conformity with changes in state law related to parking requirements, maximum unit size, and utility metering, and to address differences that may apply to attached or detached units; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 4.4 (Accessory Dwelling Unit Ordinance Program), also calls for the amendment of the San Juan Bautista Municipal Code to replace its definition of "second dwelling unit" with a definition of "accessory dwelling unit;" and

**WHEREAS**, this Ordinance protects the public health, safety and welfare by amending the San Juan Bautista Municipal Code to be consistent with mandates imposed by federal and state statute related to housing; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for the proposed changes to Title 11 (Zoning), to be less than significant, with mitigation.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS.** All of the recitals set forth above are held to be true and correct and by this reference are hereby incorporated herein as findings.

**SECTION 2. REVISIONS.** Section 11-02-050 (Permitted and Conditional Uses By Zoning District, Use Matrix), of Chapter 11-02 (Zoning Districts) of Title 11 (Zoning) of the San Juan Bautista Municipal Code is revised to include new and revised information in the first of the three tables contained in this section, as shown below. The other two tables remain unchanged.

**11-02-050 Permitted and conditional uses by zoning district, use matrix.**

<b>Use (Residential)</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C</b>	<b>MU</b>	<b>I</b>	<b>P</b>	<b>PF</b>	<b>A</b>
Accessory buildings	P, S	P, S	P, S						P, S
Co-housing/shared housing			C		C				
Day care facilities, large		P, S	P, S	C	C			C	
Day care facilities, small	P, S	P, S	P, S	C	C			C	P, S
Duplexes/duets		P, S	P, S						
Emergency shelters, <u>homeless shelters</u>	C	C	C		C, P			C, P	
Farmworker housing		P, S	P, S						P, S
Home occupations	P	P	P		C				P
Hostels			C	C	P				
Manufactured homes	P, S	P, S							P, S
Mobile home parks			P, S						
Multiple-family dwellings		P, S	P, S		P, S				
Residential care facilities – Small 1-6	P, S	P, S	P, S						
Residential care facilities – Large 7+			P, S						
Residential located above commercial			C	P					
Rooming and boarding		C	C						
<u>Secondary Accessory Dwelling units</u>	P, S	P, S	P, S		C				P, S
Single-family dwellings	P, S	P, S							P, S
Transitional housing, <u>homeless shelters</u> <u>supportive housing</u>	P, S	P, S	P, S	P	P, C			P, C	P, S

P – Permitted Use; C – Conditional Use; S – Site Review

...



**SECTION 3. REVISIONS.** Section 11-03-010 (Development standards matrix), of Chapter 11-03 (Zoning District Development Standards) of Title 11 (Zoning) of the San Juan Bautista Municipal Code is revised to include a new footnote #14 in and at the end of the table contained in this section, as follows:

**11-03-010 Development standards matrix.**

The following table sets forth development standards for each zoning district. Superscript numbers refer to additional standards shown in the notes below the table.

District	Minimum Lot Area (Gross)	Minimum Lot Width	Density Range du/acre <sup>1</sup>	Floor Area Ratio	Building Coverage	Maximum Height story/feet	Minimum Setbacks Front/Side/Rear
R-1-7 <sup>13</sup>	7,000 sq. ft. <sup>2</sup>	50 ft.	0.50 – 5	0.45	0.45	2/30	F: 20 ft. <sup>5</sup> S: 5 ft. <sup>7</sup> R: 20 ft.
R-1-6	6,000 sq. ft.	45 ft.	0.50 – 5	0.45	0.50	2/30	F: 20 ft. <sup>5</sup> S: 5 ft. <sup>7</sup> R: 20 ft.
R-1-5	5,000 sq. ft.	35 ft.	0.50 – 7	0.48	0.50	2/30	F: 20 ft. S: 5 ft. R: 15 ft.
R-2	8,000 sq. ft. <sup>3,4</sup>	60 ft.	6 – 10	0.60 <sup>2</sup>	0.45	2/35	F: 20 ft. <sup>5</sup> S: 5 ft. <sup>6</sup> R: 10 ft.
R-3 <sup>14</sup>	10,000 sq. ft.	80 ft.	11 – 21	0.70	0.50	2/35	F: 20 ft. S: 5 ft. R: 10 ft. per story
C	5,000 sq. ft.	50 ft.	NA	0.75	0.85	3/50	Note <sup>8</sup>
MU	Note <sup>9</sup>	25 ft.	8 – 15	Note <sup>9</sup>	0.85	3/50	Note <sup>10</sup>
I	10,000 sq. ft.	100 ft.	NA	0.50	0.90	NA/50	F: 30 ft. S: 10 ft. R: 20 ft. <sup>10</sup>
P	0.5 acres	100 ft.	NA	0.10	0.10	1/25	F: 20 ft. S: 10 ft. R: 20 ft.
PF	NA	NA	NA	0.70	NA	2/35	Note <sup>11</sup>
A	5 acres	NA	NA	NA	0.10	2/35	Note <sup>12</sup>

Notes:

<sup>1</sup> A calculation that results in a fraction of 0.50 and above shall be counted as a whole unit

<sup>2</sup> May be reduced by the Planning Commission based upon individual site topography and building design layout of the parcel, property or project and the standards as defined in SJBMC 11-04-050

<sup>3</sup> May be reduced to four thousand five hundred (4,500) sq. ft. with 0.45 FAR in a planned unit development.

<sup>4</sup> May be reduced to four thousand (4,000) sq. ft. with a planned unit development permit

- <sup>5</sup> Twenty-five feet (25') for detached garage. Front yard setback may be reduced to fifteen feet (15') to meet design guidelines when approved by the Planning Commission for large developments of more than twenty (20) homes
- <sup>6</sup> Ten feet (10') for side facing street at a corner lot parcel
- <sup>7</sup> Five feet (5') for detached garages and carports not exceeding fifteen feet (15') in height
- <sup>8</sup> Setbacks in the C district shall be consistent but not absolute with the bordering residential district. Deviations to setbacks may be allowed by the Planning Commission on an individual basis
- <sup>9</sup> For structure within the downtown historic district, the floor area ratio may be 1.5. All other areas designated MU, the floor area ratio shall be 0.75. FAR may be increased or decreased upon approval of a use or conditional use permit based upon individual projects to preserve the character of the area and/or as an incentive to encourage mixed use development projects
- <sup>10</sup> Ten percent (10%) of the depth of the lot or ten feet (10'), whichever is less. Planning Commission may allow deviations of the setbacks based upon individual project site plan and building layout
- <sup>11</sup> The minimum front, side, and rear yards in the PF district shall be equal to the front, side and rear yards required in the most restrictive abutting district; provided, that no yard adjoining a street shall be less than twenty feet (20') and that no interior yard shall be less than ten feet (10')
- <sup>12</sup> Forty feet (40') if used in connection with or for the housing of livestock
- <sup>13</sup> The Planning Commission may grant a designation of R-1-6 and R-1-5 on any lot within the R-1 single-family zoning district that meet criteria of Section 11-04-010 on a case per case basis taking into consideration topography, surrounding neighborhood, design diversity, economic conditions and housing needs
- <sup>14</sup> Special standards and conditions apply to one affordable housing site (APN 002-320-007, 002-350-030, or 002-520-001) in this zoning district through the year 2024 only, as follows:
- The allowable density for the designated affordable housing site is a minimum of 20 units per acre and a maximum of 24 units per acre;
  - Twenty (20) percent of the development on the affordable housing site must be owner-occupied and/or rental multi-family uses that are affordable to lower-income households; and
  - All development on this affordable housing site must be permitted by right (i.e., no conditional use permit, planned development permit, or other discretionary review or approval).

Except for those usual standards in conflict with the special standards and conditions above, all usual development standards for this zoning district (as shown in the table) also apply to the affordable housing site.

**SECTION 4. REVISIONS.** Section 11-04-050 (Secondary Dwelling Units), of Chapter 11-04 (Additional Development Standards) of Title 11 (Zoning) of the San Juan Bautista Municipal Code is revised to include new and revised definitions, as follows:

**11-04-050 Second Accessory dwelling units.**

~~The owner of an existing single family dwelling may construct a second dwelling unit on the same legal lot of record in the R-1, R-2, and R-3 zoning districts according to the following conditions and processes:~~

A. ~~"Secondary dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. It shall be of minimum size required for health and safety.~~

B. ~~A second dwelling unit may be permitted in a residential zoning district when:~~

1. ~~The second dwelling unit is not under separate ownership as the primary dwelling unit;~~
  2. ~~The second dwelling unit maintains the scale and design of the primary dwelling unit in terms of building materials, colors and exterior finishes;~~
  3. ~~The primary dwelling unit meets parking requirements and standards;~~
  4. ~~Public and utility services including emergency access are adequate to serve both primary and secondary dwellings;~~
  5. ~~The second dwelling unit conforms to all height, setback, lot coverage, and other zoning requirements applicable to a primary main dwelling in the zone in which the property is located, except:~~
    - a. ~~One (1) off-street parking space shall be provided for a second unit in addition to the required spaces for the primary dwelling; and~~
    - b. ~~A second unit shall be limited to one (1) story and a maximum of fifteen feet (15') in height if the primary dwelling is one (1) story;~~
  6. ~~The second dwelling unit meets all site plan and design review requirements, historic review requirements, permits, mitigation fees, and other charges applicable to primary dwellings in the zone in which the property is located;~~
  7. ~~The second dwelling unit meets all City building code requirements that apply to single-family residences;~~
  8. ~~The second dwelling unit is separately metered and has separate shutoffs for all utilities;~~
  9. ~~Second dwelling units shall be not more than thirty-five percent (35%) of the floor area of the existing primary dwelling and shall not exceed six hundred (600) square feet; and~~
  10. ~~The applicant is the owner and occupant of the existing primary unit.~~
- C. ~~Other than subsection (B)(9) of this Section, the Planning Commission may consider granting a use permit for exceptions for a second accessory dwelling unit that does not meet up to two (2) of the standards set forth above when:~~
1. ~~The applicant is the owner and occupant of the existing primary unit;~~
  2. ~~The second dwelling unit is rented as a low or very low-income unit only;~~
  3. ~~The second dwelling unit will not detrimentally affect the noise, traffic, light access, privacy, parking, and character of the neighboring dwellings or the neighborhood; and~~
  4. ~~Public and utility services including emergency access are adequate to serve both dwellings.~~

(A) Intent. This Section provides for accessory dwelling units on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings contribute needed housing to the community's housing stock. Thus, accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single family lots.

(B) Applicability. The provisions of this Section apply to all lots that are occupied with a single-family dwelling unit and zoned residential. Accessory dwelling units do exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(C) Development Standards

(1) Accessory Structures within Existing Space. An accessory dwelling unit within an existing space including the primary structure, attached or detached garage or other accessory structure shall be permitted ministerially with a building permit regardless of all other standards within the Chapter if complying with:

- (a) Building and safety codes
- (b) Independent exterior access from the existing residence
- (c) Sufficient side and rear setbacks for fire safety.

(2) Accessory Structures (Attached and Detached)

(a) General:

- (i) The unit is not intended for sale separate from the primary residence and may be rented.
- (ii) The lot is zoned for residential and contains an existing, single-family dwelling.
- (iii) The accessory dwelling unit is either attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
- (iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- (v) The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (vi) Local building code requirements that apply to detached dwellings, as appropriate.
- (vii) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (viii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
- (ix) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

(b) Parking:

- (i) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking.

including on an existing driveway or in setback areas, excluding the non-driveway front yard setback.

(ii) Replacement Parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking shall not be required and may be located in any configuration on the same lot as the accessory dwelling unit.

(D) Permit Requirements. ADUs shall be permitted ministerially, in compliance with this Section within 120 days of application. The Community Development Director shall issue a building permit or zoning certificate to establish an accessory dwelling unit in compliance with this Section if all applicable requirements are met in Subsection C, as appropriate. The Planning Director may approve an accessory dwelling unit that is not in compliance with Subsection C as set forth in Subsection E.

(E) Review Process for Accessory Structure Not Complying with Development Standards. An accessory dwelling unit that does not comply with standards in Subsection C may be permitted with a zoning certificate or an administrative use permit at the discretion of the Planning Director, subject to findings in Subsection F.

(F) Findings

(1) In order to deny an administrative use permit under Subsection D, the Planning Director shall find that the Accessory Dwelling Unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.

(2) In order to approve an administrative use permit under Subsection E to waive required accessory dwelling unit parking, the Planning Director shall find that additional or new on-site parking would be detrimental, and that granting the waiver will meet the purposes of this Section.

...

**SECTION 5. REVISIONS.** Section 11-29-010 (Definitions), of Chapter 11-29 (Definitions) of Title 11 (Zoning) of the San Juan Bautista Municipal Code is revised to include new and revised definitions as follows:

**11-29-010 Definitions.**

...

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes an efficiency unit, as defined in Section 17958.1 of Health and Safety Code and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

...

"Existing Structure" (for the purposes of defining an allowable space that can be converted to an ADU) means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

...

"Homeless shelter" means the same as "Emergency shelter." See definition for "Emergency shelter."

...

"Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

...

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

...

"Supportive Housing" means housing with no limit on length of stay, that is occupied by low income persons and that is linked to on-site 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. Supportive Housing is permitted as a residential use and is only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. Therefore, it is permitted in all zones allowing residential uses and is not subject to any restrictions (e.g., occupancy limit) that are not imposed on similar dwellings (e.g., single-family home, apartments) in the same zone in which the supportive housing is located.

"Transitional Housing" means housing with supportive services for up to twenty-four (24) months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing. Transitional Housing is permitted as a residential use and is only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. Therefore, it is permitted in all zones allowing residential uses and is not subject to any restrictions (e.g., occupancy limit) that are not imposed on similar dwellings (e.g., single-family home, apartments) in the same zone in which the transitional housing is located.

**SECTION 6. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect

the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase should be declared invalid.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect and be in force 30 days after its adoption and shall be published as required by law.

**PASSED AND ADOPTED** on this \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
**Mayor César Flores**

**ATTEST:**

\_\_\_\_\_  
**Trish Patz, Deputy City Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney



## CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION STAFF REPORT

**AGENDA TITLE:** PUBLIC HEARING AND RECOMMENDATION OF APPROVAL FOR  
GENERAL PLAN AMENDMENT AND ZONE CHANGE TO ALLOW  
HIGH-DENSITY RESIDENTIAL USE ON APN \_\_\_\_\_ FOR THE  
PURPOSE OF IMPLEMENTING THE SAN JUAN BAUTISTA GENERAL  
PLAN HOUSING ELEMENT

**DATE:** September 3, 2019

**DEPARTMENT HEAD:** Todd Kennedy, Associate Planner

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**RECOMMENDED ACTION:** Receive a staff report from City staff and the housing element consultant; hold a public hearing to receive public comment; approve Resolution PC-2019-XX (Attachment 1), which recommends revisions to the San Juan Bautista General Plan Land Use Diagram; and approve Resolution PC-2019-XX (Attachment 2), which recommends revisions to the San Juan Bautista Zoning Map (Section 11-02-040, Zoning Map and District Locations and Boundaries, of Chapter 11-02, Zoning Districts, of Title 11, Zoning, of the San Juan Bautista Municipal Code). These actions are necessary to implement the San Juan Bautista General Plan Housing Element.

**BACKGROUND INFORMATION:** The San Juan Bautista General Plan Housing Element contains Housing Programs 3.1, which calls for the re-zoning of at least one acre of land within the City limits to High Density Residential/R-3 for the purpose of providing adequate sites to accommodate the City's regional housing needs allocation.

The San Juan Bautista General Plan Housing Element identifies three alternative properties for re-zoning:

**Potential Re-zone Site A** (only APN: 002-320-007). This underutilized parcel is comprised of 0.57 acres and currently zoned for commercial. The parcel includes one structure and one trailer that are both dilapidated, and the City re-zone could create an incentive for redevelopment. The size of the site would be better suited for residential redevelopment, which would blend with the adjacent apartment complex to the east. See Image 1 below.

The Initial Study prepared to support the adoption of the San Juan Bautista General Plan Housing Element and various implementing actions indicates that development of this site would be constrained by two categories of environmental impact—biological resources and air quality.

With regard to biological impacts, the site is located within 0.39 miles of a known breeding habitat for the California tiger salamander, which means that biological monitoring would be



required during ground disturbance activities. With regard to air quality impacts, the site is located approximately 430 feet from Highway 156 and therefore subject to toxic air contaminants generated by vehicles operating on the highway. This means that property developers would have to undertake a toxic air contaminants analysis to determine what measures might be necessary to ensure future residents are not exposed to contaminants.

**Potential Re-zone Site B (APN: 002-350-030).** This vacant parcel is comprised of 2.30 acres and currently zoned for commercial/mixed use, with public utilities available to the site. Property to the west of the site is zoned for commercial use, and property to the east is zoned for mixed use. The size of this site would accommodate a large residential project whose residents would provide ready market for neighboring commercial and other mixed uses. See Image 1 below.



**Image 1:** This aerial image shows the existing land on and surrounding Potential Re-zone Sites A and B.

The Initial Study prepared to support the adoption of the San Juan Bautista General Plan Housing Element and various implementing actions indicates that development of this site would be constrained by three categories of environmental impact—biological resources, air quality, and land use.

With regard to biological impacts, the site is also located within 0.39 miles of a known breeding habitat for the California tiger salamander, which means that biological monitoring would be required during ground disturbance activities. With regard to air quality impacts, the site is located immediately adjacent to Highway 156 and therefore subject to toxic air contaminants generated by vehicles operating on the highway. This means that property developers would have to undertake a toxic air contaminants analysis to determine what measures might be necessary to ensure future residents are not exposed to contaminants. With regard to land use impacts, the site is located next to vacant commercial and mixed use property on two sides, a small gas station on a third side across the street, and Highway 156 immediately south of the site. The neighboring vacant commercial property, once developed, would be minimally compatible with the proposed high-density residential use. The highway use to the south would be considered a less-than-perfect neighbor.

**Potential Re-zone Site C** (APN: 002-520-001). This underutilized parcel is currently zoned for low density residential and in its entirety is comprised of 5.96 acres. However, for the purposes of re-zoning to R-3, the City is looking at the western portion (approximately 2.30 acres) of this parcel. Image 2 below shows the part of the site that would be re-zoned to R-3.

The Initial Study prepared to support the adoption of the San Juan Bautista General Plan Housing Element and various implementing actions indicates that development of this site would be constrained by the same three categories of environmental impact—biological resources, air quality, and land use—that affect Site B.

With regard to biological impacts, the site is located within 0.92 miles of a known breeding habitat for the California tiger salamander, which means that biological monitoring would be required during ground disturbance activities. With regard to air quality impacts, the site is located approximately 160 feet from Highway 156 and therefore subject to toxic air contaminants generated by vehicles operating on the highway. The site is also located in proximity to the major intersection of Highway 156 and The Alameda, where the regular acceleration and deceleration of large trucks may increase toxic air contaminant emissions. As is the case for Sites A and B, this means that property developers would have to undertake a toxic air contaminants analysis to determine what measures might be necessary to ensure future residents are not exposed to contaminants. With regard to land use impacts, the site is located next to existing single-family residences on two sides and Highway 156 north of the site. The neighboring single-family uses would be minimally compatible with the proposed high-density residential use. The highway use to the north would be considered a less-than-perfect neighbor.



**Image 2:** This aerial image shows the existing land on and surrounding Potential Re-zone Site C.

**Summary of Environmental Constraints.** Table 1 compares biological and air quality impacts on the three potential re-zone sites. As the table shows, Site A is affected the least by the identified environmental impacts.

**Table 1. Impact Comparison for Re-Zone Sites**

Site	Potential Biological Impact	Potential Air Quality Impacts	Land Use Compatibility	Impact Ranking (1 = Best; 3 = Worst)
A	Moderate	Low	Very Good	1
B	Moderate	High	Minimal	2
C	Moderate/Low	Very High	Minimal	3

Source: EMC Planning Group

**REQUIRED ACTION:** Two legislative actions are required to be taken by the City to implement Housing Program 3.1:

1. A general plan amendment to re-designate the chosen property to "High Density Residential;" and
2. A zone change to re-zone the chosen property to "R-3 High Density Residential."

**General Plan Amendment.** The proposed revision to the San Juan Bautista General Plan Land Use Diagram (re-designation) is achieved through a recommendation by the Planning Commission and subsequent adoption of a resolution by the City Council. A map of the site that was chosen for re-designation is attached to the resolution recommending adoption of the general plan amendment (see Attachment 1).

**Zone Change.** The proposed zone change is achieved through a recommendation by the Planning Commission and the adoption of an ordinance. The ordinance would revise the San Juan Bautista Zoning Map (Section 11-02-040 (Zoning Map and District Locations and Boundaries), of Chapter 11-02 (Zoning Districts), of Title 11 (Zoning), of the San Juan Bautista Municipal Code. A map of the site that was chosen for rezoning is attached to the resolution recommending adoption of the zone change (see Attachment 2).

Both of these recommendations are contained in one Planning Commission resolution, which is attached (again, see Attachment 1). Staff and consultants have prepared three maps depicting each of the possible the re-designations and re-zonings. Once the Planning Commission chooses the site it prefers (Site A, B, or C), the map corresponding to the choice will be attached to the Planning Commission resolution as action is taken to approve the resolution.

**CEQA REVIEW.** The proposed general plan amendment and zone change are supported by an Initial Study and Mitigated Negative Declaration that evaluated the environmental effects of the policies and programs contained in the General Plan Housing Element, including Housing Program 3.1. The Initial Study found that, with mitigations, re-zoning of any one of the three sites discussed above would engender no substantial effects on the environment. Earlier in the evening the Planning Commission considered the Initial Study and Mitigated Negative Declaration and recommended approval of the environmental document.

**Attachments:**

1. Resolution Recommending approval of General Plan Amendment
2. Resolution Recommending approval of Zone Change

**RESOLUTION PC-2019-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA, RECOMMENDING TO THE CITY COUNCIL THE AMENDMENT OF THE GENERAL PLAN LAND USE DIAGRAM FOR APN [APN to be inserted] FROM “[existing designation to be inserted]” TO “HIGH DENSITY RESIDENTIAL,” FOR THE PURPOSE OF IMPLEMENTING THE SAN JUAN BAUTISTA HOUSING ELEMENT**

**WHEREAS**, pursuant to Government Code Section 65583(a)(3), the State of California requires local governments to prepare an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment; and

**WHEREAS**, pursuant to Government Code Section 65583(a)(3), the State of California the authority to require local governments to prepare an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 3.1, calls for the City to re-zone at least one acre of land within the City limits to High Density Residential/R-3 for the purpose of providing adequate sites to accommodate the City’s regional housing needs allocation; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element identified three possible alternative sites for re-zoning, and after considering the pros and cons of each alternative site, the Planning Commission chose APN [APN to be inserted] as the appropriate location for high-density housing and of sufficient size to meet San Juan Bautista’s regional housing needs allocation; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for each of the three potential re-designated sites, to be less than significant, with mitigation.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Juan Bautista recommends approval of an the amendment of the General Plan Land Use Diagram to change the designation of APN [APN to be inserted] from “[existing designation to be inserted]” to “High Density Residential” as described in Exhibit A, which is attached hereto and incorporated herein by this reference.

**ATTACHMENT 1**

**THE FOREGOING RESOLUTION** was moved to recommend approval of the General Plan Land Use Diagram amendment as reflected in Exhibit A to the San Juan Bautista City Council at a special meeting of the Planning Commission of the City of San Juan Bautista held on the 3<sup>rd</sup> day of September, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Planning Commission Chair, Scott Freels

**ATTEST:**

\_\_\_\_\_  
Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney





0 200 feet



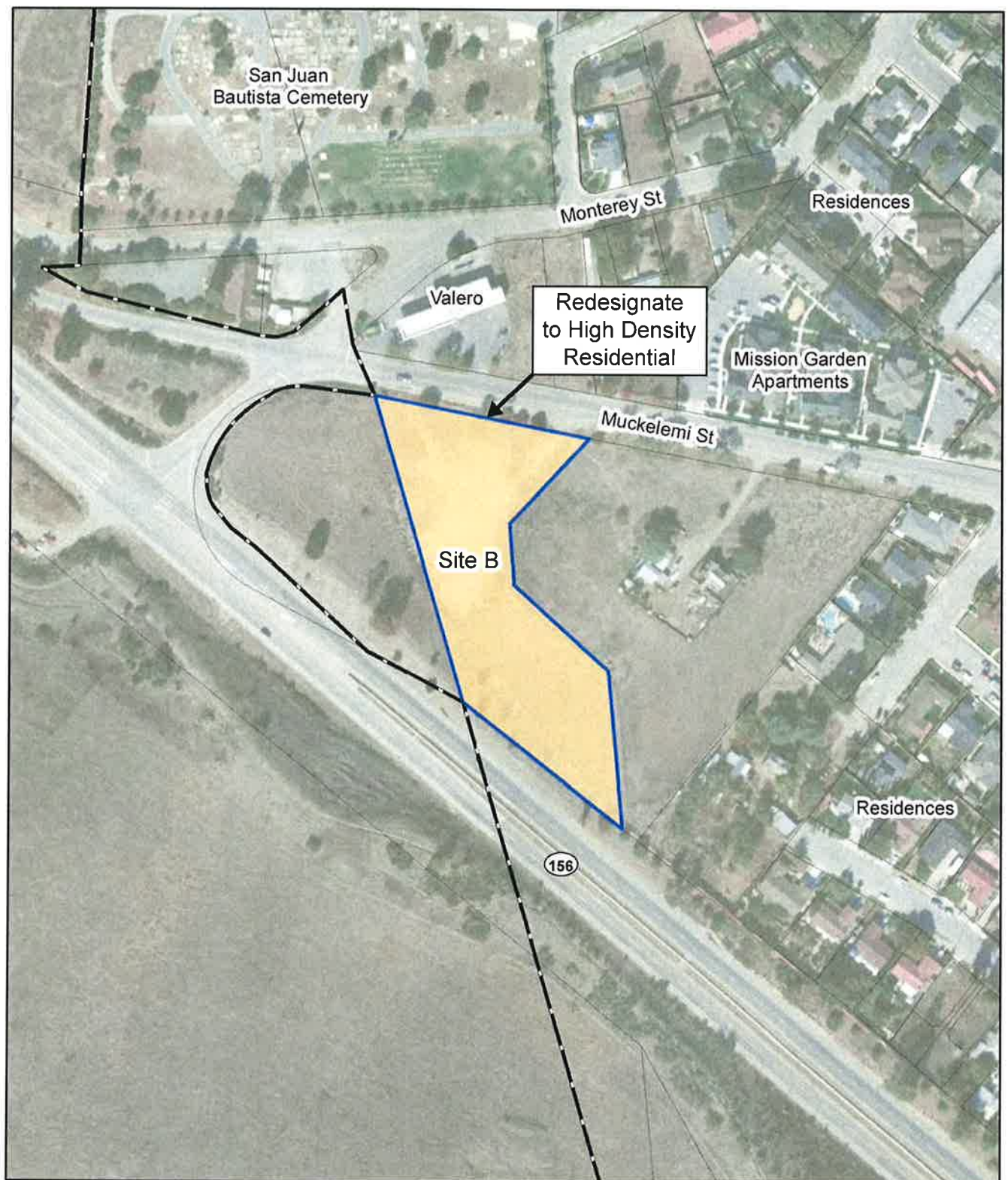
Existing General Plan Designation of Commercial  
to Potential General Plan Designation of High Density Residential

Source: ESRI 2019, San Benticio County GIS 2018



## Exhibit A: Site A





0 200 feet



Existing General Plan Designation of Commercial  
to Potential General Plan Designation of High Density Residential

Source: ESRI 2019, San Benticio County GIS 2018





Source: ESRI 2019, San Benito County GIS 2018



0 200 feet



Existing General Plan Designation of Low Density Residential  
to Potential General Plan Designation of High Density Residential

E

M

C

Exhibit A: Site C

**RESOLUTION PC-2019-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA, RECOMMENDING TO THE CITY COUNCIL A ZONE CHANGE FOR APN [APN to be inserted] FROM “[existing zoning to be inserted]” TO R-3, HIGH DENSITY RESIDENTIAL,” FOR THE PURPOSE OF IMPLEMENTING THE SAN JUAN BAUTISTA HOUSING ELEMENT**

**WHEREAS**, pursuant to Article XI, section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, pursuant to Government Code Section 65583(a)(3), the State of California the authority to require local governments to prepare an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element, Housing Program 3.1, calls for the City to re-zone at least one acre of land within the City limits to High Density Residential/R-3 for the purpose of providing adequate sites to accommodate the City’s regional housing needs allocation; and

**WHEREAS**, the San Juan Bautista General Plan Housing Element identified three possible alternative sites for re-zoning, and after considering the pros and cons of each alternative site, the Planning Commission chose APN [APN to be inserted] as the appropriate location for high-density housing and of sufficient size to meet San Juan Bautista’s regional housing needs allocation; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found the environmental effects of the policies and programs contained in the General Plan Housing Element, including environmental evaluation for each of the three potential re-zoned sites, to be less than significant, with mitigation.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Juan Bautista recommends approval of a zone change the APN [APN to be inserted] from “[existing zoning to be inserted]” to “R-3 High Density Residential” as described in Exhibit A, which is attached hereto and incorporated herein by this reference.

**THE FOREGOING RESOLUTION** was moved to recommend approval of the zone change as reflected in Exhibit A to the San Juan Bautista City Council at a special meeting of the

**ATTACHMENT 2**

Planning Commission of the City of San Juan Bautista held on the 3<sup>rd</sup> day of September, 2019,  
by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Planning Commission Chair, Scott Freels

**ATTEST:**

\_\_\_\_\_  
Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney





0 200 feet



Existing Zoning of Commercial (C) to Potential Zoning of High Density Residential (R-3)

Source: ESRI 2019, San Benticio County GIS 2018

E

M

C

Exhibit A: Site A





0 200 feet



Existing Zoning of Commercial (C) to Potential Zoning of High Density Residential (R-3)

Source: ESRI 2019, San Bentió County GIS 2018



Exhibit A: Site B





0 200 feet



Existing Zoning of Low Density Residential (R-1) to  
Potential Zoning of High Density Residential (R-3)

Source: ESRI 2019, San Benito County GIS 2018



## CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION STAFF REPORT

**AGENDA TITLE:** PUBLIC HEARING AND RECOMMENDATION OF APPROVAL FOR  
THE SAN JUAN BAUTISTA GENERAL PLAN HOUSING ELEMENT  
(2015-2019 CYCLE)

**DATE:** September 3, 2019

**DEPARTMENT HEAD:** Todd Kennedy, Associate Planner

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**RECOMMENDED ACTION:** Receive a report from City staff and the City's housing element consultant, hold a public hearing to receive public comment, and approve Resolution PC-2019-XX (Attachment 1), which recommends to the City Council approval of the City of San Juan Bautista General Plan Housing Element (2015-2019 Cycle).

**BACKGROUND INFORMATION:** State law requires housing elements to be updated periodically, and the most recent update was due on December 15, 2015. Because the City missed this deadline, it must now adopt two consecutive four-year housing elements to return to the current standard eight-year cycle. This means that San Juan Bautista is required to complete the update that was due in December 2015 as soon as possible (to complete the first four-year cycle for the period 2015-2019) and then undertake and complete a second update (to complete the second four-year cycle for the period 2020-2023) by December 15, 2019.

The housing element update that is now before the Planning Commission covers the first four-year cycle for the period 2015-2019. Staff and consultant will return before the end of the year with a second update that covers the period 2020-2023. The second four-year housing element is targeted for City adoption in December 2019, and if the City makes this deadline and its 2023 deadline, then it will revert back to the standard eight-year housing element cycle.

To support the adoption of this first housing element update, staff and consultant conducted a public workshop on February 20, 2019. Noticing for the workshop was mailed to 14 different housing organizations in the region, plus direct emails were sent to approximately 250 residents. Notices were also posted on the City's main website, on social media, and at City Hall. A total of 22 people attended the workshop, primarily residents of the City, and there was a general consensus and enthusiastic about the need for affordable housing in the City.

Staff and consultants prepared a Preliminary Draft Housing Element in April 2019 and submitted it for review by the California Department of Housing and Community Development (HCD). HCD completed its review with a letter to the City dated June 7, 2019, which contained several suggested edits and additions, plus a caution that certification would be withheld until

action was taken by the City to implement certain housing programs—promised in the last housing element—that are needed to achieve conformance with state housing element law.

Staff and consultants have now revised the housing element document to address the concerns raised by HCD, and it has also prepared several ordinances and a resolution to implement certain housing programs from the prior housing element. Having addressed these implementation actions earlier on the evening, it is now appropriate for the Planning Commission to hold a public hearing and take action to recommend adoption of the San Juan Bautista General Plan Housing Element (2015-2019 Cycle). The recommendation must take the form of a resolution, and a resolution recommending approval of the housing element is attached (see Attachment 1). The San Juan Bautista General Plan Housing Element (2015-2019 Cycle), which contains the edits suggested by HCD, is attached to the resolution of approval as Exhibit A.

The proposed adoption of the General Plan Housing Element is supported by an Initial Study and Mitigated Negative Declaration that evaluated the environmental effects of the action in accordance with the California Environmental Quality Act. The Initial Study found that, with mitigations, the action would engender no substantial effects on the environment. Earlier in the evening the Planning Commission considered the Initial Study and Mitigated Negative Declaration and recommended approval of the environmental document.

**Attachment:**

1. Resolution Recommending approval of Housing Element, with Housing Element document attached as Exhibit A



**RESOLUTION PC-2019-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA RECOMMENDING TO THE CITY COUNCIL ADOPTION OF THE GENERAL PLAN HOUSING ELEMENT (2015-2019 CYCLE), CONSISTENT WITH SECTION 65580 ET. SEQ. OF THE CALIFORNIA GOVERNMENT CODE**

**WHEREAS**, the City of San Juan Bautista is required by State law to prepare and adopt a General Plan for the long-term physical growth and development of the City; and

**WHEREAS**, the Housing Element is one of seven State mandated elements to be included in the General Plan; and

**WHEREAS**, the California Department of Housing and Community Development established a State planning period (2014 to 2023) and is requiring all local governments within the regional jurisdiction of the Association of Monterey Bay Area Government (AMBAG) to update their Housing Elements by December 31, 2015; and

**WHEREAS**, a draft update to the Housing Element of the General Plan has been prepared for adoption by the City Council pursuant to the requirements of state Housing Element law (Government Code §65580 et seq.); and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), staff and consultants have prepared an Initial Study of the possible environmental consequences of the updated Housing Element has been prepared; and

**WHEREAS**, The Planning Commission has recommended approval of a Mitigated Negative Declaration; and

**WHEREAS**, The Planning Commission, at its regular meeting on December 13, 2017, recommended that the City Council adopt the updated Housing Element, as described in Exhibit A; and

**WHEREAS**, it has been determined in the Initial Study that the project will have a less than significant effect on the environment, and a Mitigated Negative Declaration can be adopted; and

**WHEREAS**, a Notice of Intent to Adopt a Mitigated Negative Declaration was circulated and published for public review and comment in accordance with the requirements of CEQA; and

**WHEREAS**, no evidence was submitted in response to the Notice of Intent to Adopt a Mitigated Negative Declaration that indicates the project may actually produce a significant environmental impact; and

**WHEREAS**, the City held a housing element workshop on February 20, 2019, pursuant to housing element law, to allow the residents and the surrounding housing organizations the opportunity to provide their opinions on the City's housing needs; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), an initial study, prepared and circulated for public review and comment, found the 5<sup>th</sup> Cycle Housing Element to have minimal impacts supporting the City's adoption of a Mitigated Negative Declaration; and

**WHEREAS**, the Initial Study and Notice of Intent to adopt a Mitigated Negative Declaration was circulated through the local clearinghouse (Council of San Benito County Governments), distributed to those appropriate local agencies, and advertised for public hearing as required by the CEQA and associated CEQA Guidelines; and

**WHEREAS**, HCD provided a review letter on June 7, 2019 outlining the remaining items to be addressed for the updated housing element to be satisfactory by the State; and

**WHEREAS**, the Planning Commission finds the first four-year housing element, the 2015-2019 5<sup>th</sup> Cycle Housing Element, to be consistent with, and suitable for incorporation within, the City's current General Plan; and

**WHEREAS**, the Planning Commission must make a recommendation to the City Council of the City of San Juan Bautista regarding the proposed update to the Housing Element and the associated environmental review prior to the City Council taking action on the update to the Housing Element.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Juan Bautista hereby recommends to the City Council approval of the San Juan Bautista General Plan Housing Element for the planning period 2015-2019 (5<sup>th</sup> Cycle Housing Element).

**THE FOREGOING RESOLUTION** was moved to recommend approval of the San Juan Bautista General Plan Housing Element, as reflected in Exhibit A, to the San Juan Bautista City Council at a special meeting of the Planning Commission of the City of San Juan Bautista held on the 3<sup>rd</sup> day of August, 2019, by the following vote:

**AYES:**

**NOES:**

**ATTACHMENT 1**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Planning Commission Chair, Scott Freels

**ATTEST:**

\_\_\_\_\_  
Trish Patz, Deputy City Clerk

APPROVED AS TO FORM:

City Attorney

**CITY OF SAN JUAN BAUTISTA  
CITY COUNCIL STAFF REPORT**

To: The Honorable Mayor and Council Members

From: The City Attorney

RE: A Transient Occupancy Tax on Short Term Rentals

Date: August 14, 2019

REQUEST:

It is requested that the City Council:

1. Accept this Report; and
2. Give direction as to whether to take the attached draft Ordinance to the Planning Commission for further hearings and analysis or bring the ordinance back to the City Council for a first reading.

BACKGROUND:

At the last meeting, the City Council directed the City Attorney to research whether the City could impose a Transient Occupancy Tax (TOT) on Short Term Rental Units (STR).

DISCUSSION:

Many cities in California impose a TOT on STRs. Because the business, not the property is taxed, the extension of the TOT tax, found in Chapter 3.4 of the City Code, to STRs, may occur without an election pursuant to Proposition 218.

The Hosting Platform, such as VRBO or Airbnb, can be charged with the responsibility to collect the TOT from the STR. As you can see from the attached research, the City of Santa Monica's TOT on STRs was recently challenged in court and survived the challenge. The attached draft ordinance is based on the language which was permitted by the Court. It is my understanding that the Hosting Platforms are familiar with this type of ordinance and will only allow permitted STRs to advertise on their site and will collect the TOT. City Staff will need to issue permits, provide the Hosting Platform with a Registry of permitted STRs and inquire as to whether any further agreement between the Hosting Platform and the City is necessary.

Many cities have started this process with a hearing or hearings before the Planning Commission. Although this Ordinance will be added to the Revenue and Finance Title of the City Code, which is not normally under the jurisdiction of the Planning Commission, there are many aspects that affect land use and impacts on land owners who have STRs or live near STRs. As such, it is recommended that the City Council direct the Planning Commission to consider the Ordinance and hold public hearings to vet the issue.

# DRAFT

## Chapter 3.9 SHORT-TERM RENTALS

### 3.9-100 Purpose

The purpose of this chapter is to establish a permitting process and appropriate standards for Short-term Rentals ("STR") of a whole dwelling unit, or portion of the same, for a period of twenty-nine (29) consecutive days or less.

### 3.9-200 Definitions

For the purposes of this chapter, the following definitions shall apply:

- A. "Hosting Platform" means a marketplace in whatever form or format which facilitates the home-sharing or vacation rental, through advertising or other means, using any medium of facilitation, and from which the operator of the housing platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.
- B. "Registry" or "City Registry" is the list of STR permits issued in a calendar year. The City shall bear responsibility for keeping the Registry up-to-date with current permits.
- C. "STR Guest(s)" or "Guest(s)" means any person or group of persons staying at a STR for no more than twenty-nine (29) consecutive days.
- D. "STR Administrator" or "Administrator" means the person who is the designated agent or representative of the STR Owner and who is responsible, together with the STR Owner, for compliance with the conditions of this Chapter.
- E. "STR Owner" or "Owner" means the person, firm, corporation or partnership, individually, jointly, in common, or in any manner whereby such property is under single or unified control holding fee title which rents a dwelling operated and used as a STR.
- F. "Short-term Rental" or "STR" means a Dwelling Unit or Dwelling, multifamily, or any portion thereof, rented for occupancy for lodging or sleeping purposes for a period of twenty-nine consecutive (29) days or less.
- G. "Transient Occupancy Tax" or "TOT" means local transient tax as set forth in Chapter 3.4 of this Code. The tax is paid by the Guest when paying for their rental. The collected TOT is then remitted to the City.

### 3.9-300 Short-term Rental Requirements and Conditions

- A. *Compliance with Applicable Laws.* The Owner and Administrator must comply with all applicable laws, rules, and regulations pertaining to the use and occupancy of the STR.
- B. *Short-term Rental Permit required.* A permit from the City (hereinafter referred to as a "STR Permit") is required for all STRs. No person shall rent, offer to rent, or advertise for

rent any STR for a term shorter than twenty-nine (29) consecutive days without a valid STR Permit, which may be issued by the City in the manner provided for by this chapter.

- C. *Validity period.* A STR Permit shall expire on June 30th of each calendar year and may be renewed upon reissuance of a business license and proof of timely payment of Transient Occupancy Tax (TOT) during the time period of operation of the STR. The issuance of the STR Permit for a one year period does not grant the owner with fundamentally vested rights to continue operation beyond the one year period. The City reserves the right to deny renewal of a STR permit without a hearing.
- D. *Change in Ownership.* The STR Permit shall be invalidated by a change in Owner or Administrator of a STR, except when a spouse or domestic partner is added to the title of the property or the property is converted to a trust, which is principally under the same ownership. If the STR Permit is invalidated by a change in ownership, the Owner or Administrator must complete the reapplication process within forty (40) days or the right to the STR Permit will be lost.
- E. *Noise and disturbances.* Guests are subject to the requirements of this Code.
- F. *Revocation of STR Permit.* A STR Permit may be revoked by the City due to the failure to meet the requirements set forth in this Chapter, subject to the discretion of the City.
- G. *Appeal process.* Revocation of a STR Permit may be appealed pursuant to Municipal Code section 11-25. The appeal shall be accompanied by a filing fee, if any, as established by City Council resolution.
- H. *Transient Occupancy Tax.* Transient Occupancy Tax (TOT) shall be collected on all short-term rentals. STR Owners are solely responsible for the collection of all applicable TOT and remittance of the collected tax to the City on a monthly basis. If a Hosting Platform collects payment for short-term rentals, then it and the STR Owner shall both have legal responsibility for the collection and remittance of TOT.

### **3.9-400 Permit Application Procedures**

An application for a STR Permit shall be filed with the City Manager upon forms, the content of which shall be set by the City Manager and shall, at a minimum, request:

- A. The name, address, and telephone number of the Owner of the STR for which the STR Permit is to be issued.
- B. The name, address, and telephone number of the STR Administrator, if applicable, and a notarized declaration from the STR Owner that the STR Administrator has permission to run a STR on the Owner's property.
- C. A statement of the anticipated daily rental charge for the STR and written acknowledgment of the responsibility to pay TOT associated with the rental of the STR.
- D. A valid business license issued by the City for the STR.
- E. A STR Permit application fee.

### **3.9-500 Hosting Platform Requirements**

- A. Hosting Platforms together with STR Owners shall be responsible for collecting all applicable TOTs and remitting the same to the City. The Hosting Platform shall be considered an agent of the Owner or Operator for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.4 of this Code.
- B. Subject to applicable laws, Hosting Platforms shall disclose to the City on a regular basis each home-sharing and vacation rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing, and the price paid for each stay.
- C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's Registry at the time the Hosting Platform receives a fee for the booking transaction.
- D. A Hosting Platform operating exclusively on the Internet, which operates in compliance with subsections (1), (2), and (3) above, shall be presumed to be in compliance with this Chapter, except that the Hosting Platform remains responsible for compliance with the administrative subpoena provisions of this Chapter.
- E. The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal laws and will not apply if determined by the City to be in violation of, or preempted by, any such laws.

JOINT INFORMATIONAL HEARING OF THE ASSEMBLY LOCAL GOVERNMENT  
COMMITTEE AND THE REVENUE AND TAXATION COMMITTEE

**TRANSIENT OCCUPANCY TAXES AND THE  
HOME-SHARING PHENOMENON**

MARCH 18, 2015, 1:30 PM, ROOM 4202

**HEARING GOAL**

The goal of this hearing is to educate members on the application and collection of Transient Occupancy Taxes (TOTs) at the local level. This hearing will also examine how the emerging trend of home-sharing and other short-term vacation rental websites is impacting cities and counties.

**1) BACKGROUND ON TRANSIENT OCCUPANCY TAXES**

TOTs are levied on occupants for the privilege of occupying a room or rooms in a hotel, motel, inn, or other specified lodging. TOTs were originally designed to compensate local governments for the increased public service costs incurred by serving tourists. In general, TOTs are collected by the operators of hotels or motels, or their agents, and remitted to the city or county imposing the TOT.

More than 400 cities and 55 counties impose a TOT. Rates vary from 3.5% to 15%, with a statewide average of around 10%. On average, TOTs provide about 7% of city general purpose revenues. Some cities, however, are very dependent upon TOT revenue.

**Counties and General Law Cities.** Counties and general law cities derive their authority to impose a TOT pursuant to Revenue and Taxation Code Section 7280, which provides that "*The legislative body of any city, county, or city and county may levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days.*" Counties may impose a TOT in unincorporated areas. There are a number of exemptions listed in Section



without dependence on a middleman." A disclaimer on HomeAway's website says that "[HomeAway] is not a party to any rental or other agreement between users." HomeAway additionally notes that "Users agree that they are responsible for, and agree to abide by, all laws, rules and regulations applicable to their use of the Site" and that "Members further agree that they are responsible for and agree to abide by all laws, rules and regulations applicable to the listing of their rental property and the conduct of their rental business, including, but not limited to, any and all laws, rules, regulations or other requirements, zoning ordinances, safety compliance and compliance with all anti-discrimination and fair housing laws, as applicable."

### 3) LEGAL ISSUES

*HomeAway Inc. v. City & County of San Francisco*. HomeAway, Inc. and HomeAway.com (collectively, "HomeAway") brought suit against the City and County of San Francisco ("City") challenging the enactment of Ordinance No. 218-14 ("Ordinance"). (*HomeAway Inc. v. City & County of San Francisco*, 2015 U.S. Dist. LEXIS 9912.<sup>1</sup>) Specifically, HomeAway challenged a provision of the Ordinance potentially making HomeAway responsible for TOT for rental properties advertised on their online platforms.

Under the dormant Commerce Clause, HomeAway challenged the validity of the Ordinance on two grounds. First, HomeAway argued that the Ordinance impermissibly impedes interstate commerce because it discriminates against out-of-state property owners by allowing only San Francisco permanent residents to rent their units. Second, HomeAway argued that the Ordinance impedes interstate commerce because the Ordinance's tax collection requirement favors an "agency" business model over its own "advertising venue" model.

Regarding the first challenge, the District Court held that HomeAway lacked sufficient standing to bring a claim on behalf of the relevant third parties. Regarding HomeAway's second claim, the District Court dismissed this claim on the grounds that HomeAway again lacked standing because they could not establish any causal connection between the injury and the conduct in question. Thus, the District Court granted the City's motion to dismiss the suit.

*In re Transient Occupancy Tax Cases*, 225 Cal.App.4<sup>th</sup> 56 (2014). On a related but separate issue, this case arose from the City of San Diego's ("City's") efforts to impose its TOT on online travel companies ("OTCs"). OTCs provide comparative information about airlines, hotels, and rental car companies on their websites. In facilitating hotel room sales, these companies employ several room-sale models, including the "merchant model" whereby OTCs contract with hotels

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<sup>1</sup> The Ordinance permits short-term rentals of units only where a permanent resident occupies the unit for at least 275 days out of the calendar year. A "permanent resident" is defined as a person who occupies the unit for at least 60 consecutive days with intent to establish the unit as his or her primary residence.

for the right to advertise and rent rooms to the general public. Specifically, the OTC will pay a hotel a "wholesale" price for a room, and charge its customer a higher "retail" price for the same room. In May 2010, the City's hearing officer ruled that the OTCs owed TOT on their service charges and markups. The OTCs challenged this decision by petitioning for a writ of mandate, which the superior court granted. On review, the Court of Appeal affirmed the trial court's ruling, holding that the City's TOT ordinance did not reveal an intent to impose a tax on the service fees and markups charged by the OTCs.

The City currently alleges that, in affirming the trial court's decision, the Court of Appeal inappropriately failed to focus on the total consideration paid by a transient for occupancy. The Supreme Court of California has granted review and the final interpretation of San Diego's TOT ordinance will be resolved by that Court.

### **3) OTHER LOCAL GOVERNMENT ISSUES**

As these types of home-sharing and short-term vacation rental websites become increasingly popular, some local governments in California are experiencing a variety of resulting issues that are not addressed in their local ordinances and municipal codes. Several local agencies have banned short-term rentals in their jurisdictions, but are aware of listings on websites in violation of their policy, and are struggling with how to deal with these listings. Rentals can also violate a city's zoning ordinance, and can constitute an unpermitted activity. Cities and counties are familiar with the hotels, motels, and B & Bs operating in their jurisdictions, and as such, there are certain statewide and local regulations that apply to the traditional lodging accommodations that may not apply to listings on VRBO and Airbnb.

There are also safety and noise issues to consider, as well as whether hosts or those people who post listings on these types of websites must apply for, receive, and pay business license taxes for the privilege of conducting business within the city or county.

## Santa Monica Short-Term Rental Ordinance Withstands Legal Challenge

March 25, 2019

The Ninth Circuit Court of Appeals issued a decision last week rejecting a legal challenge brought by online hosting platforms HomeAway.com and Airbnb to Santa Monica's short-term rental ordinance.

The League filed a friend-of-the-court brief in the case, authored by Christi Hogin of Best, Best and Krieger. The California State Association of Counties and the International Municipal Lawyers Association also joined in the League's brief.

The ordinance at issue in the case authorizes city-licensed and registered "home-sharing" rentals – where resident(s) remain on-site with guest(s) – but prohibits all other forms of short-term rentals for 30 days or less. It also imposes certain obligations on online short-term rental hosting platforms such as HomeAway.com and Airbnb. Specifically, the ordinance requires online hosting platforms to collect and remit transient occupancy taxes and to regularly disclose listings and booking information to the city. It also prohibits them from booking properties that are not licensed and registered with the city and from collecting any fees in connection with such prohibited transactions.

The city adopted the ordinance following a proliferation of short-term rentals in residential zones. Such short-term rentals, the city council reported, "had negatively impacted the quality and character of its neighborhoods by 'bringing commercial activity and removing residential housing stock from the market' at a time when California is already suffering from severe housing shortages."

HomeAway and Airbnb sued, claiming the ordinance violated various laws including the federal Communications Decency Act of 1996 and the First Amendment.

Federal courts have interpreted the Communications Decency Act to immunize "publishers" of third-party content from liability arising out of that content. The purpose of the Act is "to promote the continued development of the Internet and other interactive computer services."

HomeAway and Airbnb argued that Santa Monica's ordinance was inconsistent with the Act because it effectively required them to monitor and remove third-party content "to prevent their website from becoming littered with unbookable listings." The Ninth Circuit Court of Appeals

rejected this argument, noting that the ordinance simply prohibited the online platforms from proceeding with unlicensed bookings; it did not seek to impose any liability on the platforms for the contents of the listings. "Like their brick-and-mortar counterparts," the court held, "internet companies must also comply with any number of local regulations concerning, for example, employment, tax, or zoning."

The Ninth Circuit was also unpersuaded by HomeAway and Airbnb's arguments that the ordinance imposed a "content-based financial burden" on their commercial speech in violation of the First Amendment. The Ninth Circuit found no "significant expressive element" associated with processing a short-term rental booking.

Although this ruling may be appealed, it is a positive development for cities in the area of short-term rental regulation. Cities that have questions as to how they may be impacted by this ruling should consult with their city attorney.