

RESOLUTION NO. 21-03

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RICHMOND RECOMMENDING APPROVAL TO THE CITY COUNCIL OF A GENERAL PLAN AMENDMENT AND ZONING AMENDMENT (PLN20-269) TO PROTECT PUBLIC HEALTH AND SAFETY, NATURAL QUALITIES, AND OPEN SPACE AREAS IN THE RICHMOND HILLS

WHEREAS, City of Richmond (the “applicant”) requests approval of a General Plan Amendment and Zoning Amendment to address the Richmond Hills Initiative adopted by the City Council in 2017, which includes revisions to the land use and conservation elements of the General Plan and Zoning Amendment of the site to OS-H, Hillside Open Space, and amendments to Articles 15.04.202, 15.04.206, and 15.04.611 at a site located north and east of Wildcat Canyon Regional Park, consisting of 430-acre parcels (APNs: 435-200-007, 435-200-008, 435-190-001, 435-300-009, 435-230-007, 435-230-006, 435-180-005, 435-240-002, 435-230-005, 435-230-004, 435-230-042, 435-230-043, 435-230-013, 435-230-012, 435-230-020, 435-230-040, 435-230-023, 435-230-021, 435-230-011, 435-230-015, 435-230-050, 435-230-009, 435-230-014, 435-230-045, 435-230-038, 435-200-004, 435-210-007, 435-230-052, 435-230-051, 435-180-008, 435-230-030, 435-230-028, 435-230-027, 435-230-008, 435-230-046, 435-210-001, 435-210-006, and 435-240-001) (“subject site”), and

WHEREAS, the General Plan Amendment is subject to the provisions of California Government Code Sections 65358(a), which allows a city’s legislative body to amend its general plan four times a year, if it deems to be in public interest, and

WHEREAS, the Planning Commission has reviewed the General Plan Amendment and Zoning Amendment for conformance with the California Government Code Sections 65358(a) and all other applicable regulations of the Richmond Municipal Code, including Article 15.04.813 and 15.04.814; and

WHEREAS, the City has determined that the General Plan Amendment and Zoning Amendment are categorically exempt per CEQA Guidelines Section 15308, which are action taken by regulatory agencies, as authorized by the state of local ordinance, to assure maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment, and Section 15061(b)(3) because it can be seen with certainty there is no possibility for causing a significant effect on the environment because the amendments only provide protection of the hillsides in the designated area from development and a transfer of density from one area of the City to another, with no increase overall in total residential development capacity over the term of the General Plan. Additionally, in *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029, the California Supreme Court held that CEQA does not apply to “citizen-sponsored” initiatives, even where the initiative is adopted by local officials rather than the voters; and

WHEREAS, the Planning Commission has conducted a properly noticed public hearing pursuant to California Government Code Section 65090 and has duly considered all written

and verbal testimony presented before or during the hearing, including the agenda report dated March 4, 2021; and

WHEREAS, on the basis of the application, plans, materials, and testimony submitted at or before the public hearing, the Planning Commission makes the following findings with statements of fact to support the findings as required by California Government Code Section 66474 for recommending approval to the City Council of the General Plan Amendment.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission does hereby recommend to the City Council approval of the General Plan Amendment as set forth in Exhibit B (PLN20-269), subject to the following findings pursuant to Richmond Municipal Code (RMC) Section § 15.04.813.050:

A. The proposed amendment will contribute to the public health, safety, and general welfare or will be of benefit to the public.

Statement of Fact: **Criterion Satisfied.** Development in this area would be harmful and would displace agriculture and outdoor recreation, destroy scenic resources, impact stream flows, exacerbate erosion and pollution, reduce wildlife habitat, and substantially increase traffic.

B. The proposed amendment is consistent with the General Plan goals, unless the goals themselves are proposed to be amended.

Statement of Fact: **Criterion Satisfied.** The amendment is consistent with several goals set forth in the General Plan, such as Conservation, Natural Resources, and Open Space. Approval of amendments will serve the public interest by protecting undeveloped rural hillside land in El Sobrante Hills. Development in this area would be harmful and would displace agriculture and outdoor recreation, destroy scenic resources, impact stream flows, exacerbate erosion and pollution, reduce wildlife habitat, and substantially increase traffic.

C. The proposed amendment retains the internal consistency of the General Plan and is consistent with other adopted plans, unless a concurrent amendment to those plans is also proposed and will result in consistency.

Statement of Fact: **Criterion Satisfied.** The proposed General Plan Amendments are needed to create internal consistency with amendments made to the Housing Element when the Richmond Hills Initiative was adopted in 2017. These amendments carry forward the intent of the Initiative by amending the land use and conservation elements.

D. The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

Statement of Fact: **Criterion Satisfied.** The amendment is categorically exempt per CEQA Guidelines Sections 15308, which are action taken by regulatory agencies, as authorized by the state of local ordinance, to assure maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. It is also categorically exempt per Section 15061(b)(3) because it can be seen

with certainty there is no possibility for causing a significant effect on the environment because the amendments only provide protection of the hillsides in the designated area from development and a transfer of density from one area of the City to another, with no increase overall in total residential development capacity over the term of the General Plan. In addition, in *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029, the California Supreme Court held that CEQA does not apply to “citizen-sponsored” initiatives, even where the initiative is adopted by local officials rather than the voters.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission does hereby recommend to the City Council approval of the Zoning Amendment as set forth in Exhibit C (PLN20-269), subject to the following findings pursuant to RMC §15.04.814.050:

A. The proposed amendment is consistent with the General Plan.

Statement of Fact: **Criterion Satisfied.** The zoning text amendments are consistent with several goals set forth in the General Plan, such as Conservation, Natural Resources, and Open Space. Approval of amendments will serve the public interest by protecting undeveloped rural hillside land in El Sobrante Hills. Development in this area would be harmful and would displace agriculture and outdoor recreation, destroy scenic resources, impact stream flows, exacerbate erosion and pollution, reduce wildlife habitat, and substantially increase traffic.

B. The proposed amendment is necessary for public health, safety, and general welfare or will be of benefit to the public.

Statement of Fact: **Criterion Satisfied.** Development in this area would be harmful and would displace agriculture and outdoor recreation, destroy scenic resources, impact stream flows, exacerbate erosion and pollution, reduce wildlife habitat, and substantially increase traffic.

C. The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

Statement of Fact: **Criterion Satisfied.** The amendment is categorically exempt per CEQA Guidelines Sections 15308, which are action taken by regulatory agencies, as authorized by the state of local ordinance, to assure maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. It is also categorically exempt per Section 15061(b)(3) because it can be seen with certainty there is no possibility for causing a significant effect on the environment because the amendments only provide protection of the hillsides in the designated area from development and a transfer of density from one area of the City to another, with no increase overall in total residential development capacity over the term of the General Plan. In addition, in *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029, the California Supreme Court held that CEQA does not apply to “citizen-sponsored” initiatives, even where the initiative is adopted by local officials rather than the voters.

D. For a change to the Zoning Maps, that the subject property is suitable for the uses permitted in the proposed zone in terms of access, size of parcel, relationship to

similar or related uses, and other relevant considerations, and that the proposed change of zoning district is not detrimental to the use of adjacent properties.

Statement of Fact: **Criterion Satisfied.** The proposed OS-H, Hillside Open Space zoning district designation is consistent with the Richmond Hills Initiative in terms of compatible land uses and development standards and protection of open space lands and viewsheds. It only allows extremely low density development pursuant to the standards in the Initiative and so will not have any detrimental effects.

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Commission hereby recommends that the City Council adopt the findings contained herein, and approve the General Plan Amendment and Zoning Amendment related to the Richmond Hills Initiative.

I CERTIFY, that the foregoing resolution was adopted by the Planning Commission of the City of Richmond, California, at a regular meeting held on March 4, 2021, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

DAVID TUCKER, CHAIR

Approved as to form:

JAMES ATENCIO
SENIOR ASSISTANT CITY ATTORNEY

RICHMOND HILLS INITIATIVE

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CITY CLERKS OFFICE
CITY OF RICHMOND
2016 MAY -3 PM 2:39

The People of the City of Richmond do ordain as follows:

Section 1. Nature and Purposes

This Initiative amends the Richmond General Plan by limiting development and land uses in the Richmond Hills to protect public health and safety, natural qualities, and open areas.

Section 2. Findings

The people of Richmond do find and declare:

(a) Protection of Agriculture and the Natural Environment: The area protected by this Initiative is undeveloped rural land. It includes steep hillsides, dense oak woodlands, streams, vernal pools, and valuable wildlife habitat. The area provides a tranquil, beautiful contrast and backdrop to urban development in Richmond. It is used for grazing, horse boarding and riding, hiking, and nature study and enjoyment. The Initiative seeks to preserve those uses.

(b) Hill Development: The area subject to the Initiative is a vital part of the remaining undeveloped hills in Richmond. Recently, large-scale subdivisions have been proposed in the area. Now is the time to protect these hills before they are lost permanently to development.

(c) Development Costs: Substantial additional development would be harmful. It would displace agriculture and outdoor recreation, destroy scenic resources, impact stream flows, exacerbate erosion and pollution, reduce wildlife habitat, and substantially increase traffic in existing residential neighborhoods and along San Pablo Dam Road.

(d) Land Instability: The hillsides involved in this Initiative are prone to landslides. They are classified as Category 5 – Unstable, the City’s highest risk category. Numerous landslides and slumps have occurred. Residential development may put residents and property in danger. Richmond has recognized this risk by enacting an ordinance that restricts residential development. This Initiative provides a greater degree of protection and certainty since it can be changed only by a vote of the people.

(e) Fire Hazard: The hill area is vulnerable to wildfires because of its rugged terrain, flammable brush and grasses, and remoteness. The area is classified as a Very High Fire Hazard Severity Zone, the City’s highest risk category.

(f) Wildlife Habitat: A number of special-status plant and animal species occur in the Richmond Hills. These are species at risk of extinction. Land use must be carefully controlled to avoid ruining their habitat or obstructing migratory corridors.

(g) Watercourses: Streams that flow through Richmond arise in the Hills. Development can have an adverse effect on the quality and quantity of water, including flooding. Flood and erosion control projects are often antithetical to preserving the natural qualities of streams.

(h) Development Strategy: The current Richmond General Plan calls for development primarily in pedestrian-friendly, transit-oriented areas. This Initiative supports and reinforces this City strategy. It encourages properly planned, in-fill development in areas where infrastructure is readily available. This is more economical to users and taxpayers than development in hillside areas where there are no utilities, roads are nonexistent, and construction is often difficult and costly. The Initiative includes a Transfer of Development Credits program that allows property owners in the hills to transfer housing to other parts of the City, and accordingly to participate in development there.

(i) Housing: The Initiative does not reduce significantly the City's capacity to provide for housing. It complies with State requirements including the City's Regional Housing Needs Allocation for all income segments.

(j) Burden of Proof: For purposes of California Evidence Code Section 669.5(c)(3), this Initiative is designed to protect agricultural use as defined in Government Code Section 51201(b), and open space land as defined in Government Code Section 65560(b).

(k) Federal and State Law: This Initiative is subject to Federal and State law. Because that law is not always clear and changes, the Initiative provides explicitly that it does not apply, notwithstanding its literal terms, to the extent that its application would be inconsistent with the law.

Section 3. Title of Initiative

The title of this initiative is the Richmond Hills Initiative. It is referred to in the text interchangeably as the "Initiative," "Measure," or "Ordinance."

Section 4. Area Covered

This Initiative applies to the Richmond Hills Initiative Area, an area in El Sobrante Valley north and east of Wildcat Canyon Regional Park. This area is defined by parcel in Section 21. (The diagram in Appendix 1 depicts approximately the lands covered by the Initiative. The diagram is for illustration only and is not enacted by the Initiative.)

Section 5. Amendment of Richmond General Plan

Sections 6 through 21 of this Ordinance are added to the Richmond General Plan. They shall be located in the Plan where City officials deem appropriate. These sections shall be identified distinctly as enacted by initiative in the Plan and successor plans. The provisions of this Ordinance, regardless where they may be located in the Plan, are part of the Open Space Element.

Section 6. Compliance with Law; Protection of Legal Rights

(a) Notwithstanding their literal terms, the provisions of this Ordinance do not apply to the extent that courts determine that if applied they would deprive a person of Constitutional rights or privileges, or otherwise would be contrary to Federal or State law. These explicit limitations on applicability are to make certain that the provisions do not infringe any person's legal rights or privileges, violate the law in any respect, or subject the City to legal liability.

(b) To the extent that a provision of this Ordinance does not apply because of subsection (a), the City may permit only the minimum parcel creation, development, or use required by law that is most consistent with the Ordinance, and that complies with other General Plan provisions.

Section 7. State Housing Requirements

Nothing in this Ordinance, including in this section, shall be applied to prevent City compliance with housing obligations mandated by State law. To the maximum extent practicable, the City shall meet State housing requirements outside the Richmond Hills Initiative Area. If required housing must be located in that area, no more land shall be used than is necessary to meet State requirements. Minimum parcel size, residential dwelling density limits, and maximum development envelopes and floor areas in this Ordinance shall not apply to the required housing.

Section 8. Minimum Parcel Size

The minimum parcel size shall be 20 acres.

Section 9. Subsize Parcels

If a parcel smaller than 20 acres (a "subsize" parcel) is contiguous to another subsize parcel or parcels, or if a subsize parcel is linked to another subsize parcel or parcels by an intervening parcel or parcels, whether subsize or not, and all of the parcels in the case were legally or de facto in common ownership at the time this Ordinance is submitted to the City Clerk for a title and summary or any time thereafter, the parcels shall be treated as though they are a single parcel for all development related purposes under this Ordinance, including the number of dwelling units under Section 11(b), the award of development credits, the area that must be included in a development easement, and the application of visibility standards. The parcels involved may be reconstituted in accord with this and other City plans and ordinances. In no case shall any of the parcels be deemed or treated as legally merged; they are treated as a unit only for purposes of regulating development.

Section 10. Certificates of Compliance

The City shall not grant a certificate or conditional certificate of compliance regarding the validity of any division of land except as provided by State law. All permissible restrictive conditions shall be imposed on a certificate; the owner or subsequent transferees of property involved shall be held to strict compliance with these conditions. A certificate of compliance creates no right to develop, nor diminishes in any respect the City's authority to control development.

Section 11. Permissible Uses

(a) The following uses only, and their normal and appropriate accessory uses and structures, may be permitted, provided that all uses and structures comply with the provisions of this Plan and other City plans and ordinances:

- (1) agriculture (including grazing, viticulture, arboriculture, horticulture, research, and rearing, care and use of ruminants, pigs, poultry, and bees, but not including feedlots unless most of the feed over a calendar year is grown in the Richmond Hills Initiative Area); provided, however, dairy farms, pig farms, poultry ranches, Christmas tree farms and nurseries are permitted only if they are small-scale and do not cause substantial environmental harm, including noise, odor or vermin;
- (2) processing, packaging, storage or sale of agricultural produce, most of which over a calendar year is grown in the Richmond Hills Initiative Area, that has no significant deleterious effects on the environment;
- (3) rearing, boarding, training, care, rental or sale of horses and other animals not covered by paragraph (1), but not including temporary boarding or day care of household pets, provided that the use does not cause substantial environmental harm, including noise, odors or vermin;
- (4) low-intensity outdoor recreation, exercise, and pastimes predominately for active participants, not spectators, and subordinate auxiliary uses (including small-scale camps, picnic facilities, provision of food and drink, and safety and sanitary services); these permissible uses do not include, among other uses, amusement or theme parks, golf courses, firearm or rifle ranges, stadiums or arenas (except equestrian riding rings), motor vehicle tracks, courses or off-road use, or recreational vehicle parking. Uses permitted under this paragraph shall be compatible with a rural environment and not contribute to noise or light pollution;
- (5) institutional and other non-profit uses that predominantly serve permitted uses in the Richmond Hills Initiative Area and neighboring areas; and small facilities for convalescence, rehabilitation, and hospice care for not more than six patients each, that will not substantially impair the environment;
- (6) Government and public utility uses that are limited to meeting needs created by permitted uses in the Richmond Hills Initiative Area, except to the extent the City Council finds reasonably substantial public need that cannot be met outside this area. However, this exception shall not apply to waste disposal, processing or treatment, and electrical power production or transmission primarily for sale. Publicly provided outdoor recreation and pastimes and ancillary accommodations are permitted if like private uses would be allowed;

- (7) Occasional short-term events related to agriculture, animals or outdoor recreation that do not interfere materially with agriculture or cause substantial environmental harm.

Residences, including mobile dwelling units, and residential accessory buildings are not permitted under this subsection.

(b) If it is judicially determined that absence of residential use in the Richmond Hills Initiative Area would be a taking for purposes of constitutional law, notwithstanding the nonresidential uses permitted in subsection (a), the grant of transferable development credits under Section 16, the fact that much of the area is now designated agriculture, and the severe physical difficulties and hazards of residential development because of steep slopes, soil instability, and fire dangers,

- (1) one single family dwelling unit may be built on each parcel or each 20 acres of a parcel, with normal and appropriate residential accessory uses and structures, in compliance with other Sections of this Initiative and other City plans and ordinances, and
- (2) home occupations and offices are permitted, provided that they are secondary to residential uses and the occupations are conducted primarily by residents of the home and will not increase materially traffic in the Richmond Hills Initiative Area or on adjacent streets.

Houses built under this subsection shall be built as near as reasonably practicable to existing houses and public utilities adjacent to the Richmond Hills Initiative Area, consistent with the provisions of this Plan.

If a parcel is transferred to another person, a residence may not be built on the parcel unless all of the transferable development credits under Section 16 for the parcel and its acreage are transferred to the parcel transferee. If one or more of the credits are used or transferred to any person, other than a transferee of the parcel, a residence may not be built on the parcel.

Section 12. Areas of Special Environmental Concern

In addition to other provisions of this Ordinance, the following restrictions apply:

(a) Wetlands: Development or use is not permitted if by itself or in conjunction with other development or use it would reduce appreciably the quantity or biological quality of wetlands. "Wetlands" are areas permanently or periodically covered or saturated by water where hydrophytic vegetation is present under normal conditions, have soils that are primarily hydric in nature, or are designated as wetlands by Federal or State law.

(b) Stream Corridors: Development or use is not permitted if by itself or in conjunction with other development or use it would impair appreciably the quantity or quality of water or of native vegetation in a stream corridor, except for otherwise permissible flood control to protect

human safety, or preservation of special status species. "Stream corridors" are areas within one hundred (100) horizontal feet of the top of the bank or, if farther, the edge of the riparian canopy of a permanent or intermittent stream.

(c) Wildlife: No development or use is permitted that would reduce appreciably the number, prevent the recovery in number, or impair the genetic variability of one or more special status species.

(d) Steep Slopes: No building may be located, in whole or in part, on a slope of 15% or more. No building may be located on a site that cumulatively has access for more than 25 feet over a slope of 15% or more, unless there is no other site on a parcel. Cultivated agriculture may not be conducted on a slope of 20% or more. No grading may take place on a slope of 15% or more unless necessary to maintain fire roads. Slope percentages are based on the steepness of slopes in their natural, unaltered state, and are calculated by dividing altitude increase over each 20 feet of vertical slope by 20.

(e) Elevation: No building is permitted above 400-foot elevation unless the parcel involved is entirely above 400 feet.

Section 13. Development Envelopes

All buildings on a parcel must be located within a contiguous area, as compact as reasonably practicable, not to exceed two acres, except for buildings that the Council finds necessarily must be located outside that area for agricultural use, processing, packaging, storage or sale of agricultural produce, rearing, care, training or use of animals, government or public utility use, or to protect residents of other parcels from substantial noise, odor or vermin. Subsize parcels that are treated as a single parcel under Section 9 are treated as a single parcel under this Section and Section 14.

Section 14. Maximum Floor Areas

(a) The maximum aggregate floor area for all floors in all buildings on a parcel, except basement and cellar floors, may not exceed 10,000 square feet. If residences and residential accessory buildings are permitted, they may not exceed 5,000 square feet of the 10,000 maximum.

(b) If otherwise appropriate under the provisions of this Plan, the City Council may increase the maximum floor area by up to 10,000 square feet, in aggregate, if necessary for agricultural use, processing, packaging, storage, or sale of produce, rearing, boarding, care and use of animals, or recreational facilities including camps. Up to 20,000 square feet may be permitted for covered riding arenas.

(c) The permissible floor area of a parcel under subsection (a) may be transferred to one or more other parcels if there is no building on the transferor parcel. A transfer of floor area does not increase the 5,000 square foot limit for residences and residential accessory buildings on the transferee parcel. No more than 30,000 square feet of floor area in aggregate may be transferred

to a parcel from one or more other parcels. If any floor area is transferred then no building is permitted on the parcel from which the floor area is transferred.

Section 15. Visual Safeguards

(a) New or reconfigured parcels must be created or drawn to limit visibility of development from roads and other public places. Structures may not be located on ridgelines or hilltops, or where they will project into the view of a ridgeline or hilltop from public places, unless there is no less obtrusive site on the parcel or on a contiguous parcel in legal or de facto common ownership on or subsequent to the date this Ordinance becomes effective. To the extent practicable, consistent with other provisions of this Ordinance, structures shall be located, including by setbacks from parcel boundaries, on that part of a parcel which minimizes visibility from roads, trails, and other public places. Roads shall be consolidated and located, to the maximum extent feasible, where they are least visible from public places. New utilities shall be installed underground.

(b) Development shall be subordinate to and blend harmoniously with the natural and open space qualities of the area where located. The alteration of natural topography, vegetation, and other characteristics by grading, excavating, filling or other development activity shall be minimized. In all cases, appropriate landscaping, preservation of vegetation, design, and building materials shall be required by the City to reduce as much as practicable the visibility of development. The height of buildings shall not exceed 35 feet. Signs may not be more numerous, larger or more noticeable than is necessary to provide directions and information about permissible uses in the Richmond Hills Initiative Area.

(c) Exterior lighting, including roadway lighting, shall be designed and placed to confine direct rays to the parcel or roadway where the lighting is located and to protect the darkness of the night sky.

(d) Visibility of development from roads, parks and other public places shall be determined from a reasonable, representative sample of vantage points that will accomplish the objectives of this Section.

Section 16. Transferable Development Credits

(a) The City shall have a transferable development credit (TDC) program for the Richmond Hills Initiative Area. The City shall grant one credit to the owner or owners of each parcel, and one credit for each 5 acres of a parcel in excess of 5 acres, unless all remaining permissible residential development has previously been transferred from the parcel. Credits may not be granted for parcels or acres above 400 feet elevation. Each credit may be used to build one residence in a receiving area, with the consent of the parcel owner there.

(b) TDC-based residences shall be similar in type and size to the residences that exist or otherwise may be built in the zoning district where they are located. Consistent with that similarity and with public health and safety, they do not have to comply with density limitations or other land-use regulations to the extent those regulations would bar or make impracticable

their construction. No more than two TDC-based residences may be built on a parcel except as authorized by a Specific Plan or in a Planned Area District.

(c) The City shall make feasible and facilitate the use of credits, and shall ensure that they are granted and used properly, in accordance with this Plan and other law.

(d) Development credits may be sold or otherwise transferred to any person, regardless whether they own property in the Richmond Hills Initiative Area or the receiving area, including to and by the City and nonprofit entities. If, however, a residence is built on a parcel, or the right to build vested, the credits based on the parcel or its acreage are void and may not be transferred or used.

Section 17. Development Easements

Before a building may be permitted on a parcel, or a development credit or credits based on the parcel used or transferred, other than transferred to a grantee of the parcel, the City must receive an easement, running with the land, on the parcel that bars development or use not permitted under this Initiative. The easement shall be conveyed to the City and, if available, jointly to an independent land trust (that complies with the Standards and Practices of the Land Trust Alliance).

The easement shall be negative only; it shall convey no possessory interest to the City or Trust, nor confer any right of public access. The owner retains exclusive occupancy and use. The City has no responsibility or liability because of the easement for acts or omissions on the parcel, except in good faith and effectually to remedy violations of the easement. Easements shall be duly recorded in the County land records.

Section 18. Applicability

(a) This Ordinance does not invalidate parcels, structures, uses, or surface alterations to the extent that they existed legally at the time this Ordinance becomes effective, except they may not be reestablished if their authorized time limit expires or they are eliminated voluntarily or abandoned, or except if a use is contrary to Section 12(a) through (d). Parcels, structures, surface alterations or uses may not be expanded or changed, however, to the extent that it would cause a violation of this Ordinance or would augment or make more serious what would be a violation if created or done after this Ordinance becomes effective.

(b) This Ordinance shall be applied to proposed parcels, development and uses that have not received all required discretionary City approvals and authorizations prior to its effective date.

(c) This Ordinance applies to the City and its agencies, officials and properties, as well as to all other persons and entities.

Section 19. Inconsistent City Plans, Ordinances and Actions

(a) Except as provided in Section 25, application of any other provision of this General Plan is barred to the extent that it is in conflict with this Initiative, unless voters approved the other provision after approval of the Initiative.

(b) Any special or other City plan, or any ordinance, resolution or regulation may not be applied to the extent that it conflicts with this Initiative.

(c) To the degree inconsistent with this Initiative, no subdivision or parcel map, development plan or agreement, permit, variance or other action may be approved, permitted or taken by the City, its agencies or officials (including approval or permission by operation of law because of inaction) or is valid legally.

(d) Provisions of this and other City plans, ordinances, resolutions and actions are not in conflict with this Initiative because they impose prohibitions, restrictions, conditions, requirements or remedies greater than or in addition to those imposed by this Initiative. This Initiative establishes only minimum prohibitions, restrictions, regulations, requirements, and remedies that the City may augment without creating any inconsistency, provided it does not permit parcels, development, or use barred by the Initiative.

Section 20. Implementation and Enforcement

(a) This Measure shall be interpreted liberally to further its purposes.

(b) The Council, City agencies and officials shall carry out and enforce the provisions of the Measure diligently and effectually. They shall review uses and the nature, location, amount, visibility, and environmental effects of proposed developments to ensure consistency with the Measure. They shall use the most effective means at their disposal, subject to any official discretion required by State law, to prevent, abate and remedy violations. Violations are public nuisances and, as provided by statute, misdemeanors.

(c) Residents and organizations with members in the City, and others with standing, may enforce this Measure and the easements required under Section 17 by judicial proceedings against any person, group, government agency, or other entity that is in violation of the Measure or an easement, or to prevent violations.

(d) The City Council has authority to particularize and implement this Measure by appropriate legislation and actions, in all cases in full compliance with the substantive content and purposes of the Measure.

Section 21. Definitions

For purposes of this Ordinance, unless the text or context compels a different meaning:

“Appreciably” means measurably or perceivably and “appreciable” means measurable or perceivable, but not minute;

“Basements” and “cellars” are the lowest stories of buildings, but only if at least 80% of the story’s cubic area is below both the adjacent land level and the natural grade;

“Building” is any structure with a roof supported by columns or walls, including greenhouses and covered arenas;

“City” is the City of Richmond, and “Council” is the City Council of Richmond;

“Development” is the construction, erection, placement or appreciable alteration of a structure, including mobile dwelling units; it also means appreciable surface alteration, including grading, surfacing, excavation, fill or mounding of land, or deposition of material;

“Floor Area” means the area of all floors, regardless of composition including soil, under roof in or connected to buildings, including porches, decks, carports, and attic floors to the extent that the height of the ceiling is five feet or more above the floor;

“Including” means includes but is not limited to the items listed, consistent with the text and purposes of the Ordinance;

“Practicable” means capable of being done or put into effect;

“Receiving Area” is an area where high density or medium density residential development is permitted by this Plan, low density residential development is permitted by a Specific Plan or in a Planned Area District, or that is designated by the City Council;

“Richmond Hills Initiative Area” is the land designated by Assessor’s Parcel Numbers 435-190-001, 435-200-004, 435-200-007, 435-200-008, 435-210-001, 435-210-006, 435-210-007, 435-230-004, 435-230-005, 435-230-006, 435-230-007, 435-230-008, 435-230-009, 435-230-011, 435-230-012, 435-230-013, 435-230-014, 435-230-015, 435-230-020, 435-230-021, 435-230-023, 435-230-027, 435-230-028, 435-230-030, 435-230-038, 435-230-040, 435-230-042, 435-230-043, 435-230-045, 435-230-046, 435-230-050, 435-230-051, 435-230-052, 435-240-001, 435-240-002, 435-180-008, 435-180-005, and 435-300-009.

“Small-scale dairy farms, pig farms, poultry ranches, Christmas tree farms or nurseries” are those that are commonly classified as, or considered to be small in their respective lines of activity (the City Council can particularize these definitions in accordance with Section 20(d));

“Special status species” are plants and animals that are listed, proposed for listing, or candidates for listing as endangered or threatened under the Federal or State Endangered Species Acts, rare or endangered under the California Environmental Quality Act, including locally rare species addressed in California Code of Regulations Sections 15380 and 15125(c), listed as rare under the California Native Plant Protection Act, or protected under California Fish and Game Code Sections 3511, 4700, 5050, and 5515;

“Structure” includes any building, tower, utility line, dam, tank, or any other artifact constructed, erected, or placed on a parcel, the existence or use of which requires location on the ground or attachment to something located directly or indirectly on the ground.

Section 22. Amendments

This Initiative may be repealed or amended only by the voters of Richmond, except the Council may make technical or non-substantive modifications to its provisions; provided, however, any modifications must be fully consistent with the substantive content and purposes of the Initiative.

Section 23. Effective Date

This Initiative shall become effective as provided by statute, except if all the General Plan amendments permitted by law in the year in which the Initiative is approved have been made, the Initiative shall become effective at the beginning of January of the following year, as the first amendment of that year.

Section 24. Severability

If one or more than one section, subsection, paragraph, sentence, clause, term or application of this Measure is adjudicated to be invalid or inapplicable, that shall not cause any other part or application to be invalid or inapplicable unless the clear effect of holding that other part or application valid or applicable would be to defeat, on balance, the objectives of the Measure. Each part and application of this Measure would have been enacted as it is irrespective of the fact that one or more other parts are declared invalid or inapplicable, except to the extent that enactment would have defeated the purposes of the Measure.

Section 25. Conflicting Ballot Measures

If there were other General Plan amendments on the same ballot as this Initiative, dealing with the same subject matters, that were approved by the voters, this Initiative shall be effective except if the other amendments received more votes and constituted a complete regulatory scheme for the areas and subjects covered by this Initiative, or except to the extent that other amendments are in actual, definite, irreconcilable conflict with this Initiative. Provisions in a measure purporting to nullify the provisions of this Initiative on other bases are ineffective.

Section 26. Further Amendments to the General Plan 2030

The following deletions and changes are made to avoid any inconsistency in the General Plan and with State housing law. Material deleted from the Plan is in strikeout type. Material added is underlined. (Material unchanged is omitted, even within paragraphs, unless deemed necessary to make sense of an amendment.)

Land Use and Urban Design Element

Page 3.10, Place-Based Land Use Classification System, third paragraph

“... The higher density represents the maximum number of allowable units, except in cases of density transfers, development rights and credits transfers,”

Page 3.11, The General Plan’s Relationship to the Zoning Ordinance

“~~While~~ The General Plan establishes a broad vision and framework for land use and urban design in Richmond; it may establish more specific standards to regulate development and use in particular situations. ~~The Zoning Ordinance establishes specific standards to regulate for development throughout the City.~~”

5th Cycle Housing Element Update (2015-2023)

Housing Resources and Opportunities

Adequate Sites: Available Sites for Housing

P. 62, first paragraph

“... Appendix C contains a list of ~~vacant~~ parcels planned and zoned for residential development, as well as city maps identifying the location of each ~~vacant~~ parcel.”

P. 62, third paragraph

“The maximum unit capacity for each ~~vacant~~ parcel was calculated ... In addition, the housing element only identified sites determined to have the greatest viability for residential development within the planning period ~~given the size of sites and location, which is smaller than~~; these sites are many fewer than the sites with actual development potential in Richmond. **Table 5.54** summarizes ~~vacant~~ land by zoning designation, including acreage, number of parcels, allowable density, maximum unit capacity, and realistic unit capacity. Richmond currently has approximately ~~228~~ 148 acres of developable ~~vacant~~ land zoned for residential and mixed-use development within the City limits that can accommodate ~~1,912~~ 2,323 residential units. Of the ~~1,912~~ 2,323 potential residential units, ~~1,254~~ 446 could be developed in single-family and multifamily zoning districts. An additional ~~658~~ 1,877 units could be developed in mixed-use commercial zoning districts. ... Several large commercial sites suitable for higher density housing exist in various areas of the City. The Hilltop Mall, for example, has extensive underutilized parking lots and is for sale. The Mall and surrounding parcels to the south are planned and zoned for High-Intensity Mixed Use for high-density residential development. Substantially all of the new housing there will be moderate and above-moderate income units...”

P. 63, first paragraph

“In addition to the ~~vacant~~ residential land shown in Table 5.54,....”

P. 63, second paragraph

“... As shown in **Table 5.56**, approximately ~~31.7~~ 87.6 acres are located in high density (greater than 30 du/acre) MFR-3 and commercial zones with a potential unit capacity of ~~668~~ 1,835 residential units, exceeding the remaining need of 314 units for low and very low income housing. Approximately ~~196~~ 60.1 acres of vacant land with allowed densities below 30 du/acre are available to accommodate up to ~~1,243~~ 488 housing units suitable for moderate and above moderate income levels. While this total ~~falls 158 units is short of the remaining need of 1,401 units, some of this remaining need may~~ can be met by excess capacity in higher density residential land, as well as through Additional planning and zoning efforts now underway that

will further increase available land and unit capacity for both market rate and affordable housing, as described below.”

P. 64

Table 5.54 Total Vacant Residential Sites					
Zone	Acres	# of Parcels	Allowable Residential Density (du/ac)	Max Unit Capacity	Realistic Unit Capacity Density^a
Residential					
SFR-1 Single Family Rural Residential District	24.95 18.34	2 1	4	99 73	79 58
SFR-2 Single Family Very Low Density Residential District	147.23 11.75	37 23	7.3	1069 85	855 68
SFR-3 Single Family Low Density Residential District	16.90	83	11.6	196	157
MFR-1 Multifamily Residential District	7.20	36	26.4	190	152
MFR-3 Multifamily High Density Residential District	0.25	2	54.5	13	11
Subtotal	196.53 54.44	160 145		1,567 557	1,254 446
Commercial					
C-2 General Commercial (Live/Work)	5.90	1	15	88	53
C-1 Neighborhood Commercial	3.33	16	34.8	116	70
C-2 General Commercial	20.26 24.51	28 29	34.8	706 852	424 511
C-3 General Commercial	3.17 52.51	1 10	34.8	110 1,827	66 1,096
CB Central Business District	2.61 4.97	16 24	34.8	91 172	55 103
CC Coastline Commercial District	2.08	2	34.8	73	44
Subtotal	31.45 93.30	63 82		1,096 3,128	658 1,877
Total	227.98 147.74	223 227		2,664 3,685	1,912 2,323
<i>Sites suitable to accommodate Richmond's share of regional housing need for lower income households (max density at least 30 du/acre)</i>					
	31.70 87.65	65 83		1,110 3,053	668 1,835

^aBased on historical trends and assumption that development standards combined with unique site features may not always lead to 100 percent buildout. Assumes 80 percent realistic unit capacity for residential zones and 60 percent for commercial zones. Note: Some totals may not add due to rounding.

P.66

Table 5.56 Comparison of Regional Growth Need and Sites				
Income Group	Remaining RHNA	Density^a	Acres	Units Accommodated
Very Low	274	>30 du/acre	31.7 87.65	668 1,835
Low	(132)			
Moderate	410	<30 du/acre	196.28 60.09	1,243 488
Above Moderate	991			
Total	1,543		227.98 147.74	1,911 2,323

^aPer Government Code Section 65583.2(c)(3)(B), sites zoned for densities greater than 30 du/acre are deemed appropriate to accommodate Richmond's share of regional housing need for lower income households.

Appendices, Richmond General Plan 2030, Housing Element

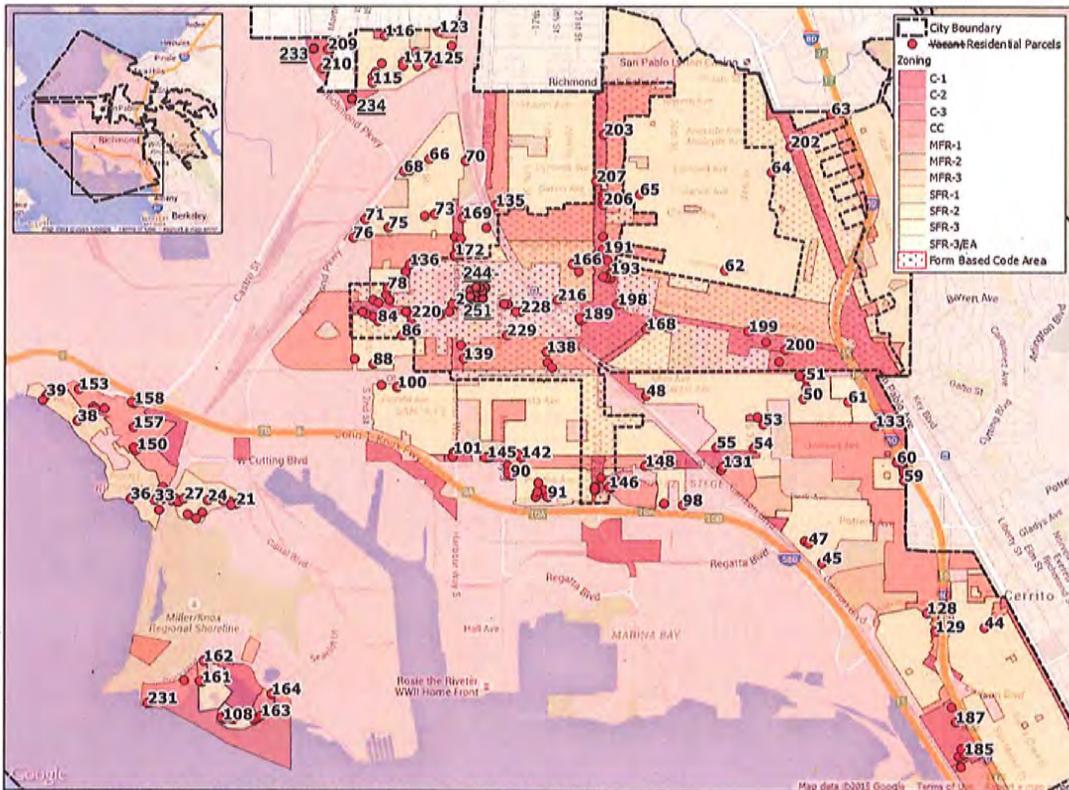
Table of Contents:

“Appendix C. Vacant Land Inventory and Vacant Land Maps”

Appendix C:
 “Vacant Land Inventory and Vacant Land Maps”

City of Richmond Housing Element Update 2015-23											
APPENDIX C: Vacant Land Inventory Summary											
APN	Number	Zoning	Land Use	SF	Acres	Density	MaxUnit	RealUnit	Use	Environmental	Infrastructure
561110042	233	C-2	CMU	185,130	4.250	34.8	147	88	Vacant	100 Yr Floodplain	Yes
561144002	234	C-2	LW	256,960	5.899	15	88	53	Vacant		Yes
APN	Number	Zoning	Land Use	SF	Acres	Density	MaxUnit	RealUnit	Use	Environmental	Infrastructure
405303012	235	C-3	HIMU	99,099	2.275	34.8	79	48	Commercial: used car lot, car rental agency		Yes
405320001	236	C-3	HIMU	26,136	0.600	34.8	21	13	Commercial: shopping center parking lot		Yes
405320005	237	C-3	HIMU	375,400	11.610	34.8	404	242	Commercial: shopping center parking lot		Yes
405320007	238	C-3	HIMU	166,835	3.830	34.8	133	80	Commercial: shopping center parking lot		Yes
405320011	239	C-3	HIMU	9,148	0.210	34.8	7	4	Commercial: shopping center parking lot		Yes
405320012	240	C-3	HIMU	479,160	11.000	34.8	383	230	Commercial: shopping center parking lot		Yes
405320018	241	C-3	HIMU	375,400	8.618	34.8	300	180	Commercial: shopping center parking lot		Yes
405320019	242	C-3	HIMU	248,509	5.705	34.8	199	119	Commercial: shopping center parking lot		Yes
405320020	243	C-3	HIMU	239,318	5.490	34.8	191	115	Commercial: shopping center parking lot		Yes
APN	Number	Zoning	Land Use	SF	Acres	Density	MaxUnit	RealUnit	Use	Environmental	Infrastructure
540081001	244	CB	HIMU	5,375	0.124	34.8	4	2	Parking lot		Yes
540081002	245	CB	HIMU	5,375	0.124	34.8	4	2	Parking lot		Yes
540081005	246	CB	HIMU	5,375	0.124	34.8	4	2	Parking lot		Yes
540081020	247	CB	HIMU	21,758	0.500	34.8	17	10	Vacant		Yes
540081021	248	CB	HIMU	6,795	0.156	34.8	5	3	Vacant		Yes
540081024	249	CB	HIMU	5,906	0.136	34.8	4	2	Vacant		Yes
540081026	250	CB	HIMU	15,849	0.364	34.8	12	7	Vacant		Yes
540092016	251	CB	HIMU	36,087	0.830	34.8	28	17	Vacant		Yes
APN	Number	Zoning	Land Use	SF	Acres	Density	MaxUnit	RealUnit	Use	Environmental	Infrastructure
435300009	1	SFR-1	HR	288,165	6.620	4	26	21	Vacant		Yes
APN	Number	Zoning	Land Use	SF	Acres	Density	MaxUnit	RealUnit	Use	Environmental	Infrastructure
435180005	3	SFR-2	HR	1,165,139	26.750	7.3	194	155	Vacant		Yes
435200008	4	SFR-2	HR	2,928,278	67.220	7.3	488	390	Vacant	100 Yr Floodplain, Brownfield Site	Yes
435210001	5	SFR-2	HR	85,973	1.970	7.3	14	11	Vacant		Yes
435210006	7	SFR-2	HR	266,779	6.120	7.3	44	36	Vacant		Yes
435230008	9	SFR-2	HR	11,008	0.250	7.3	2	1	Vacant		Yes
43-230014	10	SFR-2	HR	7,683	0.180	7.3	1	1	Vacant		Yes
435230015	11	SFR-2	HR	10,504	0.240	7.3	2	1	Vacant		Yes
435230021	12	SFR-2	HR	11,650	0.270	7.3	2	2	Vacant		Yes
435230027	13	SFR-2	HR	9,561	0.220	7.3	2	1	Vacant		Yes
435230028	14	SFR-2	HR	82,265	1.890	7.3	13	11	Vacant		Yes
435230030	15	SFR-2	HR	7,122	0.160	7.3	1	1	Vacant		Yes
435230040	16	SFR-2	HR	12,110	0.280	7.3	2	2	Vacant		Yes
435230046	17	SFR-2	HR	261,715	6.010	7.3	44	35	Vacant		Yes
435240001	18	SFR-2	HR	1,041,344	23.910	7.3	174	139	Vacant		Yes

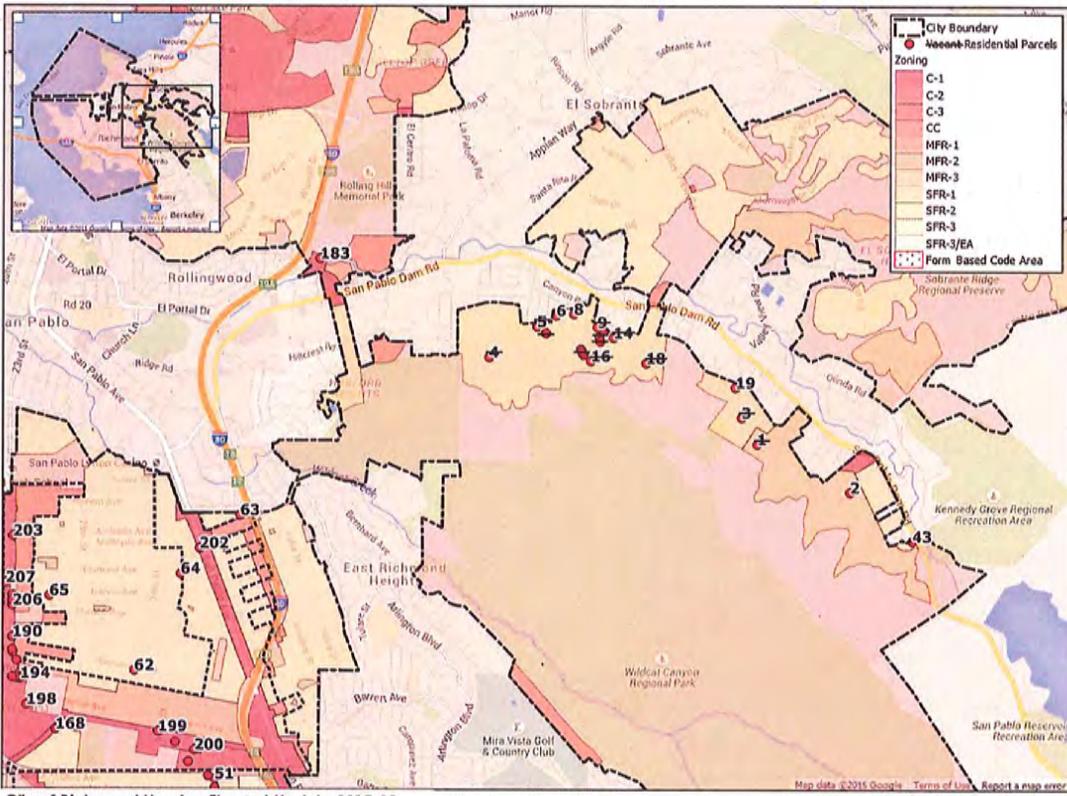
Note: Nonvacant parcels in the inventory are used as parking lots with no substantial structures that would interfere with their use for moderate and above-moderate income housing up to the maximum allowable density. No minimum commercial development is required on those sites.



City of Richmond Housing Element Update 2015-23
 Appendix C: Vacant Land Inventory Map 1 of 3

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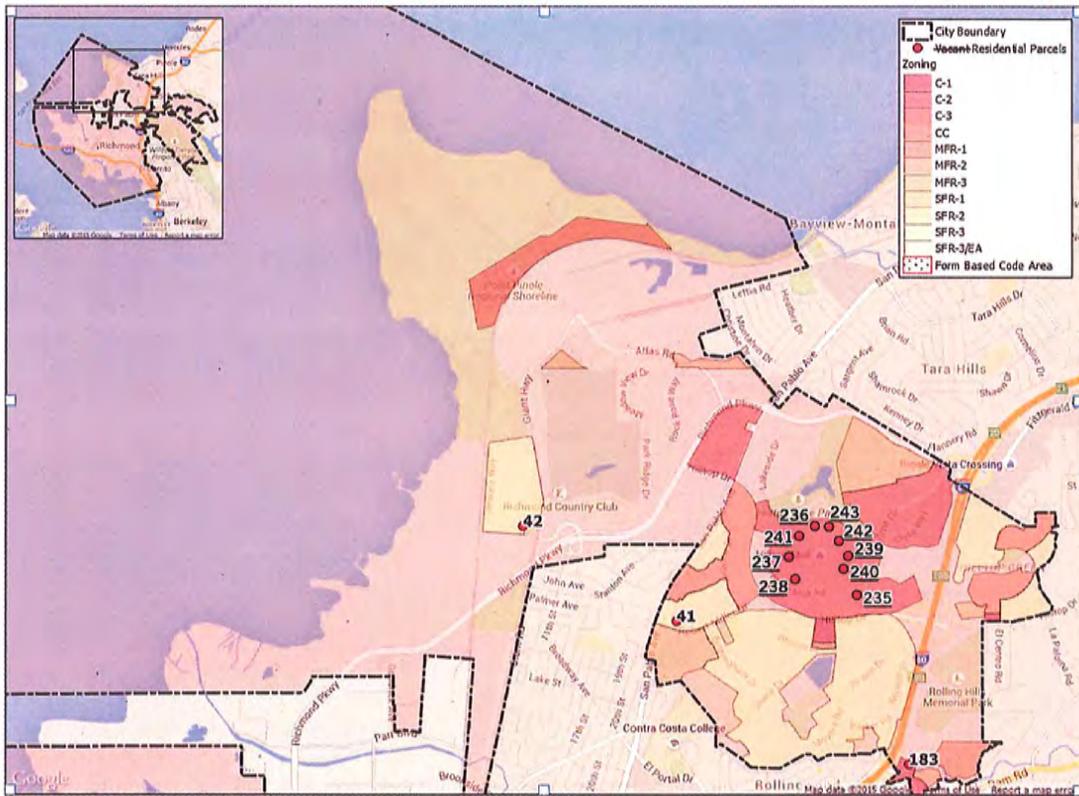
Prepared by Lisa Wise Consulting, Inc.



City of Richmond Housing Element Update 2015-23
 Appendix C: ~~Land~~ Land Inventory Map 2 of 3



Prepared by Lisa Wise Consulting, Inc.



City of Richmond Housing Element Update 2015-23
 Appendix C: Veesen-Land Inventory Map 3 of 3

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Prepared by Usa Wise Consulting, Inc.

