



## Agenda Item No. 4

### Staff Report

**Date:** May 31, 2023

**To:** Mayor Kuhl and Council Members

**From:** Rebecca Markwick, Planning and Building Director

**Subject:** Certification of Final Environmental Impact Report, and amendments to the Town of Ross General Plan to adopt a new Housing Element.

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### Recommendation

It is recommended that the Town Council

1. Adopt a Resolution of the Town Council of the Town of Ross Certifying the Final Environmental Impact Report for the 2023-2031 Housing Element, Making CEQA Findings of Fact, Adopting a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring Program; and
2. Adopt a Resolution of the Town Council of the Town of Ross Amending the Town of Ross General Plan to Repeal the 2015-2023 Housing Element and Adopt the 2023-2031 Housing Element

### Background

Every eight years, each California town and county must update the Housing Element of their General Plan in accordance with the requirements of State law. The proposed Housing Element meets these requirements and includes an inventory of suitable housing sites, housing opportunity sites, analysis of housing constraints, and updated policies and programs to guide its implementation from 2023-2031 (6<sup>th</sup> Cycle Housing Element).

The proposed amendment to the Town of Ross General Plan consists of replacing the existing Housing Element 2015-2023 with the 6<sup>th</sup> Cycle Housing Element, 2023-2031 (the "Project").

An Environmental Impact Report (EIR) was prepared for the Project in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines.

On May 11, 2023 the Town Council provided feedback on the overview of comments from the California Department of Housing and Community Development (HCD) on the Draft Town of Ross 2023-2031 Housing Element. The feedback received included removing the post office site from the Housing Inventory map and adding three units to the Civic Center site.

## **Project Description**

### **Housing Element**

A Housing Element is an opportunity for the community to establish goals, policies, and programs to address local housing needs. Each California town and county must adopt a Housing Element to plan for the housing needs of the community at all economic levels, including low-income households and households with special needs. The Housing Element addresses a range of housing issues such as affordability, housing types, density and location, and establishes goals, policies and programs to address existing and projected housing needs. The Housing Element must be internally consistent with other parts of the General Plan and is critical to having a legally adequate General Plan. The Housing Element is one of seven required elements of the Town's General Plan, which serves as the blueprint for how the Town will grow and address changing needs for development. The Town's current 2015-2023 Housing Element was adopted March 12, 2015 and can be found at:

[https://www.townofross.org/sites/default/files/fileattachments/planning/page/241/final\\_housing\\_element\\_2015-2023.pdf](https://www.townofross.org/sites/default/files/fileattachments/planning/page/241/final_housing_element_2015-2023.pdf)

In compliance with State law, the 6<sup>th</sup> Cycle Housing Element must include an inventory of sites suitable for residential development, an assessment of financial and programmatic resources, and an analysis of constraints to housing production. The 6<sup>th</sup> Cycle Housing Element should reflect local decisions about where safe, accessible, and diverse housing could be developed to offer a mix of housing opportunities for a variety of household incomes. The 6<sup>th</sup> Cycle Housing Element must also identify how the Town will meet its Regional Housing Need Allocation (RHNA) and demonstrate compliance with various State housing laws including new requirements for affirmatively furthering fair housing (AFFH).

The sites inventory was developed through an iterative public process beginning in May of 2022. The sites identified in the 6<sup>th</sup> Cycle Housing Element reflect the various community meetings, presentations to Community Groups, Focus Group discussions, Town wide mailers, general public input, recommendations and feedback from the Town Council.

Following a 30-day public comment period, and a 14-day period to make any changes based on the public comment, the Draft 6<sup>th</sup> Cycle Housing Element was submitted to HCD for a mandatory 90-day review on December 13, 2022. On March 13, 2022 the Town of Ross received HCD's review letter and findings regarding the Element's compliance with state law (**Attachment 4**).

The Adoption Draft Housing Element (**Attachment 5**) has been clarified and revised as necessary to meet the requirements of State law including Article 10.6 (commencing with Section 65580) of the Government Code and the findings of the HCD review letter, as detailed in Exhibits B and C of Attachment 2.

The 6<sup>th</sup> Cycle Housing Element identifies nine parcels on 72.16 acres, 22 parcels identified as candidates for SB 9 sites, and 80 Accessory Dwelling Units ADU's projected at 10 per year as opportunity sites to facilitate the 111 Housing Units identified in the 6<sup>th</sup> Cycle Housing Element. The identification of opportunity sites does not require that the sites be developed, nor does it mandate that a development proposal must match the land use, income level or density that is projected in the 6<sup>th</sup> Cycle Housing Element. However, the Town must monitor and maintain adequate sites on its inventory to meet its RHNA at all income levels throughout the planning period. If housing inventory sites are not developed in accordance with the element projections (e.g., a vacant site is developed with nonresidential use, or is developed at a lower density than projected), the Town is responsible to ensure that there are adequate sites, or to identify and rezone additional sites, to comply with the RHNA. Therefore, it is preferred that a "buffer" of sites, beyond the minimum necessary to meet the RHNA, are identified in the 6<sup>th</sup> Cycle Housing Element. Based on the analysis in the 6<sup>th</sup> Cycle Housing Element and the HCD review comments, staff believes that the sites inventory with the buffer is adequate to maintain compliance with the RHNA in total and at each income level through the 2023-2031 planning period.

The goals, policies and programs of the 6<sup>th</sup> Cycle Housing Element are essential components of the 6<sup>th</sup> Cycle Housing Element. They reflect the efforts necessary to implement the 6<sup>th</sup> Cycle Housing Element and to achieve or maintain the Town's compliance with State housing laws and will comprise a significant commitment of the Town's work program over the upcoming eight-year planning period, which will engage resources primarily within the Community Development Department, but also including the Town Attorney's Office, and the Town Manager's Office. Although many programs have been carried over from the prior Housing Element cycle, most have been revised to reflect current status or requirements. In addition, new programs have been added to meet the current requirements of the State.

#### Environmental Impact Report (EIR)

CEQA requires that local government agencies, prior to taking action on projects over which they have discretionary approval authority, consider the environmental consequences of such projects. An EIR is the most comprehensive form of environmental documentation identified in CEQA and in the CEQA Guidelines. It provides the information needed to assess the environmental consequences of a proposed project, to the extent feasible. EIRs are intended to provide an objective, factually supported, full-disclosure analysis of any environmental consequences associated with a proposed project which may have the potential to result in significant, adverse environmental impacts.

The Town determined that a program EIR should be prepared for the Project, in accordance with the requirements of CEQA including Section 15168 of the CEQA Guidelines. The program EIR considers potential for environmental impacts, but not the likelihood of such impacts and therefore reflects the potential "worst case" scenario that does not account for individual choices of the applicant or property owner, nor the outcomes of specific project review processes.

The Final EIR (also referred to as “the EIR”) addresses the environmental effects associated with adoption and implementation of the Project. The Project identified nine parcels on approximately 72.16 acres throughout the Town as opportunity sites to accommodate the Town’s projected housing need; in addition, it would adopt a number of goals, policies and programs within the General Plan, to address housing needs and plan for resilience to climate hazards.

The EIR identifies measures (“mitigations”) to reduce environmental effects to less than significant, which are contained in the Mitigation Monitoring and Reporting Program (MMRP) (Exhibit B to Attachment 1). In addition, the EIR includes a response to comments and revisions to the Draft EIR based upon (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of Draft EIR publication; and/or (3) typographical errors. In some instances, environmental impacts cannot be reduced to a level of “less than significant”. Where the Town Council determines that the benefits of the Project outweigh the unavoidable adverse effects, those effects may be considered “acceptable” based on substantial evidence in the EIR, or the administrative record, and reflected in the Statement of Overriding Considerations (Exhibit A to Attachment 1).

In order to proceed with adoption of the Project, the Town Council must first certify the EIR. Attachment 1 includes the Findings of Fact and Statement of Overriding Considerations (Exhibit A) and Final EIR (Exhibit B) and the MMRP (Exhibit C). The Draft EIR, which is incorporated by reference into the Final EIR, is available on the Town’s website and at Town Hall.

**NEXT STEPS:**

Following certification of the EIR, a Notice of Determination will be filed with the Marin County Clerk.

Following adoption of the General Plan amendment, the General Plan will be updated to reflect the Town Council’s action and any associated clerical revisions (e.g., page renumbering, numbering of figures and exhibits).

The adopted 6<sup>th</sup> Cycle Housing Element will be transmitted to the Department of Housing and Community Development for further review and certification. That attached resolution (Attachment 2) authorizes the Town Manager or their designee to make non-substantive changes to the 2023-2031 Housing Element to respond to any comments received from HCD to achieve certification and make non-substantive clerical updates for internal consistency and as to formatting (e.g., pagination, numbering of tables and diagrams).

**Public Comment**

Comments were received regarding the DEIR from Mr. Wolfe and Associates, P.C. Attorneys at Law who represents Mr. Weisel.

**Attachments**

1. Resolution No. 2309 Statement of Overriding Considerations-Certifying the EIR

- Exhibit A- Findings of Fact of Overriding Considerations
- Exhibit B- Final Environmental Impact Report
- Exhibit C- Mitigation Monitoring and Reporting Program
- 2. Resolution 2310 Amending the Town of Ross General Plan
  - Exhibit A – 2023-2031 Housing Element
  - Exhibit B – Compliance with Housing Element Statutory Requirements
  - Exhibit C – Changes to the 2023-2031 Housing Element in Response to the HCD letter dated March 13, 2023
- 3. Written Public Comment
- 4. HCD Review Letter, March 13, 2023
- 5. Adoption Draft Housing Element, Mark-up Copy