

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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March 13, 2023

Rebecca Markwick, Director
Planning and Building Department
Town of Ross
31 Sir Francis Drake Boulevard,
Ross, CA 94957

Dear Rebecca Markwick:

RE: Town of Ross' 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the Town of Ross' (Town) draft housing element received for review on December 13, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on March 1, 2023, with you and the Town's consultant, Andrew Hill. In addition, HCD considered comments from South Bay YIMBY Law, Campaign for Fair Housing Elements, David Kellogg, and YIMBY Law and Greenbelt Alliance, pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the Town should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) pursuant to

Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c), shall be completed no later than one year from the statutory deadline. Please be aware, if the Town fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites are completed.

Please be aware Chapter 654, Statutes of 2022 (AB 2339), adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the Town will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the Town to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

We are committed to assist the Town in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Armando Jauregui, of our staff, at jose.jauregui@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX TOWN OF ROSS

The following changes are necessary to bring the Town's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The element must provide an evaluation of the cumulative effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness) and revise programs as appropriate.

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

Enforcement and Outreach Capacity: While the element includes analysis of fair housing complaints, it must describe the Town's compliance with existing fair housing laws and regulations including findings, lawsuits, enforcement actions, settlements, or judgments related to fair housing or civil rights. For additional information, please see pages 28-30 on HCD's AFFH Guidance Memo at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Regional Analysis: The element includes several regional maps and some high-level conclusion regarding the region and various components of the assessment of fair housing; however, the purpose of the analysis is to compare the Town to the broader region. For example, the regional analysis regarding income included a general statement that some surrounding communities have a concentration of poverty. While

that is generally true, the Town is surrounded by census tracts, communities and unincorporated areas that have a higher percentage of low-moderate income households compared to the Town. Another example, the regional analysis on racially concentrated areas of affluence (RCAA) includes one statement indicating that Marin County includes several RCAA census tracts. The element must include a complete analysis of the Town compared to the broader region and with nearby communities including unincorporated areas, and evaluate disparities and differences in income, race, disparities in access to opportunity and other relevant components from the assessment of fair housing. Additionally, the element should supplement this analysis with local data and knowledge and other relevant factors (noted in the finding below). Based on a complete analysis, the element must formulate meaningful actions and programs in response to the analysis.

Local Data and Knowledge and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to supplement the analysis and complement federal, state, and regional data to capture emerging trends and issues related to fair housing. The element could utilize knowledge from local and regional advocates and service providers, Town staff and related local and County planning documents. Additionally, the element should analyze historical land use, zoning and barriers to housing choices, governmental and nongovernmental spending including transportation investments, seeking investment or lack thereof to promote affordability and inclusion, local initiatives, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element must include data on the location of regional housing need allocation (RHNA) sites by income group relative to all fair housing components. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, disparities in access to opportunity). The element should also discuss any isolation of the RHNA by income group and whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., housing mobility, increasing housing choices and affordability).

Contributing Factors to Fair Housing Issues: The element includes contributing factors to fair housing issues but should re-evaluate and prioritize these factors based on a complete analysis to better respond to the fair housing issues.

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code,

Overpayment: While the element identifies the total number of households overpaying for housing, it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Special Housing Needs: The element includes data and a general discussion of housing challenges faced by special needs households. However, the element must be revised to include an analysis of the existing needs and resources for each special need group including seniors, farmworkers, large households, persons with disabilities including developmental disabilities, extremely low-income (ELI) households, and persons experiencing homelessness. For example, the element should discuss the existing resources to meet housing needs (availability of shelter beds, number of large units number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Realistic Capacity: The element identifies sites (sites 5, 6 and 8) in zones that appear to allow for 100 percent nonresidential uses (e.g., C-D and C-L zone). The element must analyze the likelihood that residential will occur in nonresidential zones. A complete analysis should consider the likelihood of nonresidential development, performance standards and development trends supporting residential development. The element could also analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites (sites 5, 6, 7 and 8). The analysis must should consider the Town's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

- *Site 5* - The element notes that the Town is preparing a master plan for Site 5 to modernize the Ross Civic Center with a new Town Hall and public safety building. The element indicated, as part of the master plan development, the plan will incorporate the construction of six units. However, the element needs additional analysis to demonstrate the redevelopment potential. For example, the analysis could discuss whether the Town will be partnering with a developer to

build these units, the availability of funding to achieve affordability and any other information to demonstrate redevelopment potential.

- *Site 6* – The element indicated that because the building is aging and in need of repair, future development could include additional units. However, the element should demonstrate the likelihood for redevelopment. For example, the element could discuss the likelihood of future development and timelines for this planning period. It could also quantify the age of the building and any other criteria such as the degree of underutilization of the site.
- *Site 7* – The element provided no discussion or analysis.
- *Site 8* – The element noted that this site includes three-story commercial office space with a relatively large surface parking lot and that it also has the lowest built floor area ratios of the area. The element could quantify the floor area ratio and discuss the likelihood of residential being development on the surface parking lot.

For your information, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Senate Bill 9 (Statutes of 2021) Projections: The element is projecting 22 units to accommodate a portion of the Town's above moderate-income RHNA. In addition, the element increased capacity on Sites 1 and 3 based on the likelihood of SB 9 units. While the element indicates the criteria utilized to identify SB9 sites (e.g., floor area ratio and improvement to land value), the element must provide support for these criteria. Specifically, the element must include an analysis demonstrating how these criteria are indicative of these sites redeveloping with SB 9 units. The element could include local or regional examples of sites developing with SB 9 units with similar criteria. Second, while the element included a map of SB 9 identified parcels, the element must include a site-specific inventory. Third, the element must discuss the extent the existing uses may impede additional development. For example, the element generally assumes that SB 9 units will be achieved through lot splits. As such, the element should discuss lot shapes, configurations of the existing structures, and other conditions that renders these parcels suitable and feasible for lot splits. Third, the element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9. Lastly, the element must include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. Specifically, Program 2-B commits to providing technical assistance, preparing information and "exploring regulatory incentives". However, to ensure the development of SB 9, this program must go beyond "exploring" and include a specific commitment to establishing incentives. This Program must also commit to more proactive outreach to homeowners and developers throughout the planning period. Additionally, the Program should

include a commitment to monitoring production throughout the planning period and include additional actions if production is not keeping pace with the assumptions in the element.

Zoning for Lower-income Households (Site 2): The element identifies ten lower-income units on Site 2 (Branson School) to accommodate a portion of the RHNA. This site's zoning allows for a maximum allowable density of one dwelling unit per acre. The element must demonstrate densities appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (at least 20 units per acre for Ross), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) Otherwise, an analysis must demonstrate appropriate densities based on factors such as market demand, financial feasibility and development experience within identified zones.

Adequate Sites Alternatives (Site 2): The element is counting five units under the alternative adequate sites (Gov. Code, § 65583.1, subd. (c)) through acquisition of market rate housing and deed-restriction for lower-income households. However, to utilize this potential for converting existing units toward the RHNA, the element must demonstrate how these units will meet the requirements of Government Code section 65583.1, subdivision (c), including but not limited to identifying sources of committed assistance and various other requirements. For additional guidance, please see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/adequate-sites-alternative>.

Town-Owned Sites (Sites 5 and 6): While the element briefly describes its strategy to use Town-owned sites to accommodate a portion of the RHNA for lower income households (p. 3-9), the analysis should also address general plan designations, allowable densities, support for residential capacity assumptions, existing uses and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element must include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). In addition, the housing element must include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act.

Environmental Constraints: While the element generally describes some potential environmental constraints, it must also describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period. (e.g., shape, contamination, easements, conditions, compatibility).

Accessory Dwelling Units (ADU): The element is projecting 80 ADUs for an average of 10 ADUs per year over the eight-year planning period to accommodate a portion of its RHNA. The projection is based on submitted applications and building permits issued between 2020-2023. The element reported that the Town permitted 1 ADU in 2020, 3 in 2021, 10 in 2022 and 17 in 2023, averaging 7.75 ADUs per year. Given that the element is assuming a higher yearly average than what has been previously permitted, the

element must include additional analysis and data to support this trend. Additionally, while the element included Program 5-C committing to monitor ADU production, this program must also commit to implementing additional actions if the Town is not on track to meet the assumptions in the element. If necessary, additional actions should be taken in a timely manner (e.g., within six months). The degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the Town must submit an electronic sites inventory with its adopted housing element. The Town must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The Town can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* Pursuant to Government Code section 65583, subdivision a)(4)(A), parking for emergency shelters should only be the number of spaces necessary for staff working in the shelter and no more than other uses in the same zones. The element should discuss compliance with this requirement or include a program, if necessary.
- *By-Right Permanent Supportive Housing (AB 2162):* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with these requirements and include programs as appropriate.
- *Manufactured Housing:* The element must demonstrate the jurisdiction's zoning code allows and permits manufactured housing on a permanent foundation in the same manner and in the same zone as single-family housing (Government Code Section 65852.3). The element must demonstrate zoning complies with this requirement or add or modify programs as appropriate.
- *Accessory Dwelling Units:* After a cursory review of the Town's ordinance, HCD discovered several areas inconsistent with State ADU Law. For example, the ordinance requirements for a kitchen, new height provisions, bedroom limitation, size, new parking exception, landscaping, new setback exceptions on lots with multifamily dwellings, and location of Junior ADUs (JADUs) do not comply with State ADU law. As a result, the element should add a program to update the

Town's ADU ordinance to comply with state law. HCD will provide a complete listing of ADU noncompliance issues under a separate cover.

- *Employee Housing*: The element must demonstrate that zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls (Parking): The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to parking requirements. For example, the element indicated that two parking spaces are generally required for units that are 500 square feet (p. C-7). Additionally, the element notes that each unit must provide minimum number of parking spaces and then an additional parking space per 250 square feet of rentable space, potentially requiring 2-3 parking spaces for units between 500-1000 square feet. Requiring two spaces (or more) for smaller bedroom units such as studios and one-bedroom units is considered a constraint. For example, these provisions can increase project costs and impact a projects the ability to meet maximum densities. The element should analyze these requirements for impacts on cost, supply, housing choices, project feasibility and achieving maximum densities. Based on a complete analysis, the element should add or modify programs to address this constraint.

Local Processing and Permit Procedures: The element notes that a variety of housing types appear to be permitted by right (Table C-1); however multifamily projects located in the C-D and C-L district may require a conditional use permit (CUP). Specifically, the element indicates that multifamily housing is exclusively allowed with additional regulations (p. C-3). The element must specifically analyze the CUP process as a potential constraint on housing supply and affordability. The analysis should describe the process, approval criteria or findings, number of hearings, if applicable and analysis any impacts on cost, supply, housing choice, affordability, timing, approval certainty, and ability to achieve maximum densities. Based on a complete analysis, the element may need to add or modify programs to remove or mitigate the constraint.

The element should address public comments on this draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing

requirements, including streamlining determinations and add or modify programs as appropriate.

Fees and Exaction: While the element included a listing of fees, the analysis should identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing and analyze their impact as potential constraints on housing supply and cost.

Codes and Enforcement: While the element provides an analysis regarding various codes and standard adopted by the Town pursuant to state law, it must also list and analyze any local amendments for impacts on housing costs. Finally, the element should describe and analyze how the Town enforces building codes (e.g., complaint versus proactive based).

Housing for Persons with Disabilities:

- *Reasonable Accommodation:* The element identifies approval findings for granting a reasonable accommodation including findings related to impact on surrounding uses (p. C-20) – essentially a conditional use permit finding. However, reasonable accommodation should be a unique exception process from a conditional use permit, especially given its importance in addressing barriers to housing for persons with disabilities. The element should include a program to amend the reasonable accommodation ordinance and remove constraints, namely the “potential impact on surrounding uses” approval finding.
- *Other Requirements:* The element must identify and analyze the Town’s definition of family used in zoning and land use. The element should also describe any siting or spacing requirements for group homes.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels including... ..requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality’s share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Requests for Lower Density and Permit Times: The element must analyze (1) requests to develop housing at densities below those identified in the inventory and (2) the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the construction of a locality’s share of the regional housing need and programs should be added or modified as appropriate.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element programs must have specific commitment to clear measurable outcomes or deliverables. Additionally, programs should have quantifiable and measurable metrics. Specifically, Programs 1-A (Housing Issues), 1-B (Inter-Jurisdictional) and Program 1-C (Fair Housing) should be revised to include numerical objectives.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the Town may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

- *Town-owned Sites (Sites 5 and 6):* The element identified Program 3-A (Civic Center Master Plan) and Program 3-B (Ross Post Office Site) to facilitate the development of Town-owned sites to accommodate a portion of the RHNA. The element should add or modify a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of Town -owned sites used towards the RHNA. Actions (with discrete timing) should include outreach with developers, issuing requests for proposals, incentives, financial assistance, zoning, issuing entitlement and building permits. In addition, Program 3-B (Ross Post Office Site) must commit to issuing entitlements within a reasonable timeline (e.g., two years) or identify alternative sites within a specified time if construction does not proceed as anticipated.
- *Sites Identified in Prior Planning Periods (Site 2):* The element indicated that Site 2 was identified in previous planning periods and is now being used to

accommodate housing for lower-income households; however, it must include a program for vacant sites identified in two of more consecutive planning periods' housing elements or nonvacant sites identified in a prior housing element. The program must be implemented within the first year of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households (20 units per acre) and allow by-right approval (without discretionary action) for housing developments that include 20 percent or more of its units affordable to lower-income households.

Program 2B – SB 9 Housing: As noted in the prior finding and given the Town's reliance on SB 9 projections, this Program must commit to proactive outreach with homeowners and developers annually, commitment to the development of incentives early in the planning period, marketing, and making adjustments to assumptions as necessary.

- *Replacement Housing Requirements:* The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).
- *Alternative Adequate Sites:* While the element included Program 2-F and 3-K exploring a commitment to deed-restrictions and ongoing coordination, the element must include a program that commits to provide the assumed units by income category through committed assistance at affordable housing costs, including, but not limited to:
 - Identifying the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.
 - Indicating the number of units that will be provided to both low- and very low-income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.
 - Demonstrate that the units meet the requirements of Government Code section 65583.1, subdivisions (c)(1) and (2).

3. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element must include program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households and households with special needs. The element included Programs 4-D, E and F; however these Programs do include tangible deliverables beyond coordination and utilizing existing efforts. The element should be revised with programs such as establishing priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to

extremely low-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/assist-in-development-housing.shtml>.

4. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding B4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the Town may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised as follows:

- *Program 2-A (Streamlining the Design Review Process)*: The element recognized that the advisory design review process, the Town's use permit requirements and the hillside lot regulations can act as potential constraint on development by limiting floor area ratio and lead to uncertainty given the subjective nature of these requirements (p. C-24). To address this, the element including Program 2-A which will "consider" and "explore options for streamlining and expediting design review". However, actions must include a specific commitment, beyond just exploring and commit to reviewing and modifying or removing these constraints.
 - *Water and Sewer Priority*: The element does not address water and sewer priority for developments with units affordable to lower-income households. For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The Town must add a program or policy to comply with this requirement. For additional information and sample cover memo, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/priority-water-and-sewer>.
5. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).*

Goals, Actions, Metrics, and Milestones: As noted in Finding B1, the element must include a complete analysis of AFFH. Additionally, the element included Table 3-9 (p. D-39) identifying fair housing issues and actions the Town could take to address these

issues. For example, the table notes the Town could increase housing voucher mobility and acquire properties for affordable housing. However, beyond promoting ADUs and RHNA sites, the programs do not include firm commitments to addressing fair housing issues. Programs and actions must be significant and meaningful in address fair housing issues. Given that the entirety of the Town and most of the region is considered high resourced, higher-income and racially homogenous (mostly white population), the element must focus on significant and meaningful programs and actions that enhance housing mobility and encourage development of more housing choices and affordable housing in an inclusive manner – regardless of RHNA.

The element must add and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues. Furthermore, the element must include specific commitments, metrics and milestones for evaluating progress on programs, actions, and fair housing results. For more information, please see HCD’s guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households... (Gov. Code, § 65583, subd. (c)(7).)*

- *Program 5-C (ADU and JADU trends):* As noted in the previous finding, this program should commit to adopting an ADU ordinance compliant with State law and addressing HCD’s ADU review and commit to frequent monitoring of ADU production and affordability and implement additional actions such as, rezoning, identifying additional sites, fee reduction, etc., if assumptions are not met by a specified date.
- *Program 3-E (Amnesty for Unpermitted ADUs):* The element should be revised to include a list of additional incentives the Town will implement. Language such as “should offer incentives” does not constitute meaningful actions.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element did not address this requirement. The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. This requirement could be addressed by utilizing a matrix like the one illustrated below:

Income	New Construction	Rehabilitation	Conservation/ Preservation
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Extremely Low-			
Very Low-			
Low-			
Moderate-			
Above Moderate-			
TOTAL			

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

While the element indicated that the Town provided specific presentations and efforts to organizations such as property owners, design review professionals and schools, the element must demonstrate diligent efforts to involve all economic segments of the community, specifically lower-income and special needs populations. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/public-participation>.

F. General Plan Consistency

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The element must describe how consistency was achieved and how it will be maintained during the planning period. For example, to maintain internal consistency, the element could include a program to conduct an internal consistency review of the general plan as part of the annual general plan implementation report required by Government Code section 65400. The annual report can also assist future updates of the housing element. For additional information and a sample program, see the *Building Blocks* at <https://www.hcd.ca.gov/planning-and-community-development/annual-progress-reports>.