



Agenda Item No. 8.

Staff Report

Date: May 6, 2024

To: Mayor Kircher and Council Members

From: Roberta Feliciano, Planning and Building Director

Subject: Second Amendment to the Locally Adopted 2023-2031, 6th Cycle, Housing Element; including amendments to certain programs based on comments from California Department of Housing and Community Development

Recommendation

It is recommended that the Town Council adopt Resolution No. 2419 approving the second amendment to the Town of Ross 2023-2031, 6th Cycle, Housing Element.

Background

Since March 2022, the Town of Ross has been preparing and pursuing State certification of an update to its Housing Element in accordance with State law. Every eight years, jurisdictions in California must update the Housing Element of its General Plan to satisfy the requirements of State law. On May 31, 2023, the Town Council of the Town of Ross locally adopted the 6th Cycle Housing Element, 2023-2031 (the "Project"). This updated Housing Element addresses State requirements, including an inventory of suitable housing sites, housing opportunity sites, analysis of housing constraints, and updated policies and programs to guide implementation of the 2023-2031, 6th Cycle, Housing Element. An Environmental Impact Report (EIR) was prepared for the Project and certified by the Town Council in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. The process of updating the Housing Element involved consultations with and responding to comments from the California Department of Housing and Community Development (HCD) on the Town of Ross 2023-2031 Housing Element, various community meetings, presentations to Community Groups, Focus Group discussions, Town-wide mailers, general public input, recommendations and feedback from the Town Council.

In June of 2023, the locally adopted, May 31, 2023, 6th Cycle, Housing Element was transmitted to HCD for further review and certification. Subsequently, Town staff and Dyett & Bhatia, the Town's Housing Element Update consultant, met with the HCD reviewers to receive and provide information related to the review process. On August 15, 2023, the Town received a letter from HCD indicating that amendments were required prior to State certification of the Town's 6th Cycle Housing Element. On December 14, 2023, the Town Council adopted Resolution No. 2351 amending the Housing Element to respond to HCD's comments. On January 11, 2024, the HCD completed its review of the amendments to the 2023-31 Housing Element and sent a letter stating that additional revisions were necessary to substantially comply with State Housing Element Law. HCD's January 11th letter is attached hereto as Exhibit B to Attachment 2. Town staff and consultants have worked iteratively with HCD staff to address comments in the letter. Based on a preliminary review of the revised Element, HCD staff have provisionally indicated that the proposed amendments to the Housing Element adequately respond to all the items identified in HCD's January 11th letter. If additional information from HCD is received prior to the May 6th meeting, staff will make that information available to the Council and the public and provide an update during the public hearing.

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, city, 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.

In compliance with State law, the 6th 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 6th 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 6th Cycle Housing Element must also identify how the Town will meet its Regional Housing Needs 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 6th Cycle Housing Element identifies eight properties on 71.79 acres as opportunity sites to facilitate the 111 new Housing Units, the Town's RHNA assignment by the State, as identified in

the 6th 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 6th Cycle Housing Element. Additionally, the Element projects capacity for 20 new housing units on unspecified sites that meet eligibility criteria under SB9, as well as for 80 Accessory Dwelling Units (ADU's) projected at 10 annually over the 8-year planning period. The Town must monitor and maintain adequate capacity on 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 Housing 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 provide adequate capacity to meet the RHNA at all income categories. Therefore, it is recommended that a "buffer" of sites, beyond the minimum necessary to meet the RHNA, be identified in the 6th Cycle Housing Element. Based on the analysis in the 6th 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 6th Cycle Housing Element are essential components of the 6th Cycle Housing Element. They reflect the efforts necessary to implement the 6th 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 Planning and Building 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 approving projects over which they have discretionary 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 and then certified the document, 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, certified, 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 hazard. The EIR, is available on the Town’s website and at Town Hall.

Based on the content, analysis, and findings of the previously certified EIR staff finds the proposed amendments to the Housing Element in response to the January 11, 2024, HCD comments (Attachment 2, Exhibit B) would not result in new or substantially more adverse impacts than identified in the previously certified EIR and that no further environmental review is required at this time (See CEQA Addendum Memorandum, Attachment 1).

Proposed Amendments to the Housing Element

In summary, the revisions proposed to address the HCD comment letter include the following:

- Additional analysis to support the Town's projections for SB9 housing development.
 - In response, a survey of sites approved for SB9 housing in other Marin County jurisdictions was conducted and additional analysis was incorporated to demonstrate that the candidate sites in Ross have similar characteristics and that SB9 housing is viable on them. The analysis considered property size, parcel dimensions, access, and zoning. Based on the findings, an amendment to Ross' adopted SB9 ordinance is proposed to permit primary structures of up to 30 feet in height, which is consistent with current single-family residential zoning.
- Additional analysis to demonstrate that the Town complies with State law regarding emergency shelters.
 - While there is no unmet need for emergency shelter beds in Ross, the Element has been updated to demonstrate that sufficient capacity is theoretically available if ever the need arises. Additionally, Program 4-B now calls for the definition of emergency shelter in the Town Code to be updated for compliance with new State law.
- Modification to Program 3-J.
 - While HCD acknowledged that the Town has adopted appropriate zoning and related development standards to permit workforce housing as required by Program 3-J, HCD staff requested that Program 3-J be updated to commit to establishing development standards that encourage the anticipated housing and ensuring zoning, development standards and other provisions do not constrain development.
- New "Housing Mobility" Actions. Given that the Town of Ross is classified as a Racially Concentrated Area of Affluence by the State, HCD requested that the Town incorporate additional actions to increase opportunities for disadvantaged and low-income residents to live in Ross - which HCD calls "housing mobility." To address this, three new actions are proposed:

- Adopt an affordable housing fee applicable to new market rate residential construction and major remodels in Ross. Fees generated would be placed in an affordable housing fund to be used to offset development fees and other incentives provided to affordable housing projects townwide.
- Amend the SB9 ordinance to allow up to six units on what is currently a single-family parcel if the property owner commits to making two of the additional units affordable to households earning less than 80 percent of the Marin County median income through a long-term affordability agreement. The Town's current ordinance permits up to four units, consistent with State law.
- Increase the target for the tenant matching program from 10 matches to 32 over the 8-year planning period. Under the program, Home Match Marin matches homeowners who have an extra room with students and others seeking a room to rent. Home sharing can be a particularly effective tool to support independent living for seniors and disabled residents while also increasing local housing opportunities for lower income earners who work in Marin County.

Zoning Ordinance

As part of the Housing Element Implementation Plan, omnibus zoning code clean up amendments will be conducted this year to further align the Housing Element with the Zoning Ordinance.

Findings

The revisions proposed by the second amendment to the May 31, 2023, locally adopted 2023-2031, 6th Cycle, Housing Element are consistent with the Ross General Plan including related goals, policies, and objectives, as described in Resolution No. 2419 (Attachment 2).

NEXT STEPS:

Following the adoption of the second amendment to the Town of Ross 6th Cycle Housing Element, the revised Housing Element will be transmitted to HCD for review and certification.

Public Comments

As of the writing of this report, no comments have been received from the public.

Attachments

1. CEQA Addendum Memorandum
2. Resolution No. 2419 Amending the Town of Ross May 31, 2023, locally adopted 2023-2031, 6th Cycle, Housing Element
 - Exhibit A – Amended/Redlined Adopted 2023-2031, 6th Cycle, Housing Element
 - Exhibit B – HCD January 11, 2024, Comment Letter
 - Exhibit C – Matrix Summarizing HCD Comments and Town of Ross Responses

ATTACHMENT 1

M E M O R A N D U M

To: Roberta Feliciano, Planning and Building Director, Town of Ross
From: Andrew Hill, Principal
Re: Environmental Review of Modifications to the Housing Element in Response to HCD Comments
Date: April 29, 2024

Dear Roberta:

On May 31, 2023 the Ross Town Council adopted the 2023-31 Housing Element and certified an accompanying environmental impact report (EIR) (State Clearinghouse #2022110593) in accordance with the California Environmental Quality Act (CEQA). In December 2023, the Town Council adopted amendments to the Housing Element, which were determined to be within the scope of the previously certified EIR. Subsequently, in January 2024 the California Department of Housing and Community Development (HCD) reviewed the Housing Element and requested modifications for compliance with State law, as described below. This memo has been prepared to demonstrate that the modifications made to the Housing Element in response to HCD comments would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects, and further, that there are no changes in circumstance or new information that would change the findings of the previously certified EIR. This memo serves as an addendum to the 2023-31 Housing Element EIR.

BACKGROUND

Pursuant to the CEQA Section 15164, an addendum to a previously certified EIR may be prepared if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Accordingly, the primary purpose of this evaluation is to determine, on the basis of substantial evidence, if one or more of the following conditions are met:

- Substantial changes are proposed as part of the proposed update that would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes have occurred with respect to circumstances under which the proposed update is undertaken (i.e., a significant change in the existing or future condition) that would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and/or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

- The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project but the project proponents decline to adopt the mitigation measure or alternative; or
- Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

OVERVIEW OF MODIFICATIONS TO THE HOUSING ELEMENT

The modifications made to the Housing Element to address HCD comments are targeted in nature, involving the incorporation of additional information to support the findings of the analysis contained in the Element and modifications to programs in the Action Plan. Specifically, additional information regarding the viability of sites identified for SB9 housing development, including details of property size, parcel dimensions, access, and zoning was incorporated together with aerial imagery of the sites demonstrating adequate access. Clarification that there is no unmet need for emergency shelters in Ross was added to the Element along with quantification of the acreage of land available in the Civic zoning district, where the Town had previously identified as appropriate for emergency shelters, in the event there is ever unmet need in the future.

Modifications programs in the Action Plan include:

- Modification to the language of Program 3-J, clarifying that the Town is committed to establishing development standards that encourage the anticipated housing and ensuring zoning, development standards and other provisions do not constrain development;
- Modification to the home sharing/tenant matching program to increase the target for matches in existing homes in Ross from 10 to 32 over the planning period;
- Modification of Program 2-H to re-number it 3-P and expand the range of actions envisioned to also include adoption of an affordable housing fee on new single-family construction and major remodels as well as to permit up to 6 units on sites eligible for SB9 housing if the property owner commits to deed restricting two of the units for households making less than 80 percent of the countywide median income.

ANALYSIS

The incorporation of information related to SB9 parcel characteristics and the acreage of land in the Civic zoning district represents clarification and amplification of information already contained in the Element. It further substantiates the analysis on which the Element is based and does not affect the findings of the certified EIR. The modifications to the language of Program 3-J regarding zoning standards for workforce housing at the Branson School do not change the standards which were adopted by the Town Council in January 2024; they merely reaffirm the Town's commitment to facilitating workforce housing consistent with the

assumptions of the adopted Housing Element, as analyzed in the certified EIR. The modifications to the target for home sharing tenant matches would not increase the capacity of the housing sites inventory or result in development in different locations than previously analyzed, as matches involve the rental of rooms in existing dwelling units in Ross to interested tenants, potentially including students at nearby College of Marin in Kentfield or others employed in Ross and surrounding communities. Similarly, the adoption of an affordable housing fee as envisioned under Program 3-P would help generate funds to facilitate construction of lower income housing in Ross, but would not increase the capacity of the housing sites inventory or result in development in different locations than previously analyzed.

Modifications to the SB9 ordinance envisioned under Program 3-P would permit up to six housing units on eligible single-family properties, whereas the Town's current adopted ordinance permits up to four units on eligible properties. While this change could result in additional units on some eligible properties, overall, it would not result in more construction of SB9 units than analyzed in the certified EIR. This is because, based on past development trends in Ross and regional growth forecasts, the Element projects a total realistic capacity for 20 new SB9 units on any combination of the candidate properties identified. Further, while the Draft EIR analyzed the potential environmental impacts of construction of 148 new homes by 2031, that total included development on two sites which were subsequently removed from the inventory (the Post Office and St. Anselm Church sites) prior to certification of the EIR. As such, the total increment of growth analyzed in the EIR exceeds the realistic projections of the Housing Element sites inventory as revised to remove the Post Office and St. Anselm Church sites.

Therefore, overall, the modifications made to the Housing Element in response to HCD comments would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Further, since certification of the Housing Element EIR, there have been no new development projects in Ross, no new or revised local regulations, and no new or revised State law that would substantially change the cumulative circumstances or the background information on which the previously certified EIR was based. As such, none of the conditions identified in CEQA section 1562 requiring the preparation of a subsequent or supplemental EIR have occurred and an addendum to the previously certified Housing Element EIR is appropriate.

ATTACHMENT 2

RESOLUTION NO. 2419

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ROSS APPROVING THE SECOND AMENDMENT TO THE TOWN OF ROSS 2023-2031, 6TH CYCLE, HOUSING ELEMENT

WHEREAS, State law requires cities to revise the housing elements of their General Plans every 8 years, the current housing element cycle covers the 2023 to 2031 planning period (“6th Cycle”); and

WHEREAS, the Housing Element update includes analysis of existing and projected housing needs and updates of goals, policies, objectives, and implementation programs for the preservation, improvement, and development of housing for all income categories; and

WHEREAS, following a duly noticed public hearing on May 31, 2023, the Town Council adopted Resolution No. 2309 making findings of fact, adopting the Statement of Overriding Considerations and MMRP, and certifying the Final Environmental Impact Report (State Clearinghouse # 2022110593) (FEIR) for the Housing Element Update and related amendments; and

WHEREAS, following the action to certify the FEIR, the Town Council adopted Resolution No. 2310 making findings of fact repealing the 2015-2023 Housing Element in its entirety and replacing it with the May 31, 2023 adopted 2023-2031, 6th Cycle, Housing Element; and

WHEREAS, on December 14, 2023, pursuant to Resolution No. 2351, the Town Council adopted amendments to the 2023-2031 Housing Element (the Housing Element as amended is referred to herein as the “2023-2031 Housing Element”); and

WHEREAS, on January 11, 2024, the Town received a letter from the State Department of Housing and Community Development (HCD) stating that HCD believed that additional revisions to the 2023-2031 Housing Element were necessary to substantially comply with State Housing Element Law; and

WHEREAS, the revisions to the 2023-2031 Housing Element in response to HCD’s January 11, 2024 comments were made available for public review and comment in accordance with Government Code Section 65585 between April 11 and April 18, 2024, and no comments were received; and

WHEREAS, in accordance with applicable law notice of public hearing was published in the Marin IJ, a newspaper of general circulation, on April 26, 2024; and

WHEREAS, the changes proposed by the second amendment to the 2023-2031 Housing Element are addressed in the FEIR and no additional CEQA review is required.

NOW, THEREFORE, BE IT RESOLVED THAT the Town Council of the Town of Ross finds the foregoing recitals are true and correct and are incorporated into this Resolution.

BE IT FURTHER RESOLVED THAT that the revisions made by the second amendment to the 2023-2031 Housing Element are consistent with the Ross General Plan including the following specific goals, policies and objectives:

1. The 6th Cycle Housing Element, as amended, is consistent with the community development and sustainability goals at the heart of the Ross General Plan because the selection of sites and implementation of programs will support efficient use of land within the existing downtown and in concert with existing employment, services, infrastructure and amenities.

An adequate supply of housing, and land zoned to accommodate future housing need, is an essential element of community sustainability. A land use plan that accommodates housing uses in compatible infill settings is consistent with the overarching goals and specific policies of this General Plan.

2. The 2023-2031 Housing Element, as amended, is consistent with Policy 8.2 of the Ross General Plan because it facilitates additional residential development types and densities that will provide for an expanded range of housing opportunities to meet the needs of the community. These outcomes will not only support the community health, safety and quality of life, but also ensure a vibrant community that encourages compact development forms, including mixed use development, that provide opportunities for new investment and expanded services to meet the needs of its citizenry.

- *8.2 Densities and Intensities of Land Uses.* Define limits on densities of development as shown on the Land Use Plan. Development on any site shall conform to existing zoning and the following factors: site resources and constraints; potentially hazardous conditions; traffic and access; adequacy of infrastructure (water, sewer, etc.); design policies; development patterns of adjacent areas; and prevailing densities or intensities of adjacent areas.

3. The 2023-2031 Housing Element, as amended, is consistent with The Future of Land Use Goal 8.4 because the Town has adequate park facilities to meet current and projected future needs based on the standards of the Ross General Plan. The impact of additional residents on the Town's parks system will be offset through future dedication of land or fee-in-lieu per the Town of Ross's Development Impact Fee Schedule (www.ci.Ross.ca.us/finance).

- *Goal 2.32:* Expand the Town’s park system to accommodate future community needs.
 - *Policy 2.32.1:* Establish new parks/recreation areas.
 - *Program 2.32.A:* Ensure that lands dedicated for park land are of sufficient in size to accommodate the uses and facilities proposed, graded for those uses, and free of hazardous and toxic waste materials for each park site.
 - *Program 2.32.C:* Identify and incorporate the needs of neighborhoods in developing new parks.
4. The 2023-2031 Housing Element, as amended, is consistent with Historic Resources Goal 3.2 because the Town of Ross has conducted tribal consultation as part of the Housing Element process and has identified mitigations that will avoid impacts to archaeological resources (see EIR Mitigation Measures CUL-1 through CUL-5 which require that before any development or redevelopment activities can occur, the site must be analyzed for conformance with the applicable local, state, and federal requirements, and must comply with the requirements of CEQA. The Town will work with tribal representatives to address any artifacts unearthed during construction). Further, the Town shall conduct additional consultation upon receipt of a development application consistent with the requirements of State law including Senate Bill 18 and Assembly Bill 52.
- *Goal 1.1:* Protection of Archaeological Resources
 - *Policy 4.5:* Implement measures to preserve and protect archaeological resources.
 - *Action 4.C:* Map Archaeological Sensitive Areas
5. The amendments to the 2023-2031 Housing Element are consistent with Visual Character Goal 3.7 because they promote compatible infill development of a scale that is consistent with Ross’s small-town visual character and, through the implementation of objective planning and design standards, also compatible with the surrounding architectural and neighborhood character. The amendments would not modify and would be accommodated within the maximum floor area ratio (FAR) of the Ross General Plan land use categories.
- *Goal 8:* Maintain and reinforce Ross’s small-town visual characteristics.
 - *Policy 3.4:* Ensure that new development is compatible with the surrounding architectural and neighborhood character.

BE IT FURTHER RESOLVED that the Town Council of the Town of Ross finds that:

1. The findings made by the Council pursuant to Resolution Nos. 2310 and 2351 remain in full force and effect and apply to the amendments to the Housing Element adopted pursuant to this Resolution.

2. The 2023-2031 Housing Element, as amended, shown in Exhibit A to this resolution and incorporated herein by this reference, complies with Housing Element Law, as provided in Government Code Section 65580 *et seq.*, and contains all provisions required by Housing Element Law.
3. As required by Government Code Section 65585(e), the Town Council has considered the findings made by the California Department of Housing and Community Development (HCD) included in HCD's letter to the Town dated January 11, 2024 (Exhibit B). Consistent with Government Code Section 65585(f), the Town has revised the Ross Housing Element in response to HCD's findings to substantially comply with the requirements of Article 10.6 of the Government Code as interpreted by HCD , all as described in Exhibit C, which is incorporated by this reference.

BE IT FURTHER RESOLVED that the Town Council of the Town of Ross does hereby amend the 2023-2031 Housing Element as described in Exhibit A, attached, which is hereby adopted.

BE IT FURTHER RESOLVED that the Town Council of the Town of Ross does hereby authorize the Town Manager or their designee to make non-substantive changes to the adopted amended 2023-2031 Housing Element to make non-substantive clerical updates for internal consistency and as to formatting (e.g., pagination, numbering of tables and diagrams).

BE IT FURTHER RESOLVED that the Town Council hereby finds that the action to adopt this resolution was considered within the Environmental Impact Report (SCH #2022110593) (EIR) for the Housing Element Update project, certified by Council Resolution No. 2309, adopted May 31, 2023. No supplemental or subsequent EIR is required because none of the circumstances requiring a supplemental or subsequent EIR exist (CEQA Guidelines Section 15162):

- (a) No substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The amendments to the Housing Element do not create any additional environmental impacts.
- (b) No substantial changes have occurred with respect to the circumstances under which the project is undertaken. The EIR was certified in May 2023, and no substantial evidence has been submitted showing any change in the circumstances applicable to the project.

(c) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, has been submitted to the Town.

The above Resolution was adopted by the Town Council of the Town of Ross at a regular meeting of said Council held on the 6th day of May 2024 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

C. William Kircher, Mayor

Attest:

Cyndie Martel, Town Clerk

Date

Exhibit A

Please follow this link:

[Proposed Revisions to the Town of Ross
May 31, 2023, Locally Adopted Housing
Element: April 9, 2024 Revised HE](#)

Exhibit B
THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)
JANUARY 11, 2024 COMMENT LETTER
[see next page]

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



January 11, 2024

Christa Johnson, Town Manager
Town of Ross
31 Sir Francis Drake Boulevard
Ross, CA 94957

Dear Christa Johnson:

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

Thank you for submitting the Town of Ross' (Town) revised draft housing element received for review on November 15, 2023, along with revisions that were received January 11, 2024. The additional revisions were made available to the public for seven days prior to review by the California Department of Housing and Community Development (HCD). The review was facilitated by a conversation on December 21, 2023 with David Woltering, Interim Planning Director, Mary Wagner, Town attorney, and your consultant, Andrew Hill. In addition, pursuant to Government Code section 65585, subdivision (c), HCD considered comments from Riley Hurd of Ragghianti Freitas LLP. Pursuant to Government Code section 65585, HCD is reporting the results of its review.

The revised draft housing element addresses most statutory requirements described in HCD's August 15, 2023 review (Corrected August 16, 2023); however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et. seq.), as follows:

1. *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).)*

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... 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).)

Senate Bill 9 (Statutes of 2021) Projections: While the element was revised to identify local and regional trends and mentions a recently approved SB 9 project, it must still relate recent trends to identified sites, evaluate the extent existing uses impede additional development and adjust the inventory and assumptions, as appropriate. Specifically, the element should analyze the suitability of identified candidate SB 9 sites, as follows:

- *Recent Trends and Identified Sites:* The element mentions a recently approved SB 9 project and existing floor area ratio (FAR) of 0.075 and indicates the existing FAR is similar to identified candidate sites. However, many of the identified sites have existing FARs that significantly exceed 0.075. The element should either provide additional supporting information such as recent trends in Marin County to support utilizing sites with higher FARs or adjust the listing of candidate sites and assumptions to better align with recent trends (e.g., only utilizing sites with existing FAR of less than 0.10).
- *Extent Existing Uses Impede Additional Development:* The element describes that several criteria were used to identify candidate SB 9 sites such as access to the public right of way and the resulting parcel not being smaller than 40 percent of the lot area of the original parcel. In addition, the element includes visual representations of sample sites to show the potential for utilizing SB 9. To better support these criteria and evaluate the extent existing uses impede additional development, the element should include additional sample sites (e.g., 3-5 sites), including visual representations.

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. While the Town submitted the sites inventory in the appropriate form, any changes to the inventory should be reflected in the form and the form should be re-submitted as part of adoption. The Town can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element now modifies Program 4-B (Objective Standards for Emergency Shelters) to establish objective standards for emergency shelters. However, the element must still address Chapter 654, Statute of 2022 (AB 2339) which added provisions related to emergency shelters as noted in the prior review. Specifically, the element should clarify emergency shelters are permitted without discretionary action, evaluate the potential for redevelopment, including the extent existing uses impede additional development, demonstrate sufficient capacity based on specified criteria, including proximity to transportation and services and add or modify programs, as appropriate, including amending the definition of emergency shelters in compliance with new requirements (AB 2339).

Programs: As noted above, 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:

- *Program 2-B (SB 9 Housing):* The Program should be modified based on a complete analysis, as noted above. In addition, the Program should be revised to establish regulatory incentives earlier in the planning period (e.g., January 2025) and specify a date for completing alternative actions, including listing a menu of alternative actions (e.g., additional incentives, rezoning).
 - *Program 3-J (Workforce Housing at the Branson School):* The Program should be revised to clarify by-right procedures will be without discretionary action and only subject to objective standards. In addition, the Program should commit to establishing development standards that encourage the anticipated housing and ensuring zoning, development standards and other provisions do not constrain development.
2. *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... ..local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

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... (Gov. Code, § 65583, subd. (c)(3).)

Local Processing and Permit Procedures: The element now clarifies the Town complies with the Permit Streamlining Act. However, the element should still discuss making CEQA streamlining determination upon a complete application and add or modify programs as appropriate.

Program 4-D (Group Housing): While the Program commits to revise the definition of family to address potential constraints on housing for persons with disabilities, the proposed definition appears to present new potential constraints on housing for persons with disabilities. For example, requiring shared living expenses and social, economic and psychological commitments to each other may preclude unrelated persons in a group housing arrangement. Instead, the

Program could simply commit to revise the definition in consultation with HCD by a specified date. HCD will send sample definitions under separate cover.

3. *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).)*

As noted in HCD's prior reviews and the assessment of fair housing, the Town is entirely a highest resource community, wholly a racially concentrated area of affluence (RCAA) and consists of households of the highest median income category. These conditions and circumstances warrant significant and robust actions (not limited to the regional housing needs allocation (RHNA)) to promote housing mobility and increasing housing choices and affordability throughout and beyond the Town relative to the region and including lower-density neighborhoods. The element should be revised with aggressive numeric targets and geographic targets throughout the Town, including lower-density neighborhoods. While the element includes some potentially meaningful actions, these actions generally should be revised with increased metrics or numeric targets. Examples of programs that should be revised with increased metrics include Programs 2-H (Co-Housing Overlay), 3-C (Downtown Area Plan), 3-D to 3-G (Accessory Dwelling Units (ADU)), 3-O (Home Sharing and Tenant Matching) and 4-I (Special Needs Populations and Extremely Low-income Households). In addition, the element should add housing mobility actions to promote more inclusive neighborhoods and communities. Examples include more than one ADU within a single-family structure, housing choices on religious institutional sites, increasing allowable densities, promoting a stronger variety of lot sizes, expanding permitted housing types and other alternative land use strategies such as expanding housing options in lower-density areas beyond SB 9 (e.g., SB 10).

The element will meet the statutory requirements of State Housing Element Law once it has been revised, re-adopted and submitted and reviewed by HCD to comply with the above requirements pursuant to Government Code section 65585.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the Town must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while 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), as the Town did not adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), any programs to make prior identified sites available (Program 3-J – Workforce Housing at the Branson School) or address a shortfall of capacity to accommodate the RHNA must be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the Town does not rezone sites within one year from the statutory deadline, the element cannot be found in substantial compliance until all necessary rezones are completed pursuant to Government Code sections 65583, subdivision (c)(1)(A) and 65583.2, subdivision (c).

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 Town must find (as part of an adoption resolution), based on substantial evidence, that 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)). Upon a cursory review of the Town's prior adoption resolution, the Town did not appear to make these findings and must make these findings as part of future re-adoption of the housing element.

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>.

Christa Johnson, Town Manager
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We are committed to assisting 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,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Exhibit C

MATRIX PROVIDING DESCRIPTION AND RATIONALE FOR AMENDMENTS TO THE 2023-2031, 6TH
CYCLE, HOUSING ELEMENT IN RESPONSE TO THE CALIFORNIA DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT (HCD) LETTER DATED JANUARY 11, 2024
[see next page]

Number	Comment	Response
1.1	<p><u>Senate Bill 9 (Statutes of 2021) Projections:</u> While the element was revised to identify local and regional trends and mentions a recently approved SB 9 project, it must still relate recent trends to identified sites, evaluate the extent existing uses impede additional development and adjust the inventory and assumptions, as appropriate. Specifically, the element should analyze the suitability of identified candidate SB 9 sites, as follows:</p> <ul style="list-style-type: none"> • <i>Recent Trends and Identified Sites:</i> The element mentions a recently approved SB 9 project and existing floor area ratio (FAR) of 0.075 and indicates the existing FAR is similar to identified candidate sites. However, many of the identified sites have existing FARs that significantly exceed 0.075. The element should either provide additional supporting information such as recent trends in Marin County to support utilizing sites with higher FARs or adjust the listing of candidate sites and assumptions to better align with recent trends (e.g., only utilizing sites with existing FAR of less than 0.10). 	<p>The analysis has been updated with an analysis of the pertinent site characteristics of approved SB9 housing projects in other Marin County jurisdictions to further support the viability of SB9 projections in Ross. Please see file SB9 Analysis starting on page 3-12 of the amended Housing Element by clicking the link here: Proposed Revisions to the Town of Ross May 31, 2023, Locally Adopted Housing Element: April 9, 2024 Revised HE</p>
	<ul style="list-style-type: none"> • <i>Extent Existing Uses Impede Additional Development:</i> The element describes that several criteria were used to identify candidate SB 9 sites such as access to the public right of way and the resulting parcel not being smaller than 40 percent of the lot area of the original parcel. In addition, the element includes visual representations of sample sites to show the potential for utilizing SB 9. To better support these criteria and evaluate the extent existing uses impede additional development, the element should include additional sample sites (e.g., 3-5 sites), including visual representations. 	<p>5 additional examples have been provided. Refer to page 3-12 of the amended Housing Element by clicking the link here: Proposed Revisions to the Town of Ross May 31, 2023, Locally Adopted Housing Element: April 9, 2024 Revised HE</p>
1.2	<p><u>Electronic Sites Inventory:</u> 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. While the Town submitted the sites inventory in the appropriate form, any changes to the inventory should be reflected in the form and the form should be re-submitted as part of adoption. The Town can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.</p>	<p>The electronic inventory form is included and can be accessed by clicking the link here: Proposed Revisions to the Town of Ross May 31, 2023, Locally Adopted Housing Element: April 9, 2024 Revised HE</p>

Number	Comment	Response
1.3	<p><u>Zoning for a Variety of Housing Types (Emergency Shelters)</u>: The element now modifies Program 4-B (Objective Standards for Emergency Shelters) to establish objective standards for emergency shelters. However, the element must still address Chapter 654, Statute of 2022 (AB 2339) which added provisions related to emergency shelters as noted in the prior review. Specifically, the element should clarify emergency shelters are permitted without discretionary action, evaluate the potential for redevelopment, including the extent existing uses impede additional development, demonstrate sufficient capacity based on specified criteria, including proximity to transportation and services and add or modify programs, as appropriate, including amending the definition of emergency shelters in compliance with new requirements (AB 2339).</p>	<p>The emergency shelter discussion has been updated to include additional analysis corresponding to the requirements of Government Code Section 65583 (a)(4), including an evaluation of the capacity within identified zones to accommodate need and the suitability of sites based on proximity to transportation and services.</p> <p>Program 4-B now calls for an update to the definition of emergency shelters for compliance with State law.</p> <p>Please see materials by clicking the link here: Proposed Revisions to the Town of Ross May 31, 2023, Locally Adopted Housing Element: April 9, 2024 Revised HE</p>
1.4	<p><u>Programs</u>: As noted above, 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:</p> <ul style="list-style-type: none"> • <i>Program 2-B (SB 9 Housing)</i>: The Program should be modified based on a complete analysis, as noted above. In addition, the Program should be revised to establish regulatory incentives earlier in the planning period (e.g., January 2025) and specify a date for completing alternative actions, including listing a menu of alternative actions (e.g., additional incentives, rezoning). 	<p>A complete site analysis is included. Refer to page 3-12 of the amended Housing Element by clicking the link here: Proposed Revisions to the Town of Ross May 31, 2023, Locally Adopted Housing Element: April 9, 2024 Revised HE</p>

Number	Comment	Response
	<ul style="list-style-type: none"> <i>Program 3-J (Workforce Housing at the Branson School):</i> The Program should be revised to clarify by-right procedures will be without discretionary action and only subject to objective standards. In addition, the Program should commit to establishing development standards that encourage the anticipated housing and ensuring zoning, development standards and other provisions do not constrain development. 	<p>The zoning amendments were refined with input from the School, who have expressed support. The ordinance was adopted by the Town Council on February 15, 2024.</p> <p>Program 3-J Workforce Housing at the Branson School. Faced with the imminent retirement of several long-tenured teaching staff and the high cost of housing in Marin County which is a significant barrier to its staff recruitment efforts, the Branson School has expressed strong interest in developing new housing on its campus in the near-term. The Branson School has engaged an architect and begun preparation of a Campus Master Plan, which will guide the development of housing, academic buildings, social areas and a library onsite. The Master Plan will be completed in 2023 and a capital campaign is planned for 2024, with the goal of obtaining construction permits by the end of 2026. Through this program, the Town will work with the Branson School to facilitate production of new workforce housing on campus. Actions will include:</p> <ul style="list-style-type: none"> Meet regularly with the property owner to help advance site planning and development applications; Work with the property owner to identify actions (such as lot line adjustments) to facilitate provision of affordable housing units onsite; By January 31, 2024, amend zoning permit procedures for compliance with Government Code Section 65583.2.c, allowing faculty and staff housing by right on APNs 073-151-05, 073-082-01, 073-082-12, and 073-141-03 when at least 20 percent of the proposed units would be affordable to lower income households; By January 31, 2024, amend zoning to permit up to 10 new units of workforce housing on the Branson campus and incorporate objective development standards to integrate attached housing product types such as 5+ unit complexes typically affordable to lower income households and net densities of up to 20 du/ac when calculated on the portion of the site where it is constructed;

Number	Comment	Response
		<ul style="list-style-type: none"> • Ensure provisions are made for replacement housing onsite in the event any existing units would be demolished, consistent with State law; and • By mid-2028, evaluate progress toward completion, including affordability, within the planning period and if necessary take action to identify alternative sites within 1 year. <p>Responsibility: Planning Department; Town Council.</p> <p>Financing: General fund (staff time).</p> <p>Objectives: Construction of 10 new workforce housing units on the Branson School site affordable to those making less than 80 percent of the Marin County AMI.</p> <p>Timeframe: Coordination will be ongoing through established monthly meetings between Town and School staff; adopt zoning amendments by Jan 31, 2024; target issuance of building permits by end of Q1 2026; target construction completion by the end of Q4 2027.</p>
2.1	<p><u>Local Processing and Permit Procedures:</u> The element now clarifies the Town complies with the Permit Streamlining Act. However, the element should still discuss making CEQA streamlining determination upon a complete application and add or modify programs as appropriate.</p>	<p>Town staff uses a planning application guide, which outlines procedures and steps in the application process including a determination of the appropriate level of CEQA once the application is deemed complete. Most housing applications in Ross are categorically exempt from CEQA; however, to the 2023-31 Housing Element EIR will provide opportunities for individual development projects to tier from the programmatic analysis and streamline CEQA review to the extent it is required in the future. This detail will be added to Appendix C, pp. C-27/C-28 under the discussion of Environmental Regulations.</p>
2.2	<p><u>Program 4-D (Group Housing):</u> While the Program commits to revise the definition of family to address potential constraints on housing for persons with disabilities, the proposed definition appears to present new potential constraints on housing for persons with disabilities. For example, requiring shared living expenses and social, economic and psychological commitments to each other may preclude unrelated persons in a group housing arrangement. Instead, the Program could simply</p>	<p>Please see page 4-20 for updated Program 4-D with revised definition by clicking the link here: Proposed Revisions to the Town of Ross May 31, 2023, Locally Adopted Housing Element: April 9, 2024 Revised HE</p>

Number	Comment	Response
	<p>commit to revise the definition in consultation with HCD by a specified date. HCD will send sample definitions under separate cover.</p>	
3.	<p>As noted in HCD's prior reviews and the assessment of fair housing, the Town is entirely a highest resource community, wholly a racially concentrated area of affluence (RCAA) and consists of households of the highest median income category. These conditions and circumstances warrant significant and robust actions (not limited to the regional housing needs allocation (RHNA)) to promote housing mobility and increasing housing choices and affordability throughout and beyond the Town relative to the region and including lower-density neighborhoods. The element should be revised with aggressive numeric targets and geographic targets throughout the Town, including lower-density neighborhoods. While the element includes some potentially meaningful actions, these actions generally should be revised with increased metrics or numeric targets. Examples of programs that should be revised with increased metrics include Programs 2-H (Co-Housing Overlay), 3-C (Downtown Area Plan), 3-D to 3-G (Accessory Dwelling Units (ADU)), 3-O (Home Sharing and Tenant Matching) and 4-I (Special Needs Populations and Extremely Low-income Households).</p> <p>In addition, the element should add housing mobility actions to promote more inclusive neighborhoods and communities. Examples include more than one ADU within a single-family structure, housing choices on religious institutional sites, increasing allowable densities, promoting a stronger variety of lot sizes, expanding permitted housing types and other alternative land use strategies such as expanding housing options in lower-density areas beyond SB 9 (e.g., SB 10).</p>	<p>New/revised program language and matrix of meaningful actions, metrics and geographic targeting reviewed previously by HCD. In response to feedback from 4/3 conversation, the new Housing Mobility program and AFFH matrix have been updated. Please see page 4-17 by clicking the link here: Proposed Revisions to the Town of Ross May 31, 2023, Locally Adopted Housing Element: April 9, 2024 Revised HE</p>