

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

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November 21, 2022

Adam Wolff, Interim Town Manager
Town of Corte Madera
240 Tamal Vista Blvd., Suite 110
Corte Madera, CA 94825

Dear Adam Wolff,

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

Thank you for submitting the Town of Corte Madera (Town) draft housing element received for review on August 23, 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 conversation on November 15, 2022, with you; Martha Battaglia, Senior Planner; and the Town's Consultant Christine O'Rourke. In addition, HCD considered comments from Campaign for Fair Housing Elements, Jennifer Silva, South Bay YIMBY, 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.

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 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 Fidel Herrera, of our staff, at Fidel.Herrera@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

Enclosure

APPENDIX TOWN OF CORTE MADERA

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

A. Review and Revise

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).)

As part of the review of programs in the past cycle, the element must analyze the effectiveness of 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). Programs should be revised as appropriate to reflect the results of this evaluation.

In addition, some programs must still report on progress in implementation and then evaluate the effectiveness of the program. For example, Program H-1.2.b should discuss how many discrimination complaints were referred then evaluate whether the program was effective. Similarly, Program H-1.4.a.a should state if the Town established standards and procedures for mobile homes then evaluate the effectiveness of those efforts.

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).)*

Local to Regional Patterns: The element must include specific analysis of local to regional patterns that compares the Town to the broader Bay Area region. This analysis must particularly address income, disparities in access to opportunities (composite) and racially concentrated areas of affluence (RCAA) and consider local data and knowledge and other relevant factors such as historical land use and other practices.

Based on a complete analysis, the element should re-consider and re-prioritize contributing factors to fair housing issues and formulate appropriate policies and programs (not limited to the regional housing need allocation (RHNA)) to target significant and meaningful affirmatively furthering fair housing (AFFH) outcomes. This evaluation should utilize HCD's RCAA's data available at <https://www.hcd.ca.gov/affirmatively-furthering-fair-housing>.

Disproportionate Housing Needs: The element includes some general information on persons experiencing homelessness but should also evaluate patterns of need, including access to transportation and services.

Contributing Factors to Fair Housing Issues: While the element lists contributing factors such as fair housing complaints, housing conditions and community opposition, these factors do not appear to have a reasonable relationship to the assessment of fair housing. For example, the element identifies substandard housing conditions as a contributing factor but also notes less than five percent of the housing stock or less than ten structures need rehabilitation (p. C-110). The element should re-evaluate and re-prioritize contributing factors and should incorporate the outcomes of a complete analysis. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

- 2. Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

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).)

Extremely Low-Income Households (ELI): The element includes some basic information regarding ELI households such as the number of households. However, given the unique and disproportionate needs of ELI households, the element must include analysis to better formulate policies and programs. For example, the element should analyze tenure, cost burden and other household characteristics, compare those characteristics to other income and special needs groups then examine the availability of resources to determine gaps in housing needs. Finally, the element should examine the success of past efforts and formulate an appropriate programmatic response given the magnitude of the need.

Overpayment: The element must quantify and analyze the number of lower-income households overpaying by tenure (i.e., renter and owner).

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).)*

Sites Inventory: HCD is aware of the Town's intent to rezone sites to accommodate RHNA for the sixth cycle and that zoning will be completed by January 31, 2023. Should the rezone not occur prior to the start of the sixth cycle planning period, the Town must include a rezone program that includes all by right requirements consistent with Government Code Section 65583.2, subdivisions (h) and (i).

Realistic Capacity: The estimate of the number of units for each site must be adjusted as necessary, generally based on the land use controls and site improvements and typical densities of existing or approved residential developments at a similar affordability level. The element lists a few recent projects (pp. 78 and 79); however, given the element is assuming 100 percent of maximum allowable densities, it should list all recent projects. The listing should evaluate projects by zone, maximum allowable density, parcel size, number of units, affordability, and frequency of exceptions such as density bonuses. This analysis should particularly examine trends based on zones and size of projects and demonstrate those circumstances are similar to identified sites. Alternatively, the element could rescale assumptions less than maximum allowable density (e.g., 80 to 90 percent and 50 percent).

Also, where zoning allows 100 percent nonresidential uses, the calculation of residential capacity should account for the likelihood of 100 percent nonresidential development. For example, the element could analyze all development activity in nonresidential zones allowing 100 percent nonresidential uses, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. This analysis may incorporate any proposed policies such as residential performance standards, prohibition of commercial uses and should clarify that all zones allow residential uses, particularly 100 percent residential uses.

Nonvacant Sites: Nonvacant sites accommodate 50 percent or more of the lower-income need, the housing element must describe "substantial evidence" that the existing use does not constitute an impediment for additional residential use on the site. 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.

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the housing element describes other evidence to HCD that the site is

adequate to accommodate lower-income housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).) The element lists small sites but must also evaluate whether those sites are suitable to accommodate housing for lower income households and add or modify programs as appropriate. For example, the element could list past consolidations by the number of parcels, number of owners, zone, number of units, affordability and circumstances leading to consolidation and then relate those trends to the identified sites or could explain the potential for consolidation on a site-by-site basis.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element should analyze whether parking requirements comply with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement.
- *Supportive Housing:* The element should describe the Town's procedure for complying with Government Code section 65651, subdivision. Section 65651 requires jurisdictions to allow supportive housing by right in zones allowing multifamily housing, including mixed-use and nonresidential zones when the development meets certain requirements.
- *Low Barrier Navigation Center:* Low Barrier Navigation Centers 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 65660. The element must demonstrate compliance with this requirement and include programs as appropriate.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the Town must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov. Please note, the Town must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. 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.

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: The element must analyze the height requirement (p. 111) of 30 feet (2 stories) in the Affordable Housing Overlay (AHO) as a potential constraint on housing. Should the analysis determine the height standards are a constraint on residential development, it must include a program to address or remove any identified constraints.

On/off-site improvement: While the element states the town is built out, and all infrastructure, including curbs, gutters, sidewalks, streets, and utilities are in place. The element must still identify typical on and off-site improvement requirements and analyze their impact as potential constraints on housing cost, supply (number of units) and feasibility.

Processing and Permit Procedures: The element indicates that the Town implements a form-based code as part of Title 22 when a proposed development project requests permit streamlining. However, it must describe and analyze the typical objective standards for a typical single family and multifamily development. Secondly, the element should also describe and analyze the permit and entitlement process for a typical single family and multifamily development that meets zoning requirements. The analysis should address processes, decision making bodies, number of hearings, approval findings and total typical time necessary to complete the entitlement process. Finally, the element states that a design review permit is required for the “R” districts for any structure or addition larger than 250 square feet or taller than 15 feet. The element includes the findings for approval on page 123, however the following findings should be analyzed as a potential constraint on approval certainty and should include a program(s) to address or remove the identified constraints:

- “The project is in scale and harmonious with development in the vicinity,”
- “Development materials and techniques are high quality,” and
- “The structure(s), site plan, and landscaping have an internal sense of order,”

Housing for Persons with Disabilities: The element on page 128 describes the Town currently has a procedure for requesting and granting a reasonable accommodation for persons with disabilities, however the element should also describe approval findings and the process for providing reasonable accommodations.

SB 35 Streamlined Ministerial Approval Process: The element must identify and analyze written procedures for the SB 35 Streamlined Ministerial Approval Process and add a program if necessary.

Transparency: Zoning, Development Standards and Fees: The element should clarify its compliance with new transparency requirements for posting all zoning and development standards, and fees for each parcel on the jurisdiction’s website pursuant to Government Code section 65940.1(a)(1).

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the 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).)*

Approval Time and Requests for Lesser Densities: The element must address requests to develop housing at densities below those anticipated in the sites inventory. While Table 25 on page 126 lists processing times for the various land use approvals that could be required for residential projects, it should also describe the length of time between receiving approval for housing development and submittal of application for building permits. The analysis must address any hinderances on housing development and programs should be added 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 and discrete timing (e.g., at least annually or by January 2024) early in the planning period. Several programs utilize language such as “consider” and “explore” and should commit to actual outcomes with language like “adopt”, “amend”, “complete”, “establish”, “explore and revise”. Examples include Programs H-1.4.a – Housing Types and H-1.6.b - Visitability Ordinance. Other Examples of programs that should be revised include but are not limited to:

- *Program H-1.5.b (The Casa Buena Permanent Supportive Housing)*: The program should commit to how often community meetings will be facilitated (e.g., annually, biannually).
 - *Program H-1.7.a (Incentives for Senior Housing)*: The program should clarify the kinds of incentives for senior housing.
 - *Program H-2.3.b (Affordable Housing Fund)*: The program should commit to how often the housing fund will be used toward affordable housing.
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.

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).)*

Assist in Development Programs: Program H-2.10.a (Incentives for Affordable Housing) should be expanded to ELI and all special needs households (e.g., farmworkers, elderly, homeless and persons disabilities, including developmental). In addition, the program should commit to discrete timing (e.g., at least annual) and proactive efforts such as at least annual contact with affordable housing developers to identify development opportunities as well as assisting with funding beyond the Affordable Housing Fund.

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 Findings B4 and B5, 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.

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).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, milestones and geographic targeting and, as appropriate, must address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community preservation and revitalization and displacement protection. Programs should put particular emphasis on housing mobility and new opportunities (choices and affordability) in higher resource or income areas throughout the Town, should not be limited to the RHNA and, instead, target meaningful change in terms of fair housing issues beyond the Town's borders.