

10/31/22

#		Comment	Statutory Authority
1	A	<p>A thorough program-by-program review is necessary to evaluate Town's performance in addressing housing goals. While the element describes actual results of the prior element's programs, it must provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation.</p> <p>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</p>	<p>Government Code Section 65588(a):</p> <p>"Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:</p> <ol style="list-style-type: none"> (1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal. (2) The effectiveness of the housing element in attainment of the community's housing goals and objectives. (3) The progress of the city, county, or city and county in implementation of the housing element. (4) The effectiveness of the housing element goals, policies and related actions to meet the community's needs, pursuant to paragraph (7) of subdivision (a) of Section 65583." <p>Government Code Section 65583(a)(7):</p> <p>"The element shall contain...[a]n analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a development disability, as defined in Section 4512 of the Welfare and Institutions Code; large families, farmworkers; families with female heads of households; and families and persons in need of emergency shelter.</p>
2	B.1	<p><u>Fair Housing Enforcement and Capacity</u>: While the housing element includes a summary of fair housing enforcement and outreach capacity, it should describe any fair housing lawsuits and related enforcement actions. In addition, this section should address how outreach will occur throughout planning period.</p>	<p>Government Code Section 65583(c)(10)(A)(i):</p> <p>"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall...[a]ffirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include...[a] summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity."</p>
3		<p><u>Local Data and Knowledge</u>: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the Town related to fair</p>	<p>Government Code Section 65583(c)(10)(A)(ii)-(iii):</p>

ATTACHMENT 3

#	Comment	Statutory Authority
	housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers, Town staff and related local and county planning documents and should include an analysis of the history of exclusionary zoning in the Town.	"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall...[a]ffirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include...[a]n analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty and affluence, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title) and Section 65008..." and <i>"[a]n assessment of the contributing factors, including the local and regional historical origins and current policies and practices, for the fair housing issues identified under clauses (i) and (ii)."</i>
4	<p><u>Integration and Segregation</u>: The element provided some data regarding segregation and integration, but it should also describe concentrations of race both locally and regionally (i.e., geographically within the Town, as well as comparing the Town to the region). In addition, the element must discuss and analyze data on persons with disabilities regionally and over time. The element must describe and analyze concentrations of familial status both locally and regionally. Lastly, the element must describe what contributes to the high incomes geographically within the Town and provide a regional analysis.</p> <p><u>Racial/Ethnic Areas of Concentration of Poverty (R/ECAP) and Affluence (RCAA)</u>: The element must also address concentrated areas of affluence both locally and regionally. The analysis should evaluate the patterns and changes over time at a local (e.g., neighborhood to neighborhood) and regional level (e.g., Town to region) and include programs as appropriate (not limited to the regional housing need allocation (RHNA)).</p>	<p>Government Code Section 65583(c)(10)(A)(ii):</p> <p>"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall...[a]ffirmatively further fair housing The program shall include an assessment of fair housing in the jurisdiction that shall include...[a]n analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, <i>racially or ethnically concentrated areas of poverty and affluence</i>, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. <i>The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act</i> (Part 2.8 (commencing with Section 12900) of Division 3 of Title) and Section 65008..."</p>
5	<u>Disparities in Access to Opportunity</u> : While the element included some data, it should discuss what contributes to the lower education score in the Town west of El Camino	Government Code Section 65583(c)(10)(A)(ii):

ATTACHMENT 3

#	Comment	Statutory Authority
	<p>Real. In addition, the element must analyze the disparities in access to jobs by protected classes and analyze what contributes to the varied access to jobs within the Town. The element must also provide a regional analysis for access to opportunity for employment and environment. Lastly, while the element describes a 2018 transit study, it must describe and analyze access to transit both locally and regionally.</p>	<p>"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall...[a]ffirmatively further fair housing The program shall include an assessment of fair housing in the jurisdiction that shall include...[a]n analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty and affluence, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title) and Section 65008..."</p>
6	<p><u>Disproportionate Housing Needs, Including Displacement Risk</u>: While the element includes some discussion on disproportionate housing needs, this discussion should also address the patterns within the Town and evaluate any similarities with other components of the assessment of fair housing. In addition, the analysis should include both local and regional discussions of cost burden by tenure. In addition, the element must include a regional analysis for overcrowding and substandard housing. The element should also analyze any demographic data available for persons experiencing homelessness. The analysis on displacement risk should be expanded beyond units at-risk of losing subsidy and also describe the high risk of residents experiencing exclusion. Lastly, the element must describe and analyze areas sensitive to displacement risk due to disaster (e.g., earthquake, fire, and flood).</p>	<p>Government Code Section 65583(c)(10)(A)(ii):</p> <p>"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall...[a]ffirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include...[a]n analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty and affluence, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title) and Section 65008..."</p>
7	<p><u>Affirmatively Furthering Fair Housing (AFFH) and Sites Inventory</u>: While the element includes a summary of fair housing related to the sites inventory, it must analyze how the identified sites contribute to or mitigate fair housing issues. An analysis should address all of the income categories of identified sites with respect to location, the number of units by all income groups and how that affects the existing patterns for all components of the assessment</p>	<p>Government Code Section 65583(a)(3):</p> <p>"An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all...</p> <p>[a]n inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for</p>

ATTACHMENT 3

#		Comment	Statutory Authority
		of fair housing (e.g., segregation and integration, access to opportunity). This analysis should specifically address whether the ADU strategy to accommodate lower-income households contributes to continued exclusion and disparities in access to opportunity. If sites exacerbate conditions or isolates the RHNA by income group, the element should identify further program actions (not limited to the RHNA) that will be taken to promote equitable quality of life throughout the community (e.g., housing mobility and new opportunities in higher resource areas).	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, and <i>an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to affirmatively further fair housing.</i> "
9		<u>Contributing Factors to Fair Housing Issues:</u> Based on the outcomes of a complete analysis, the element should re-assess contributing factors and particularly prioritize those factors then formulate appropriate policies and programs. Currently the element only includes one contributing factor. The element should address potential contributing factors such as barriers like exclusionary zoning or a lack of state and federally funded developments. Once additional factors are identified, they should then be prioritized.	Government Code Section 65583(c)(10)(A)(iii) "In order to make adequate provision for the housing needs of all economic segments of the community, the program shall include...[a]n assessment of the contributing factors, including the local and regional historical origins and current policies and practices, for the fair housing issues identified under clauses (i) and (ii)."
9		<u>Goals and Actions:</u> The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and 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, discrete timing or milestones, geographic targeting and metrics or numerical targets. As appropriate, actions must address housing mobility, new housing choices and affordability in higher resource or higher income areas, place-based strategies for community preservation and revitalization and displacement protection.	Government Code Section 65583(c)(10)(A)(iv) –(v): "In order to make adequate provision for the housing needs of all economic segments of the community, the program shall include...[a]n identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved" and "[s]trategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement."
10	2	<u>Extremely Low-Income (ELI) Households:</u> The element must quantify the number of existing and projected ELI households, and also analyze their housing needs. The analysis of ELI housing needs should also evaluate ELI	Government Code Section 65583(a)(1): "The element shall contain...[a]n assessment of housing needs and an inventory or resources and constraints relevant to the meeting of these needs. The

ATTACHMENT 3

#		Comment	Statutory Authority
		households by tenure.	assessment and inventory shall include...[a]n analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and project housing needs for all income levels, including extremely low income households , as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code... Local agencies shall calculate the subset of very low income households ...that qualify as extremely low income households."
11	3	<u>Overpayment</u> : The element must quantify and analyze overpayment by tenure (i.e., renter and owner), for both the overall population and lower-income households.	Government Code Section 65583(a)(2): "The element shall contain...[a]n assessment of housing needs and an inventory or resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...[a]n analysis and documentation of household characteristics, including level of payment compared to ability to pay , housing characteristics, including overcrowding, and housing stock condition."
12		<u>Housing Conditions</u> : The element includes the number of substandard housing units from Census data. However, the element must include an estimate of the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.	Government Code Section 65583(a)(2): "The element shall contain...[a]n assessment of housing needs and an inventory or resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...[a]n analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition."
13		<u>Housing Costs</u> : While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge).	Government Code Section 65583(a)(2): "The element shall contain...[a]n assessment of housing needs and an inventory or resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...[a]n analysis and documentation of household characteristics, including level of payment compared to ability to pay , housing characteristics, including overcrowding, and housing stock condition."
14	4	<u>Sites Inventory</u> : While the sites inventory includes many requirements, it must include the general plan designation. Additionally, there are some discrepancies between cited sites and the inventory. For example, two of the school sites do not list any units in the inventory and the numbers in the inventory do not match what is stated in the analysis.	Government Code Section 65583(a)(3): "The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify

ATTACHMENT 3

#		Comment	Statutory Authority
		Additional sites will likely need to be identified to accommodate the RHNA.	<p><i>adequate sites for housing</i>, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:</p> <p>...</p> <p>(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, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to affirmatively further fair housing."</p> <p>Government Code Section 65583.2(b)(2): "The inventory of land shall include...[t]he size of each property listed...and <i>the general plan designation</i> and zoning of each property."</p>
15		<p><u>Realistic Capacity</u>: The element must provide assumptions for the calculation of residential capacity on identified sites included in the inventory and must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.</p>	<p>Government Code Section 65583.2(c): "[A] city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing...</p> <p><i>"The city or county shall determine the number of housing units that can be accommodated on each site as follows:</i></p> <p>"(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.</p>

ATTACHMENT 3

#	Comment	Statutory Authority
		<p>“(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.”</p>
16	<p><u>Small and Large Sites</u>: Sites smaller than a half-acre and larger than ten acres 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 and large sites but also should 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.</p>	<p>Government Code Section 65583.2(c)(2)(A)-(B):</p> <p>"(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that site of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as project for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.</p> <p>(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, 'site' means that portion of the parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision."</p>
17	<p><u>Suitability of Nonvacant Sites</u>: While the element includes a description of the identified sites, it must include an analysis demonstrating the potential for additional development on nonvacant sites. Specifically additional details on the school sites and Cal Water site. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element should analyze the extent that existing uses may impede additional residential development. For example, the element includes sites identified as a private college, a school site, and a reservoir site, but little analysis was provided to demonstrate whether these existing uses</p>	<p>Government Code Section 65583.2(b)(3):</p> <p>"The inventory of land shall include...<i>[f]or nonvacant sites</i>, a description of the existing use of each property."</p> <p>Government Code Section 65583.2(g)(1) and (2):</p> <p>"(1) For <i>sites described in paragraph (3) of subdivision (b) [nonvacant sites]</i>, the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past</p>

ATTACHMENT 3

#	Comment	Statutory Authority
	<p>would impede development of these sites within the planning period. The element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the Town and relate those trends to the sites identified. The element could also consider indicators such as age and condition of the existing structure expressed developer interest, existing versus allowable floor area, low improvement to land value ratio, and other factors.</p>	<p>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.</p> <p>"(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period."</p>
18	<p><u>Zoning for Lower-Income Households</u>: The element must demonstrate zoning appropriate to accommodate housing for lower-income households. For sites with zoning meeting specified densities or default densities (20 units per acre in Atherton), no analysis is required. Otherwise, the element must include analysis based on statutory factors, including but not limited to financial feasibility and experience within the zone.</p>	<p>Government Code Section 65583.2(c)(3): "For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or a county shall do either of the following:</p> <p>(A) <i>Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.</i></p> <p>(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:</p> <p>...</p> <p>(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.</p> <p>..."</p>
19	<p><u>SB 9 Sites</u>: The element identifies SB 9 as a strategy to accommodate the part of the Town's RHNA. To support these assumptions, the analysis must include experience,</p>	<p>Government Code Section 65583.1(a):</p>

ATTACHMENT 3

#	Comment	Statutory Authority
	<p>trends and market conditions that allow lot splits and missing middle uses. The analysis must list the potential SB 9 sites and demonstrate the likelihood of redevelopment, including whether existing uses constitute as an impediment for additional residential use. The analysis should describe how the Town determined eligible properties, whether the assumed lots will have turnover, if the properties are easy to subdivide, and the condition of the existing structures. The analysis should also describe interest from property owners as well as experience. The analysis should provide support for the units being developed within the planning period. Based on the outcomes of this analysis, the element should add or modify to establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development as well as monitor development every two years with and identify additional sites within six months if assumptions are not being met. 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.</p>	<p>"The inventory of land shall include...<i>[f]or nonvacant sites</i>, a description of the existing use of each property."</p> <p>Government Code Section 65583.2(g)(1):</p> <p>"(1) For <i>sites described in paragraph (3) of subdivision (b) [nonvacant sites]</i>, the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county'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."</p>
20	<p>Publicly Owned Sites: The element identifies multiple publicly-owned sites including the Public Facilities and Schools District, the Menlo School, and Cal Water Bear Gulch Reservoir sites. The element must include additional discussion on each of the publicly- owned sites identified to accommodate the RHNA. Specifically, the analysis should 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, where appropriate, 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 Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.</p>	<p>Government Code Section 65583.2(a):</p> <p>"...As used in this section, 'land suitable for residential development' includes all of the following sites that meet the standards set forth in subdivisions (c) and (g):</p> <p>...</p> <p>(3) Residentially zoned sites that are capable of being developed at a higher density, <i>including sites owned or leased by a city, county, or city and county.</i></p> <p>(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, <i>including sites owned or leased by a city, county, or city and county.</i>"</p> <p>Government Code Section 65583.2(b):</p> <p>"The inventory of land shall include all of the following:</p> <p>...</p>

ATTACHMENT 3

#	Comment	Statutory Authority
		<p>(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.</p> <p>(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5."</p>
21	<p><u>Previously Identified Nonvacant and Vacant Sites:</u> If nonvacant sites identified in a prior adopted housing element or vacant sites identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless:</p> <p>The site's current zoning is appropriate for the development of housing affordable to lower-income households by either including analysis or meeting the appropriate density and</p> <p>The site is subject to a housing element program that requires rezoning within three years of the beginning of the planning period to allow residential use by- right for housing developments in which at least 20 percent of the units are affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).)</p>	<p>Government Code Section 65583.2(c):</p> <p>"Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower-income housing, moderate-income housing, or above moderate-income housing. <i>A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households...."</i></p>
22	<p><u>Infrastructure:</u> The element must demonstrate sufficient existing or planned water, sewer, and other dry utilities supply capacity, including the availability and access to distribution facilities, to accommodate the RHNA.</p> <p>For your information, water and sewer service</p>	<p>Government Code Section 65583.2(a)(5):</p> <p>"(A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities."</p>

ATTACHMENT 3

#	Comment	Statutory Authority
	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.	<p>(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory."</p> <p>Government Code Section 65589.7(a):</p> <p>"The housing element adopted by the legislative body and any amendments made to that element shall be immediately delivered to all public agencies or private entities that provide water or sewer services for municipal and industrial uses, including residential, within the territory of the legislative body."</p>
23	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 . HCD has not received a copy of the electronic inventory. 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.	<p>Government Code Section 65583.3(a):</p> <p>"For a housing element or amendment adopted on or after January 1, 2021, the planning agency shall submit to the department an electronic copy of its inventory of land suitable for residential development developed pursuant to paragraph (3) of subdivision (a) of Section 65583 and subdivision (b) of this section with the copy of its housing element or amendment submitted pursuant to subdivision (g) of Section 65585. The local government shall ensure, to the best of its knowledge, that the inventory of land submitted to the department is true and correct."</p>
24	<u>Accessory Dwelling Units (ADUs)</u> : The element projects approximately 35 ADUs per year over the eight-year planning period. This trend is inconsistent with HCD records of 19 ADUs per year. To support assumptions for ADUs in the planning period, the element should reduce the number of ADUs assumed per year and reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify	<p>Government Code Section 65583.1(a):</p> <p>" The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. <i>The department</i></p>

ATTACHMENT 3

#		Comment	Statutory Authority
		<p>policies and programs as appropriate. Further, programs should commit to additional incentives and strategies, frequent monitoring (every other year) and specific commitment to adopt alternative measures such as rezoning or amending the element within a specific time (e.g., six months) if needed. The element must also address affordability assumptions for ADU projections.</p>	<p><i>may also allow a city or county to identify sites for accessory dwelling units based on the number of accessory dwelling units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department.</i> Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article."</p> <p>Government Code Section 65852.2(m):</p> <p>"A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, <i>subject to authorization by the department</i> and compliance with this division."</p>
25		<p><u>Zoning for a Variety of Housing Types:</u></p> <p><i>Emergency Shelters:</i> The element should clarify shelters are permitted without discretionary action and discuss available sites, acreage, including typical parcel sizes and the presence of reuse opportunities, proximity to transportation and services and any conditions inappropriate for human habitability. The analysis should also list and evaluate all development standards and address the constraints on spacing and shelter size with a program. Finally, 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.</p>	<p>Government Code Section 65583(a)(4):</p> <p>"(A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element.... The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:</p>

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>(i) The maximum number of beds or persons permitted to be served nightly by the facility.</p> <p>(ii) Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.</p> <p>(iii) The size and location of exterior and interior onsite waiting and client intake areas.</p> <p>(iv) The provision of onsite management.</p> <p>(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.</p> <p>(vi) The length of stay.</p> <p>(vii) Lighting.</p> <p>(viii) Security during hours that the emergency shelter is in operation.</p> <p>(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code)."</p>
26		<p><i>Housing for Employees:</i> The Employee Housing Act permits housing under specific provisions. 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. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. The element must demonstrate compliance with these requirements and include programs as appropriate.</p>	<p>Health & Safety Code Secction 17021.5(b):</p> <p>(b) <i>Any employee housing providing accommodations for six or fewer employees shall be deemed a single-family structure with a residential land use designation for the purposes of this section.</i> For the purpose of all local ordinances, employee housing shall not be included within the definition of a boarding house, rooming house, hotel, dormitory, or other similar term that implies that the employee housing is a business run for profit or differs in any other way from a family dwelling. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves six</p>

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>or fewer employees that is not required of a family dwelling of the same type in the same zone. Use of a family dwelling for purposes of employee housing serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) or local building codes.</p> <p>Health & Safety Code Section 17021.6:</p> <p><i>(b) Any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household, or that is approved pursuant to Section 17021.8, shall be deemed an agricultural land use for the purposes of this section.</i> Except as provided in Section 17021.8, for the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other discretionary zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located.</p>
27		<p><i>By-Right Permanent Supportive Housing:</i> 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.</p>	<p>Government Code Section 66583(c)(3):</p> <p>"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall...[a]ddress 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. ... <i>Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).</i>"</p>
28		<p><i>Low Barrier Navigation Centers:</i> 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.</p>	<p>Government Code Section 65662:</p> <p><i>"A Low Barrier Navigation Center development is a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses, if it meets the requirements of this article."</i></p>

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>Government Code Section 65661(b):</p> <p>“(b) “Use by right” has the meaning defined in subdivision (i) of Section 65583.2. Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to actions taken by a public agency to lease, convey, or encumber land owned by a public agency, or to facilitate the lease, conveyance, or encumbrance of land owned by a public agency, or to provide financial assistance to, or otherwise approve, a Low Barrier Navigation Center constructed or allowed by this section.”</p>
29		<p><i>Mobile Homes:</i> The element must clarify whether mobile homes on a permanent foundation in the PFS zone are approved in the same way as single-family homes, if not a program should be added as appropriate.</p>	<p>Government Code Section 65583(c)(1):</p> <p>"Sites shall be identified as needed to affirmatively further fair housing and to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, <i>mobilehomes</i>, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing."</p>
30		<p><i>Multifamily Housing:</i> The element states that multifamily housing is allowed only in PFS zone with a Conditional Use Permit (CUP) and master plan. The element must analyze and demonstrate realistic opportunities for multifamily and analyze the CUP requirement for multifamily as a potential constraint on housing supply and affordability. The analysis should identify findings of approval for the CUP and their potential impact on development approval certainty, timing, feasibility and cost. If constraints are identified, programs should be included to address and remove or modify these constraints.</p>	<p>Government Code Section 65583(a)(5):</p> <p>"An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...<i>[a]n 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),</i> and for persons with disabilities as identified in the analysis pursuant to paragraph (7), <i>including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development.</i> The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7)."</p>

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>Government Code Section 65583(c)(1):</p> <p>" Sites shall be identified as needed to affirmatively further fair housing and to facilitate and encourage the development of a variety of types of housing for all income levels, including <i>multifamily rental housing</i>, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing."</p>
31		<p><i>Accessory Dwelling Units (ADUs):</i> The element indicates the Town modified its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the Town's ordinance, HCD discovered several areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should include a program to update the Town's ADU ordinance to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.</p>	<p>Government Code Section 65852.2(h):</p> <p>(1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. <i>After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.</i></p> <p>(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.</p> <p>Note: This statement has been included in most housing element reviews, but most cities, including Atherton, have not actually received any comments.</p>
32	5	<p><u>Land Use Controls:</u> 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, heights, lot coverage and allowable density ranges. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities. For example, the element should describe allowed uses and typical densities in the PFS zone. In addition, the element notes that zones include a 34-foot height restriction, the element should clarify whether three stories are allowed in zones that allow</p>	<p>Government Code Section 66583(a)(5):</p> <p>"An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...<i>[a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels</i>, 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), <i>including land use controls</i>, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development.</p>

ATTACHMENT 3

#		Comment	Statutory Authority
		<p>multifamily or add a program to address the constraint. The required setbacks and maximum lot coverage requirements should also be analyzed as a constraint in the PFS zone. Lastly, the element states that low allowable densities are a constraint on housing; the element should include a program to mitigate the identified constraint.</p>	<p>The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7)."</p>
33		<p><u>Zoning Fees and Transparency</u>: The element must list all fees and 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).</p>	<p>Government Code Section 66583(a)(5):</p> <p>"An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...<i>[a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels</i>, 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, <i>fees and other exactions required of developers,</i>"</p> <p>Government Code Section 65940.1(a)(1):</p> <p>(a) (1) A city, county, or special district that has an internet website shall make all of the following available on its internet website, as applicable:</p> <p>(A) (i) A current schedule of fees, exactions, and affordability requirements imposed by that city, county, or special district, including any dependent special districts, as defined in Section 56032.5, of the city or county applicable to a proposed housing development project.</p> <p>(ii) The city, county, or special district shall present the information described in clause (i) in a manner that clearly identifies the fees, exactions, and affordability requirements that apply to each parcel and the fees that apply to each new water and sewer utility connection.</p>

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>(iii) The city, county, or special district shall post a written fee schedule or a link directly to the written fee schedule on its internet website.</p> <p>(B) All zoning ordinances and development standards adopted by the city or county presenting the information, which shall specify the zoning, design, and development standards that apply to each parcel.</p> <p>(C) The list required to be compiled pursuant to Section 65940 by the city or county presenting the information.</p> <p>(D) The current and five previous annual fee reports or the current and five previous annual financial reports, that were required pursuant to subdivision (b) of Section 66006 and subdivision (d) of Section 66013.</p> <p>(E) An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by that city, county, or special district on or after January 1, 2018. For purposes of this subparagraph, "cost of service study" means the data provided to the public pursuant to subdivision (a) of Section 66016.</p>
34		<p>Fees and Exaction: While the element provides a cumulative analysis of fees for single family developments, it should also provide this analysis for multifamily developments. In addition, the element should list all the various planning and impact fees associated with development, including but not limited to general plan amendments, zone changes, site plan or master plans, specific plans, environmental fees, and water/sewer fees. Lastly, the element should analyze the proportion of total fees and the proportion to the development costs of both single family and multifamily housing.</p>	<p>Government Code Section 66583(a)(5):</p> <p>"An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...<i>[a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels</i>, 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, <i>fees and other exactions required of developers, ...</i>"</p>
35		<p>Local Processing and Permit Procedures: While the element describes some of the use permit procedures, it must further describe and analyze the Town's permit processing and approval procedures by zone and housing type. The analysis must evaluate the processing and permit</p>	<p>Government Code Section 66583(a)(5):</p> <p>"An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...<i>[a]n analysis of potential and actual governmental constraints upon</i></p>

ATTACHMENT 3

#		Comment	Statutory Authority
		procedures' impacts as potential constraints on housing supply and affordability. For example, the element should clarify whether design review is required. In addition, the element must describe the CUP findings and procedures as well as describe master plan review requirements for multifamily development and analyze these as constraints on housing development. Based on the outcomes of the analysis, the element should add or modify programs to streamline approval of multifamily housing and promote approval certainty.	<i>the maintenance, improvement, or development of housing for all income levels</i> , 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, <i>fees</i> and other exactions required of developers, <i>local processing and permit procedures</i> , and any locally adopted ordinances that directly impact the cost and supply of residential development. <i>The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584</i> "
36		<u>Local Ordinances</u> : The element must analyze any locally adopted ordinances that directly impacts the cost and supply of residential development. While the element states that the Town has a short-term rental ordinance, it should be analyzed for constraints on housing development.	Government Code Section 66583(a)(5): "An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include... <i>[a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels</i> , 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, <i>fees</i> and other exactions required of developers, local processing and permit procedures, and <i>any locally adopted ordinances that directly impact the cost and supply of residential development.</i> "
37		<u>Streamlining Provisions</u> : The element must clarify whether the Town has procedures in place consistent with streamlining procedures pursuant to Government Code section 65913.4 and include programs as appropriate.	Government Code Section 66583(a)(5): "An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include... <i>[a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels</i> , 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), <i>including land use controls</i> , building codes and their enforcement, site improvements, fees and other exactions required of developers, <i>local processing and permit procedures,</i> "

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>NOTE: This comment states that the Town must develop procedures to process an SB 35 application. The statute is too long to copy here. In addition, currently the Town is not subject to SB 35 streamlining.</p>
38		<p>Constraints on Housing for Persons with Disabilities: The element must include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. For example, the element must describe the findings and approval procedure for the Town's Reasonable Accommodation procedure. In addition, the element must describe and analyze how group homes for seven or more are allowed within the Town and add programs as appropriate. For your information, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses.</p> <p>These housing types should not be excluded from residential zones, most notably low- density zones, which can constrain the availability of housing choices for persons with disabilities. Requiring these housing types to obtain a special use or CUP could potentially subject housing for persons with disabilities to higher discretionary exceptions processes and standards where an applicant must, for example, demonstrate compatibility with the neighborhood, unlike other residential uses. The element should add or modify programs to address the constraint as appropriate.</p>	<p>Government Code Section 66583(a)(5):</p> <p>"An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include...<i>[a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels</i>, including the types of housing identified in paragraph (1) of subdivision (c), and <i>for persons with disabilities as identified in the analysis pursuant to paragraph (7)</i>, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. <i>The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality</i> from meeting its share of the regional housing need in accordance with Section 65584 and <i>from meeting the need for housing for persons with disabilities, supportive housing</i>, transitional housing, and emergency shelters identified pursuant to paragraph (7)."</p> <p>Government Code Section 66583(c)(3):</p> <p>"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. <i>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.</i>"</p> <p>Government Code Section 65583(c)(5):</p> <p><i>"Promote and affirmatively further fair housing opportunities</i> 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 <i>disability</i>, and other characteristics protected by the California Fair</p>

ATTACHMENT 3

#		Comment	Statutory Authority
			Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law."
39	6	<u>Availability of Financing</u> : The element must describe the availability of financing, including private financing and government assistance programs, is generally available in the community.	Government Code Section 65583(a)(6): " An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include... <i>[a]n analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, ...</i> "
40		<u>Approval Time and Requests for Lesser Densities</u> : The element must include analysis of requests to develop housing at densities below those identified, the length of time between receiving approval for a housing development and submittal of an application for building permits. The element must address any hinderance on the construction of a locality's share of the regional housing need.	Government Code Section 65583(a)(6): " An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include... <i>[a]n 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 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 Section 65584.</i> The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing."
41	7	<u>Special Needs</u> : While the element quantifies the Town's special needs populations, it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (e.g., availability senior housing units, # of large units, # of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps. In addition, the element must quantify and analyze the number of large households, elderly persons, and persons experiencing	Government Code Section 65583(a)(7): "The assessment and inventory shall include ... <i>[a]n analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter.</i> The need for emergency shelter shall be assessed based on the capacity necessary to accommodate the most recent homeless point-in-time count conducted before

ATTACHMENT 3

#		Comment	Statutory Authority
		homelessness in the Town.	the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions. ...An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services. "
42	8	The element must include analysis of energy conservation opportunities in residential development. The analysis should facilitate the adoption of housing element policies and programs. For example, programs could provide incentives to promote higher density housing along transit, encourage green building techniques and materials in new construction and remodels, promote energy audits and participation in utility conservation programs, and facilitate energy conserving retrofits upon resale of homes.	<p>Government Code Section 65583(a)(8):</p> <p><i>"The assessment and inventory shall include...[a]n analysis of opportunities for energy conservation with respect to residential development.</i> Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system."</p>
43	C1	<p>To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines (e.g., at least annually or month and year) or timeframes earlier in the planning period. Additionally, programs should include specific commitment and actions toward beneficial impacts or housing outcomes. Program language such as "discuss", "review", "develop" and "explore" should be complemented or replaced with commitment such as adopt, pursue, apply or identify. Programs to be revised include the following:</p> <p><i>Program 3.814 (Adoption of an Inclusionary Zoning Ordinance):</i> The element should include additional information on the inclusionary fee and include a specific date of implementation.</p> <p><i>Program 3.815 (Conservation and Rehabilitation of Existing Units):</i> The program should specify what actions will be taken and clarify how the Town will assist property owners.</p> <p><i>Program 3.821 (Seniors):</i> The program should include outreach for the existing programs listed as well as include specific timing for implementation.</p> <p><i>Program 3.822 (Disabled and Developmentally Delayed Persons):</i> The program should include proactive outreach</p>	<p>Government Code Section 65583(c)</p> <p>"The element shall contain...[a] <i>program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period,</i> that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code)...."</p>

ATTACHMENT 3

#		Comment	Statutory Authority
		<p>and specific timing for implementation.</p> <p><i>Program 3.823 (Equal Housing Opportunity):</i> The program should include implementation timing for each action listed as well as how often outreach will occur during the planning period.</p> <p><i>Programs 3.824 (Emergency Shelters, Transitional and Supportive Housing) and 3.831 (Energy Conservation):</i> The programs must include clear actions for implementation as well as specific timing.</p> <p><i>Program 3.841 (Shared Housing):</i> The program should be revised to include specific timing, identify a responsible party, funding, and objective. In addition, the program should include proactive outreach and describe how the Town will provide the identified support.</p> <p><i>Program 3.842 (Housing Compliance and Monitoring):</i> The program should be revised with specific commitment beyond “consider” for the identified actions. In addition, the program should clarify the action being taken and include specific timing for implementation.</p>	
44	2	<p>As noted in Finding B4, 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> <p><u>Program 3.813 (Multifamily Housing Development on School and other Properties):</u> This program should be revised to include specific incentives for implementation and clarify what actions will be completed as part of the program. In addition, the element must commit to the rezones and discuss the densities that will be allowed with the rezone. The program currently references timing associated with adoption of the element. The Town should be aware that if the adoption is not complete by the start of the planning period (January 31, 2023), the Town will be subject to right requirements pursuant to Government Code</p>	<p>Government Code Section 65583(c)(1)(A):</p> <p>"Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with this article within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and</p>

ATTACHMENT 3

#		Comment	Statutory Authority
		section 65583.2, subdivisions (h) and (i).	development standards, shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element."
45		<p><u>Shortfall of Adequate Sites:</u> If the element does not identify adequate sites to accommodate the regional housing need for lower-income households, it must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. The program should identify the shortfall by income group, acreage, allowable densities, appropriate development standards and meet all by right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i), including but not limited to permitting multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower income households.</p>	<p>Government Code Section 65583(c)(1)(B):</p> <p>"Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2."</p> <p>Government Code Sections 65583.2(h) and (i):</p> <p>"(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed use if</p>

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.</p> <p>“(i) For purposes of this section and Section 65583, <i>the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.</i> Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.”</p>
46		<p>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).</p>	<p>Government Code Section 65582.3(g)(3):</p> <p>"Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity’s valid exercise of its police power, or occupied by low- or very low income households, <i>shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.</i>"</p>
47	3	<p>The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households. The program(s) could commit the Town to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units</p>	<p>Government Code Section 65583(c)(1):</p> <p>"A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the</p>

ATTACHMENT 3

#		Comment	Statutory Authority
		affordable to extremely low-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.	<p>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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order <i>to make adequate provision for the housing needs of all economic segments of the community...</i>"</p> <p>Government Code Section 65583(c)(2):</p> <p>"Assist in the development of adequate housing to meet the needs of <i>extremely low</i>, very low, low-, and moderate-income households."</p>
48		In addition, the element must also include a program(s), as appropriate, to assist in the development of housing for <u>all</u> special needs households (e.g., elderly, homeless, farmworkers, persons with disabilities, female-headed households). Program actions could include proactive outreach and assistance to non-profit service providers and developers, prioritizing some funding for housing developments affordable to special needs households and offering financial incentives or regulatory concessions to encourage a variety of housing types.	<p>Government Code Section 65583(c)(1):</p> <p>"A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that 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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order <i>to make adequate provision for the housing needs of all economic segments of the community...</i>"</p> <p>Government Code Section 66583(c)(3):</p>

ATTACHMENT 3

#		Comment	Statutory Authority
			<p>“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. <i>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.</i>”</p> <p>Government Code Section 65583(c)(5):</p> <p><i>“Promote and affirmatively further fair housing opportunities</i> 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 <i>disability</i>, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.”</p>
49	4	As noted in Findings B5 and B6, the element requires a complete analysis of potential governmental and non-governmental 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:	See citations below.
50	5	The element must include actions that promote AFFH opportunities as stated in Finding B1. For example, the element could include a program committing to implement Government Code section 8899.50, subdivision (b) which requires the Town to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH. Programs should address enhancing housing mobility strategies; encouraging development of new affordable housing in high resource areas; improving place-based strategies to encourage community conservation and revitalization, including preservation of existing affordable housing; and	<p>Government Code Section 65583(c)(10)(A)(iv) –(v):</p> <p>"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall include...[a]n identification of the jurisdiction’s fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved" and "[s]trategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in</p>

ATTACHMENT 3

#		Comment	Statutory Authority
		protecting existing residents from displacement. The programs should also include specific commitment, milestones, geographic targeting and metrics or numerical targets for meaningful outcomes and fair housing results.	areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement."
51	6	<u>Program 3.812 (New Construction of Affordable Accessory Dwelling Units)</u> : The program must clarify the actions that will be implemented to incentivize ADUs beyond "consider". In addition, the program should include implementation timing for each specific action. Lastly, as mentioned above, the Town should adopt a program to comply with state ADU law, monitor production and affordability of ADUs throughout the planning period and identify additional actions as needed.	Government Code Section 65583(c)(7): "In order to make adequate provision for the housing needs of all economic segments of the community, the program shall... <i>[d]evelop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent</i> , as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, 'accessory dwelling units' has the same meaning as 'accessory dwelling unit' as defined in paragraph (4) of subdivision (i) of Section 65852.2."
52	D	<i>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).)</i> The element did not address this requirement. The element must include quantified objectives for new construction, rehabilitation, and conservation by income group, including extremely low-income households. Please see the Building Blocks for additional information.	Government Code Section 65583(b): (1) A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing. (2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. <i>The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.</i> "
53	E	While the element includes a general summary of the public participation process, the element should also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. 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	Government Code Section 65583(c)(9): " In order to make adequate provision for the housing needs of all economic segments of the community, the program shall... <i>[i]nclude a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.</i> "

ATTACHMENT 3

#		Comment	Statutory Authority
		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. Lastly, the element should describe whether translation services were available during the process.	
54	F	<p><i>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).)</i></p> <p>The element must describe how consistency was achieved and how it will be maintained during the planning period. For example, 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.</p>	<p>Government Code Section 65583(c)(8):</p> <p>"In order to make adequate provision for the housing needs of all economic segments of the community, the program shall...[i]nclude an identification of the agencies and officials responsible for the implementation of various actions and <i>the means by which consistency will be achieved with other general plan elements and community goals.</i>"</p>