

TOWN OF TIBURON RESPONSE TO HCD COMMENTS ON 2ND DRAFT HOUSING ELEMENT

Note: Page number references to the Housing Element included in these responses are to the pages in the tracked changes version of revised draft of the Housing Element. Also, program identifications (e.g., "Program H-b") have been changed since the 2nd draft Housing Element but have not been marked as changes in the 3rd draft Housing Element.

Comment 1

While the element now includes added descriptions of how past programs may have assist in needing the needs of special needs populations (programs H-a, H-ee), it did not provide an evaluation of the cumulative effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness) and revise programs as appropriate.

Response 1

The following underlined text was added to page 10:

Tiburon's current Housing Element was adopted by the Town Council on August 20, 2014. While many of the goals, policies, and programs were successful, the Town did not produce enough affordable housing to meet its 5th cycle RHNA. Between 2015 and June of 2022, the Town developed 15 new single-family homes and 29 accessory dwelling units (ADUs). While the Town did not develop any new deed-restricted housing during the 5th cycle planning period, some of the ADUs provided affordable market-rate housing.

The Town attributes ~~this~~ the lack of affordable housing production to the high cost of land and construction in Tiburon and housing densities that were too low to support affordable multifamily housing. In order to make redevelopment and multifamily housing financially feasible in Tiburon, the Town ~~rezoned~~ will rezone eighteen parcels to allow housing at densities of 30-35 unit per acre. These sites have the capacity to build 368 new multifamily units.

While no new deed-restricted affordable housing has been developed in Tiburon since 2002, the Town has achieved success in providing and maintaining affordable housing, such as the Hilarita Apartments (91 affordable units), Tiburon Hill Estates (16 affordable units), Point Tiburon Marsh (20 affordable units), Cecilia Place (16 affordable units for seniors), Bradley House (15 affordable units for the disabled/elderly), and Chandler's Gate (4 affordable units). These developments provide 104 very low-income, 38 low-income, and 20 moderate-income housing units, for a total of 162 affordable housing units for both families, the disabled, and seniors.

Nonetheless, and as described in detail in Section 2.6 Special Housing Needs, the Town continues to need more housing for seniors, persons with disabilities, lower-income female-headed households with children and large families, and persons experiencing homelessness. Programs contained in the Housing Element to address these needs are identified in Section 2.6. Although the homeless population in Tiburon has decreased since the last housing element was adopted, from 7 unsheltered people in 2013 to none in 2019, the number of unsheltered people throughout Marin County has increased from 183 to 703 over the same period, illustrating the critical need for continued cross-county efforts to provide housing and services

for the homeless. Tiburon does not currently contain any homeless shelters, but the Town actively participates in countywide efforts to address homelessness and annually contributes funding toward programs for the homeless. Moreover, the Town has several zoning districts that permit emergency shelters and development standards to facilitate their development.

Comment 2

Sites Inventory: The element did not address this finding. As stated in the previous review, the inventory of sites (Table 11) must also include a description of existing use with sufficient detail to facilitate an analysis of the potential for additional development on nonvacant sites.

Response 2

An “Existing Use” column has been added to Table 11 on page 73. The existing uses are detailed in Section 3.2 Sites Inventory; see the narrative on pages 78-87.

Comment 3

Suitability of Nonvacant Sites: As previously noted, the description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In response, the element now includes descriptions for sites A-H and adds additional description for sites 1-9. However, must still demonstrate the existing uses and circumstances do not impede additional development within the planning period as follows:

- the element should disclose whether any of the sites in downtown Tiburon including Site C at 1600 Tiburon Boulevard have recently undergone significant renovations approved for redevelopment and whether recent improvements may impede redevelopment.

Response 3

The following edits were made to the text on page 86:

Site C is located at 1600 Tiburon Boulevard and is identified in Table 11 and Figure 46 above. The site is 0.39 acre. The site is currently ~~vacant~~ used as a construction staging area and is expected to be vacant and available for development in June 2023. A planning approval and temporary use permit to build a restaurant on the site was issued in 2021 and has since expired. The site currently is within the Affordable Housing Overlay zone which allows up to 20.7 units per acres. However, the site will be rezoned to a new Mixed Use zoning district that will allow a residential density of 30-35 du/ac pursuant to Program H-ii.

Comment 4

The element also mentions that Site G features structures listed on the register of historic places. The element should analyze the historic status, local preservation policies, and demonstrate that such status would not impede additional development.

Response 4

The following underlined text was added to page 88:

Five of the structures were built between 1900 and 1921 and are on the local inventory of historic resources. Nonetheless, redevelopment of the site is possible if the building facades are preserved. Tiburon Municipal Code section 16-23.060 establishes the review process and development standards for buildings on the local inventory of historic resources. Modifications to an existing building require approval by the Community Development Director for a site plan and Design Review. The design of any construction, additions, or

replacement of a building listed on the local inventory must be in harmony with the general architectural, craftsmanship and historical characteristics of the building as outlined in the inventory and must reflect the guiding themes of consistency, compatibility, and authenticity set forth in the Downtown Tiburon Design Handbook. This includes windows, doors, trim, roof types, exterior building materials, and colors.

Comment 5

According to third party comments, the Chase Bank has a lease extending to 2030. The element should identify if any of the properties have known leases or covenants and evaluate the extent to which leases could impede new residential development.

Response 5

On April 26, 2023, staff spoke with the JP Morgan real estate department representative who stated that JP Morgan Chase purchased the property from MetLife Investment Management in December 2023. There is no lease on the property.

The text on page 79 has been revised as follows:

Site 2 is located at 1535 Tiburon Boulevard and is identified in Table 10 and Figure 46. The site is 0.72 acres and contains a 7,866 square foot structure built c. 1970s. The site contains a Chase Bank which was closed during the pandemic and has recently reopened. The Town will rezone to increase the maximum residential density from 20.7 du/ac to 30-35 du/ac pursuant to Program H-ii. Commercial use will be optional on mid-block sites such as Site 2. As the site is owned by JP Morgan Chase, there are no leases that could impede redevelopment of the site. ~~Although the Town has been unable to make contact with the property owner,~~ The structure is aging and functionally obsolete (the building is significantly larger than the space requirements of a modern-day branch location), and the site is highly underutilized given the redevelopment potential. ~~There are no known leases or contracts that would prevent redevelopment.~~

Comment 6

Site 5: The element indicates the owner's intent to redevelop the property while maintaining the preexisting grocery store on the site. While the element now commits to working with the property owner to develop the site in phases, the element can provide additional information on how the site can be developed with the grocery store in place. In addition, a portion of this site also is listed on the City of Belvedere's housing element site's inventory. The element should clarify if the site capacity listed is just for that portion of the site within Town boundaries and if coordination with Belvedere would be necessary to fully develop the site.

Response 6

Page 81 says: "The property owner has expressed their desire to retain the existing grocery store as well as some other commercial uses and recognizes that the development will have to occur in phases to accommodate existing uses. There are no known existing leases or other contracts that would prevent redevelopment. The property owner will work with staff to develop a plan where the grocery store is maintained. The developer and the Town will work on a development scenario which may include phasing of the development to retain the grocery store and other tenants and then relocate once a new building is developed."

The following underlined text was added to page 82:

The expressed owner interest, aging structure, and underutilized nature of the parcel make this

site suitable for development during the planning period. The site is partially located in the City of Belvedere, although the lot size used to calculate the unit capacity for Tiburon is based solely on the parcel located within the Town of Tiburon (the portion of the site located in Belvedere is a separate parcel, APN 060-082-60). Based on a minimum density of 30 du/ac, the site is projected to yield a minimum of 66 units at various affordability levels.

To encourage and facilitate affordable housing on the site, the Town will facilitate a meeting among the property owner, the City of Belvedere, and affordable housing developers, provide expedited permit review and approval and assistance in obtaining grants, reduce fees for affordable housing units, apply State density bonuses and incentives as applicable, and make available the use of former RDA set-aside funds and/or housing in-lieu funds. Program H-cc *Work with Non-Profits and Property Owners on Housing Opportunity Sites* details the clear and actionable steps, time frame, and responsibility for these actions.

The following action was added to program H-cc on page 139:

8. Regarding Site 5, work closely with the City of Belvedere to streamline, facilitate, and expedite planning and building permit applications, review, and approval. Work with the City of Belvedere to appoint a joint project manager, and conduct joint design review board, planning commission and city/town council meetings when reviewing and approving development plans.

Comment 7

Site 7: the element indicates that this site contains a post office. The element should clarify whether the Town includes other post offices, whether or not the post office may have a long-term lease that would preclude redevelopment, and how the Town could facilitate relocation.

Response 7

The following edits were made to the text on page 83:

Site 7 is located at 6 and 12 Beach Road and is identified in Table 11 and Figure 46. The site comprises two parcels, under the same ownership, totaling 1.41 acres. The site contains buildings constructed in 1960 and 1968 which are currently occupied by a post office and offices, and a 3-unit apartment building at the southern end of the site. The Town met with the property owner in April 2022 who expressed interest in redeveloping the site with housing if the Town would allow residential use at a sufficient density. The property owner also attended a Town Council meeting in April 2022 and requested a density of 40-45 du/ac in order to make it financially feasible to redevelop the site with housing. The Town will rezone the site to allow mixed use with a residential density of 30-35 du/ac. Commercial use will be optional on mid-block sites such as Site 7. ~~There are no known leases or other contracts that would prevent redevelopment.~~ Although the post office lease runs to 2032, the property owner and the Town will work with the post office to rebuild the post office to better meet the evolving needs of the mail and package delivery industry and to locate the post office at the same location, at another site owned by the property owner (such as Site 5), or at another location in Tiburon. The property owner has stated that rezoning the parcels is a critical first step to advancing discussions and development plans with all lessees.

Comment 8

Site 8: While the element now includes program H-II (*Reed School Site*) to identify alternate sites if the school district does not choose to pursue housing on the site, it did not include the information requested in the previous review including a description of the timing for the facilities

plan and any conversations with the school district to provide housing.

Response 8

The following underlined text was added to page 84:

Site 8 is located at 1199 Tiburon Boulevard and is identified in Table 11 and Figure 46 above. The site a 2.9-acre vacant portion of a 7.5 acre parcel that is owned by the Reed Union School District. An elementary school is located on the developed portion of the site. The site would ideally be developed with affordable housing for teachers, school staff, and public safety personnel. Due to the site's topography, clustered multifamily buildings, such as those shown in Figure 50, would be best suited for the site. The Town met with school staff in January 2022 who stated that the school was embarking on a year-long Master Facilities Plan and would consider housing for the site. In January 2023, the Facilities Master Plan consultant presented findings to the School Board which indicated she would be returning to the Board for a discussion of options for the site. In April 2023, the Facilities Master Plan consultant confirmed that the Plan was still being drafted and stated that the Plan would include a recommendation to further assess housing development at the site. The site is currently included in an affordable housing overlay zone that permits up to 24.8 units per acre. The site will be rezoned to require a minimum of 20 du/ac and a maximum of 25 du/ac pursuant to Program H-ii.

Comment 9

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

Response 9

Noted. As stated on page 89: "Nonvacant sites are expected to accommodate more than 50% of the Town's lower income housing need. Therefore, the Town will include findings, based on substantial evidence, in the resolution adopting the housing element. These findings will be based on the site characteristics described above for Sites 1-7 and 9."

Comment 10

Use of Senate Bill 9 (Statutes of 2021) Projections: As previously noted, the element is projecting development of four units on single-family lots based on the passage of SB 9 (Statutes of 2021) to accommodate a portion of its above-moderate income RHNA. In response, the element has adjusted its projection of such units from 174 to 36 units in total (pg. 90). This figure was developed from an owner interest response rate of 6 out of 29 vacant single-family lot owners. However, it is unclear how the assumption that these lots will develop the maximum allowable intensity of four units per lot. If the Town continues to rely on SB 9 production projections without an established history of SB 9-unit production, the element should include policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development at the anticipated development levels.

Response 10

The following edits were made to the text on page 92:

As shown in Table 11 and detailed in Appendix C, the Town is projecting development of ~~four~~

an average of three single-family homes as allowed under SB 9 on nine qualifying vacant single-family lots for a total of ~~36~~ 27 market-rate units affordable to above moderate-income households.

Table 11 and Appendix C were revised accordingly.

The following edits were made to the text on page 92:

The Town's SB 9 development standards currently limit unit size to 800 square feet. In order to facilitate and encourage development, the Town will increase the maximum unit size to 1,000 square feet pursuant to Program H-oo. The Town will also conduct outreach and promote SB 9 development through the following actions:

1. Provide an SB 9 application checklist on the Town's website.
2. Develop a handout on SB 9 standards and the application process and distribute at Town Hall and to all property owners of vacant single-family lots.
3. Promote SB 9 potential in the Town's newsletter and SB 9 handout, on social media, and on the Town's website.
4. Establish an SB 9 specialist in the Community Development Department.

The following underlined text was added to page 146:

H-oo Facilitate and Promote SB 9 Development. Encourage and facilitate SB 9 development on qualifying single-family lots to provide additional housing opportunities. Take the following actions:

1. Provide information on Tiburon's SB 9 standards.
2. Provide SB 9 application checklists on the Town's website.
3. Develop a handout on SB 9 standards and the application process and distribute at Town Hall and to all property owners of vacant single-family lots.
4. Promote SB 9 potential in the Town's newsletter and SB 9 handout, on social media, and on the Town's website.
5. Establish an SB 9 specialist in the Community Development Department.
6. Adopt an ordinance by July 1, 2023, to increase the maximum unit size from 800 square feet to 1,000 square feet.

<i>Responsibility:</i>	Community Development Department
<i>Financing:</i>	General Fund
<i>Objectives:</i>	36 market rate SB 9 units developed through SB 9 by the end of 2030
<i>Timeframe:</i>	Develop new materials, update the Town's website, and provide counter handouts by the end of 2023. Update and publicize annually thereafter. Adopt ordinance by July 1, 2023.

Comment 11

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

Response 11

Noted.

Comment 12

Environmental Constraints: The element now discusses extensive site location within the Wildland Urban Interface (WUI) and the Flood Hazard Area as well as some Town policies for those areas, including a ban on underground parking the Flood Hazard Area. As a result, the element should analyze minimum off-street parking requirements in the Flood Hazard Area, and whether buildout capacities in the future MU and MS zoning districts of 35 units per acre are possible with parking requirements, development standards, and Flood Hazard Area mitigation policies.

Response 12

Page 69 states: "Sites 1-7, 9, and A-H are located in, or partially in, a Special Flood Hazard Area with a 1 percent or greater chance of flooding within any given year. The Town requires all new buildings in Special Flood Hazard Areas to be built with finished floors at least two feet above base flood elevations established by FEMA. This requirement has been taken into account when modeling potential building forms and evaluating unit capacities on each site. Due to the presence of a high water table, no underground parking was assumed in the modeling, which greatly reduces development costs and increases feasibility of the project. Furthermore, new development standards created for the purpose of implementing the new Mixed Use and Main Street zoning districts ensure the unit capacities identified in Table 11 can be achieved on each parcel. New buildings are required to comply with the Town's ordinances that address flood damage prevention, which are contained in Chapter 13D of the Municipal Code. While they add to the cost of development, they are considered necessary for the safety and welfare of residents, and they have not deterred other redevelopment projects in the Downtown. As a result, the presence of the floodplain and the potential for flooding is not a constraint on development.

The following edits were made to page 77:

The Town completed conceptual modeling on representative sites to determine unit capacities given site-specific development standards (including setbacks, building heights, and FAR maximums), parking requirements, and topographical and environmental constraints. The models assume unit sizes ranging from 900 to 1,200 square feet to represent a variety of unit types. Figures 47-50 show existing conditions and conceptual models for four representative sites. The modeling demonstrates that the unit capacities identified in Table 11 can easily be accommodated on the sites given the Town's development standards, and parking requirements, and Flood Hazard Area mitigation policies, and assuming ground-floor commercial on mixed-use sites and no underground parking in any Flood Hazard Area.

Parking standards for MU and MS districts added to Table 17 on page 102 as follows:

Apartments:

1 space per studio & 1 bedroom unit

2 spaces per 2+ bedroom unit

Condos: 2 spaces per unit

Comment 13

Processing and Permit Procedures: While the element now has additional information as to how the Town complies with certain state laws (SB 35, CEQA, SB 330, pg. 111), it indicates that projects in the MU and MS zones will follow the current zoning requirement, requiring two discretionary permits for residential use but provides no analysis of this process as a potential

constraint to development. In addition, the element should indicate how the permit procedure for processing by-right applications relating to sites rezoned pursuant to Government Code section 65583.2, subdivision (h) and (i). As stated in the previous review the analysis of permit processing procedures should describe permit requirements by type of housing, zone, and approval body. The analysis should address approval findings and impacts on housing cost, supply, timing, and approval certainty and add or modify programs as appropriate.

Response 13

The section on Review Process and Timelines beginning on page 110 was extensively edited and reorganized, and a new Table 21 was added as follows:

Tiburon processes the typical small development (for example, a new single-family or two-family home) in three to four months from application to building permit ~~approval~~ submittal. Single-family housing development applications generally take less time to review than multi-family proposals. When proposed single family developments are in conformity with the General Plan and existing zoning, it is possible to process the required applications within several months. ~~Some~~ New single-family and multifamily development proposals are subject to Design Review, unless ministerial review is required under state law. Major projects may also require an EIR.

The total review time for multifamily projects, from the initial developer contact with the Town to final planning approval, can take up to a year. However, the Town does not have much of a recent history to draw conclusions about typical processing times for multifamily development. The Town received only one multifamily application over the past 20 years: a 3-story mixed-use project, located at 1694-1696 Tiburon Boulevard, that was developed in 2016. The development contains a restaurant on the ground floor with two housing units above. Because the site is located in the Neighborhood Commercial (NC) zone, the project required a conditional use permit and design review. The conditional use permit application was received on April 30, 2014, and reviewed by the Planning Commission over several hearings. The Planning Commission approved the conditional use permit on August 12, 2015; it was subsequently appealed to the Town Council, which denied the appeal on September 16, 2015. The project then went to the Design Review Board on May 5, 2016, and was approved in a single hearing. The entire process took just over two years.

In ~~most of~~ Tiburon's residential and mixed-use zones (~~(R-1, R-1-B, RO-1, RO-2, R-2, R-3, R-4, MUL, MUH, and MS)~~), a single discretionary permit (Design Review) is required to construct single family homes, two-family homes, and/or multifamily housing, as shown in Table 21.

In Tiburon's Neighborhood Commercial (NC) and Village Commercial (VC) zones, current zoning requires two discretionary permits for residential development. The Planning Commission must approve a Conditional Use Permit for the residential use and the Design Review Board must approve a Design Review permit. Each process is separate; processing is sequential. To facilitate housing development and improve the certainty of approval, the Town is amending the Zoning Code to permit multifamily as a permitted use in the NC and VC zones, as shown in Table 21.

The Town is also creating new zoning districts (R-3-10, R-4, MU, and MS) that allow multifamily development by right, as shown in Table 21. In addition, the Town is removing the conditional permit requirement for many commercial uses in the MU and MS zones such as retail, personal services, food and beverage, and business and household services. As a result, the review process and processing times for proposed multifamily and mixed-use development on Sites 1-

9 and A-H will be much more efficient once rezoning is complete pursuant to Programs H-ii and H-ii. Objective development and design standards are provided for all mixed-use projects in the MU, MS, and VC zones, as well as residential projects qualifying for streamlined (ministerial) processing under State housing law, including but not limited to Government Code sections 65913.4, 655589.5 and 756852.21, in the NC zone.

Table 1: Allowable Land Uses and Permit Requirements

<u>Zoning District</u>	<u>Single-Family</u>	<u>Two-Family</u>	<u>Multi-family</u>	<u>ADUs</u>	<u>Community Care Facility</u>	<u>Transitional/Supportive Housing</u>	<u>Emergency Shelters</u>
<u>R-1</u>	<u>P</u>			<u>MP</u>	<u>P</u>	<u>P</u>	
<u>R-1-B</u>	<u>P</u>			<u>MP</u>	<u>P</u>	<u>P</u>	
<u>R-O</u>	<u>P</u>			<u>MP</u>	<u>P</u>	<u>P</u>	
<u>R-2</u>	<u>P</u>	<u>P</u>		<u>MP</u>	<u>P</u>	<u>P</u>	
<u>R-3</u>	<u>P</u>		<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	
<u>R-3-10</u>	<u>P</u>		<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	
<u>R-4</u>		<u>P</u>	<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	
<u>RPD</u>	<u>P</u>			<u>MP</u>	<u>P</u>	<u>P</u>	
<u>RMP</u>	<u>P</u>		<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	
<u>MS</u>			<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	
<u>MU</u>			<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>VC</u>			<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>NC</u>			<u>P</u>	<u>MP</u>	<u>P</u>	<u>P</u>	<u>P</u>

P: Permitted use
 MP: Ministerial Permit
 U: Conditional Use Permit
 — : Use not allowed

The Design Review Board acts on Design Review applications at public hearings. The Design Review Board also reviews any variance applications associated with the site plan and design of the project simultaneously; other variances are reviewed by the Planning Commission. ~~No additional discretionary review is required to approve housing projects in the above-listed zones.~~ If the decision of the Design Review Board or Planning Commission is appealed to the Town Council, the Town Council will hold a hearing and make the final decision on the application. The Design Review process ~~for both single family and multifamily development~~ typically has the elements and timeline shown in Table 21-22.

The Town has a maximum of 30 days to conduct an initial review of the project and determine whether it is “complete,” or whether additional information is needed to evaluate the project. While this may seem like a long time, it includes time to refer the application to different departments and outside agencies involved in development review; and to receive and consolidate these comments. Staff tries to anticipate analyses that will be needed for environmental review or during the public hearing process (such as any special studies). If the project does not meet various Town standards, it may also need to be revised. In the past several years, the Town has improved submittal checklists and handouts to identify what information is required for an application to be deemed “complete.”

Within 30 days of receiving a complete application, the Town must determine whether the

project requires a Negative Declaration, Environmental Impact Report or can be categorically exempt. If not categorically exempt, staff prepares an “Initial study”. If a Negative Declaration is prepared, the state-required public review period is 20 to 30 days, depending on whether a state agency is involved in the review. If an Environmental Impact Report (EIR) is required it can add an additional 6 to 8 months for preparation and review of the Draft EIR, responses to comments, and preparation of the Final EIR. Town records indicate that over the past 20 years, more than 99 percent of design review applications are found to be categorically exempt from CEQA, and the Design Review Board has considered no EIRs for residential development over that period of time and only a handful of Negative Declarations. All such projects have been approved by the Board.

Applications are subject to the Permit Streamlining Act, which sets forth various time limits within which the Town must approve or disapprove permits.

In Tiburon’s Mixed Use and Main Street zones, qualified residential projects that are consistent with Senate Bill 35 will be processed through a ministerial and streamlined approval process. As described above, for projects that qualify under State Law (i.e., Senate Bill 330), a “preliminary application” is allowed for a development project that includes residential units; a mix of commercial and residential uses with two-thirds of the project’s square footage used for residential purposes; or transitional or supportive housing. Upon submittal of an application and a payment of the permit processing fee, a housing developer is allowed to “freeze” the applicable fees and development standards that apply to their project while they assemble the rest of the material necessary for a full application submittal. After submitting the preliminary application to the Town, an applicant has 180 days to submit a full application, or the preliminary application will expire. Public hearings for applicable housing development projects that are consistent with SB 330 in the MU and MS are limited to five hearings, including Planning Commission, Town Council, and appeal hearings. Eligible projects consistent with SB 35 and SB 330 are required to comply with objective zoning standards and General Plan requirements. For projects subject to CEQA, CEQA hearings or hearings related to zoning variances or code exemptions are not included in the public hearing limit. ~~All other development projects in the MU and MS zones will follow the current zoning requirement, which requires two discretionary permits for residential development. The Planning Commission must approve a Conditional Use Permit for the residential use and the Design Review Board must approve a Design Review permit. Each process is separate, and processing is sequential. This means that a very similar task/timeline to that shown above is first performed by the Planning Commission and then by the Design Review Board, with only the environmental review portion not being repeated by the Design Review Board.~~

The Town recognizes that the time required to process a development proposal can be a barrier to housing production if it is lengthy. The Town has streamlined its development review process and ~~adopted~~ will be adopting a new Zoning Ordinance with objective development and design standards for the Downtown and qualifying residential projects to make the process more efficient, while still providing adequate opportunity for public review and input. The new Zoning Ordinance makes residential use a permitted use in all of Tiburon’s residential and mixed-use zones, where a single discretionary permit (Design Review) is required to construct single family, and multifamily housing, and the residential component of mixed use housing (some commercial uses such as retails, personal services, food and beverage, and business and household services are also permitted. In addition, much of the permit processing time frame is dictated by state mandated noticing and processing procedures that help assure community review of projects. Processing times for projects in Tiburon are similar to, if not faster than, other jurisdictions in Marin County.

The Town works closely with developers to expedite approval procedures so as not to put any unnecessary timing constraints on development. For a project of scale or a likely controversial project, an initial pre-consultation meeting with the planning department, public works, and the fire district is recommended to discuss the development proposal. Then a description of the project and application must be filed with a site plan, which is first reviewed by the planning division and other agencies such as public works for consistency with Town ordinances and General Plan guidelines. After the project is approved, the building division performs plan checks and issues building permits. Throughout construction, the building division will perform building checks to monitor the progress of the project. This process does not seem to put an undue time constraint on most developments because of the close working relationship between Town staff, developers, and the decision-making bodies (Design Review, Planning Commission, and Town Council). Some projects may include a variance request and those requests are generally considered at the same hearing as the design review permit to avoid delays in processing. A vast majority of Design Review applications are approved at the first hearing. Additionally, appeals of Design Review Board decisions are limited to a single step, directly to the Town Council, to avoid unnecessary delays from intermediate hearing bodies such as the Planning Commission.

As described above the Town is adopting objective development and design standards that will be applied to the Downtown zones and applicable projects in the NC zone. For all other projects, the Tiburon zoning ordinance provides the criteria used by decision-makers when reviewing a project for design review approval. The Town also provides illustrations and further details of factors considered in the Town's Hillside Design Guidelines and the Downtown Tiburon Design Handbook. While design review can be subjective to some extent, these guidelines and Town practices strive to make design review as speedy, objective, and fair as possible.

The guiding principles are intended to decrease uncertainty for applicants, and as much as possible, provide objective and clear standards, considerations, and expectations for new development. The Town also provides separate handbooks for design standards for development in the downtown area and in the hillside areas, which comprise the vast majority of Tiburon's neighborhoods. These design guideline handbooks provide a series of easy-to-understand examples, using illustrations with written explanations, of acceptable and unacceptable design techniques and practices that are useful to architects, designers, applicants, staff, the community, and decision-makers. These objective tools are used in the review of development applications and act to reduce uncertainty as to whether an application will be favorably received by the Town.

Comment 14

Fees and Exaction: The element should include analysis of the traffic mitigation fee, including clarification of how the anticipated number of peak PM commutes is calculated and whether this was included in the cumulative fee analysis.

Response 14

The following underlined text was added to page 106-107:

The Town's Traffic Mitigation Fee is an exaction applied to new development that generates new additional traffic in Tiburon. The fee applies to residential and commercial projects and requires that the project pay its pro rata share per each new PM peak trip contributing to each

intersection where improvements are needed per the General Plan. The Town's traffic engineering consultant completed a comprehensive update of the traffic model and fee structure in 2006. PM peak trips are calculated based on current trip generation data from the Institute of Transportation Engineers, taking into account the use and location of the project site. The traffic model and fee structure will be updated per General Plan 2040 Program M-e "Updating the Transportation Mitigation Fee" once the new General Plan 2040 is adopted and the associated environmental impact report is certified (anticipated in May 2023).

The line item identified as "Traffic Mitigation" in Table 20 on page 108 was changed to "Traffic Mitigation Fee". The fee was included in the cumulative fee analysis.

Comment 15

Zoning, Development Standards and Fees: While the element includes a statement stating compliance with Government Code section 65940.1, a cursory review of the Town's website indicates that the information may not be complete. For example, the Town's website does not appear to include the current and five previous annual fee reports or the current pursuant to Government Code 65940.1(a)(1)(D). The element should add a program to address these requirements, if necessary.

Response 15

Pursuant to Government Code section 65940,1:

- The fee schedule is online at [Forms & Fees | Tiburon, CA - Official Website \(townoftiburon.org\)](https://www.townoftiburon.org/forms-fees)
- The Zoning Code is online at [Mini TOC: Chapter 16 - ZONING | Code of Ordinances | Tiburon, CA | Municode Library](https://www.townoftiburon.org/mini-toc-chapter-16-zoning-code-of-ordinances)
- Affordability requirements are online at [16-70 - Inclusionary Housing and Density Bonuses | Code of Ordinances | Tiburon, CA | Municode Library](https://www.townoftiburon.org/16-70-inclusionary-housing-and-density-bonuses-code-of-ordinances)
- Annual accounting of development fees are provided in budgets at [Archive Center • Tiburon, CA • CivicEngage \(townoftiburon.org\)](https://www.townoftiburon.org/archive-center)
- No nexus studies were completed after 2018.

No change was made to the Housing Element.

Comment 15

Housing for Persons with Disabilities: While the element now describes the approval findings for reasonable accommodation, it did not analyze those finding as possible constraints. In particular, the Town should analyze findings 5 and 6 to ensure consistency with reasonable accommodation guidance. The element should also describe if there are different permitting requirements for in addition, the element must describe if the zoning code distinguishes between care facilities based on number of individuals occupying the home.

Response 15

The following changes were made to the text on pages 117-118:

A determination by the review authority to grant or deny a request for reasonable accommodation may be appealed within ten days of the decision to the Town Council. Although the Town receives very few requests for reasonable accommodation, there is the potential for a request that modifies the building's exterior, such as construction of an elevator or ramp, to trigger design review by the Design Review Board. In order to remove this constraint, and to provide more certainty in the approval process, the Housing Element contains program H-q

Reasonable Accommodation.

Intermediate or community care facilities as defined by state law, or any other residential care facility for the handicapped (as defined by the Fair Housing Act), located in a single-family dwelling are permitted in all residential zones by right. The zoning code defines “intermediate care facility” and “community care facility” as “any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes residential facilities, adult day care facilities, day treatment facilities, foster family homes, small family homes, social rehabilitation facilities, community treatment facilities, and social day care facilities (Health and Safety Code Sections 1500 et seq.).” The Town does not require a minimum distance between these facilities nor does the Town distinguish between care facilities based on the number of occupants.

The following change was made to the text on page 58:

Group homes, also known as community care facilities, ~~aring for up to 6 persons,~~ are allowed by right in all residential districts.

Comment 16

As noted in Finding B1, 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.

Response 16

The following action was added to program H-cc on page 141:

8. Regarding Site 5, work closely with the City of Belvedere to streamline, facilitate, and expedite planning and building permit applications, review, and approval. Work with the City of Belvedere to appoint a joint project manager, and conduct joint design review board, planning commission and city/town council meetings when reviewing and approving development plans.

Comment 17

In addition, the element should be revised as follows:

Program H-dd (Work with Non-Profits and Property Owners on Housing Opportunity Sites):

The element was updated to clarify that distinct lots within sites are shared by the same owner. However, the element should still include specific commitments to facilitate lot consolidation of the sites in the inventory.

Response 17

The text on pages 83 and 84 was revised as follows:

To encourage and facilitate affordable housing on the site, the Town will facilitate a meeting among the property owner and affordable housing developers, provide expedited permit review and approval (including lot consolidation, which is a ministerial process), ~~and provide~~ assistance in obtaining grants, reduce fees for affordable housing units, apply State density bonuses and

incentives as applicable, and make available the use of former RDA set-aside funds and/or housing in-lieu funds. Program H-cc *Work with Non-Profits and Property Owners on Housing Opportunity Sites* details the clear and actionable steps, time frame, and responsibility for these actions.

The text on pages 85 was revised as follows:

To encourage and facilitate affordable housing on the site, the Town will facilitate a meeting among the property owner and affordable housing developers, provide expedited permit review and approval (including lot consolidation, which is a ministerial process), and provide assistance in obtaining grants, reduce fees for affordable housing units, apply State density bonuses and incentives as applicable, and make available the use of former RDA set-aside funds and/or housing in-lieu funds. Program H-cc *Work with Non-Profits and Property Owners on Housing Opportunity Sites* details the clear and actionable steps, time frame, and responsibility for these actions.

Program H-cc (formerly Program H-dd), subsection 5, on page 141 was revised as follows:

5. Facilitate development through regulatory incentives, reducing or waiving fees, fast track processing, lot consolidation (i.e., assistance with the application, and fee reduction or waiver), and assistance in development review.

Comment 18

Accessory Dwelling Units: After a cursory review of the Town's ordinance, HCD discovered several areas which were 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 add a program to update the Town's ADU ordinance in order to comply with state law. For more information, please consult HCD's ADU Guidebook, which provides detailed information on new state requirements surrounding ADU development.

Response 18

The Town is in the process of amending the ADU Ordinance to be consistent with State law. On April 26, 2023, the Planning Commission approved a resolution recommending the Town Council adopt amendments to the ADU Ordinance. The Town Council is tentatively scheduled to introduce and adopt the Ordinance in May.

The following edits were made to Program H-gg on page 143:

8. Amend the ADU Ordinance to comply with state law.

Timeframe: Develop new materials, update the Town's website, and provide counter handouts by the end of 2023. Update and publicize annually thereafter. Amend the ADU Ordinance by July 2023 and within six months of future state legislation amending state ADU law.

Comment 19

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

The element did not address this finding. The element still must include a program(s) with

specific actions and timelines to assist in the development of housing special needs populations including extremely low-income (ELI) households. While the element includes a commitment to utilize the Town's Low- and Moderate-Income Housing In-Lieu fund in Program H-n (Work with Non-Profits on Housing), the Town should include commitments to target lower-income affordability levels and additional commitments beyond committing in-lieu funds toward already earmarked purposes.

Response 19

The following underlined text was added to Program H-m (formerly Program H-n) on page 130:

H-m Work with Non-Profits on Housing. The Town will work with non-profits to assist in achieving the Town's housing goals and implementing programs. Coordination should occur on an ongoing basis, and as special opportunities arise related to specific housing sites and as the Housing Element is implemented. The Town will reach out to developers of supportive housing to encourage development of projects targeted for persons with disabilities, including developmental disabilities. The Town will also reach out to developers of affordable housing for extremely low-income households. The Town will take the following specific actions to facilitate the development and preservation of affordable housing, including housing for extremely low-income households and persons with disabilities:

The following text was added to Program H-dd on page 142:

2. Amend the Inclusionary Housing Ordinance to include an option to satisfy the inclusionary requirement through provision of units affordable to extremely low-income households.

Comment 20

As noted in Finding B2, the element requires a complete analysis of potential 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.

Response 20

Program H-q on page 131 was revised as follows:

H-q Reasonable Accommodation.

1. Amend the Zoning Code to allow ministerial, staff-level review and approval of minor exterior alterations, such as construction of elevators and ramps, and to provide objective standards to make findings regarding "potential impacts on surrounding uses" and "physical attributes of the property and structures" (subsection A.5 and A.6 of TMC Section 16-90-060).
2. Post information on the Town's website regarding reasonable accommodation procedures and instructions for submitting accommodation requests.

Responsibility: Community Development Department, Town Manager

Financing: Staff time, General Fund

Objectives: Implementation of Fair Housing laws

Timeframe: By the end of ~~2023~~ 2024

Comment 21

Promote and affirmatively further fair housing opportunities and promote housing throughout the

community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics 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. (Gov. Code, § 65583, subd. (c)(5).)

The element did not address this finding. As stated in the previous review, the element must be revised to include goals and actions that specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends.

Programs must include metrics and timelines that target intended outcomes, particularly for those that assist the Town in facilitating fair housing choice and supporting mobility throughout the Town. Programs must have metrics (where applicable), should be targeting beneficial impacts for people, households, and neighborhoods (e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed).

As previously noted, the element acknowledges that a racially concentrated areas of Affluence (RCAA) exists within the Town, and that the Town is predominantly in the high resource category according to TCAC/HCD Opportunity Maps and is predominantly higher income, the Town must include a significant and robust suite of actions (not limited to the RHNA) to promote housing mobility and improve new housing opportunities throughout the Town for existing residents and the broader region. While the element now refers to several programs to promote housing mobility and improve housing opportunities for existing residents and the broader region, the programs are limited to information distribution (H-b, H-f), commitments to communicate with other organizations or agencies (H-q), or continue ongoing standard practices (H-ff, H-x). While the element now includes Program H-kk (Identify Additional Housing Opportunity Sites) to be should include specific commitments to implement.

Strong programs to promote housing mobility and increasing housing choices and affordability that would result in an equitable quality of life throughout the Town (beyond RHNA) is critical as the sites inventory continues to isolate the RHNA for lower-income households.

Response 21

Program H-jj (formerly Program H-kk) on page 144 was revised to strengthen the program's intent to improve housing mobility as follows:

H-jj Identify Additional Housing Opportunity Sites. In an effort to improve housing mobility and provide housing opportunities distributed throughout Tiburon, the Town will identify and rezone, as necessary, additional housing opportunity sites for lower-income households outside the Downtown. Potential sites include, but are not limited to, the Cove Shopping Center and the Tiburon Baptist Church site if the property owners indicate interest in redeveloping or adding housing to their sites. In compliance with the No Net Loss Law and Government Code 65863, the Town will identify new housing opportunity sites as development occurs in order to ensure the remaining sites are sufficient to accommodate the remaining RHNA at all income levels.

Program H-jj was added to the Table 23 AFFH Action Matrix on page 150. Actions were added to

Program H-gg in Table 23 on page 151. Program H-oo was added to Table 23 on page 152. The text on page 71 was revised as follows:

In addition, the housing element contains several programs to promote housing mobility and improve new housing opportunities throughout the Town for existing residents and the broader region. These include actions to: identify new housing opportunity sites outside the Downtown where there is a concentration of sites identified for lower-income housing (Program H-ji); facilitate and promote accessory dwelling units (ADUs) and SB 9 units in existing single-family neighborhoods (Programs H-gg and H-oo); ensure fair housing opportunities are provided and landlords understand their responsibilities under fair housing laws (Programs H-a, H-p, and H-gg); provide rental assistance to make existing apartments more affordable (Program H-w); and provide home match programs to expand affordable housing opportunities (Program H-e). See Table 23 for detailed information on these and other programs.

Comment 22

Program H-aa (Tenant Protection Strategies): As previously noted, the program needs firmer commitments beyond “explore.” The element was updated to study policies and coordinate with stakeholders, but the program should still include firm commitments.

Response 22

The following edits were made to program H-z (formerly program H-aa) on page 137-138:

H-z Tenant Protection Strategies. Work with the County of Marin and other Marin jurisdictions to ~~explore and~~ develop strategies that protect tenants from rapidly rising rents and displacement. These may include:

- **Rent stabilization:** Currently, the State imposes rent caps on some residential rental properties (AB 1482) through 2030. Consider adopting a permanent policy and/or expansion to units not covered by AB 1482, as permitted by law.
- **Just cause for eviction:** AB 1482 also establishes a specific set of reasons that a tenancy can be terminated. These include: 1) default in rent payment; 2) breach of lease term; 3) nuisance activity or waste; 4) criminal activity; 5) subletting without permission; 6) refusal to provide access; 7) failure to vacate; 8) refusal to sign lease; and 9) unlawful purpose. Consider expanding on these protections or extending if State protections expire.
- **Local relocation assistance:** Consider developing a countywide relocation assistance program that provides greater relocation assistance to special needs groups (e.g., seniors, disabled, female-headed households) and reasonable accommodation for persons with disabilities.
- **Right to Purchase:** When tenants are being evicted due to condominium conversion or redevelopment, offer first right to purchase to displaced tenants to purchase the units.
- **Right to Return:** When tenants are being evicted due to rehabilitation/renovation of the property, offer first right to displaced tenants to return to the improved property.
- **Tenant Bill of Rights:** Adopt a tenant’s bill of rights that considers extending protections for subletters and family members and addresses severe habitability

issues and market pressures. This provision could also provide anti-retaliation protection for tenants that assert their rights and a right to legal representation in the case of evictions.

The Town will take the following actions:

1. Participate in countywide meetings with planning staff from all Marin jurisdictions to review best practices and develop model ordinances for the tenant protection strategies identified above in 2024. Work with Fair Housing of Northern California and Legal Aid of Marin to develop strategies and prepare model ordinances.
2. Conduct study sessions with the Planning Commission and Town Council to understand needs and best practices for the tenant protection strategies identified above in 2025. Invite Fair Housing of Northern California and Legal Aid of Marin to present at and participate in the study sessions.
3. Prepare ordinances at Town Council direction and bring forward for Planning Commission recommendation and Town Council ~~consideration of~~ adoption in 2025.

Responsibility: Community Development Department

Financing: Regional Early Action Planning (REAP) grants; staff time

Objectives: Exploration of and possible action on tenant protection strategies

Timeframe: ~~Explore~~ Develop options with Marin jurisdictions in 2024 and ~~bring forward for Council direction, including possible adopt ordinance adoption,~~ in 2025.