

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

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March 20, 2024

Brandon Swanson, Planning Director  
Community Planning and Building Department  
City of Carmel  
P.O Box CC  
Carmel-by-the-Sea, CA 93921

Dear Brandon Swanson:

**RE: City of Carmel's 6<sup>th</sup> Cycle (2023-2031) Revised Draft Housing Element**

Thank you for submitting the City of Carmel's (City) revised draft housing element that was received for review on January 24, 2024 along with revisions on March 8, 2024. The review was facilitated by a conversation on February 7, 2024 with Marnie Waffle. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered public comments from Victoria Beach, Richard Pepe, and Brian Wilke, pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The revisions needed to comply with State Housing Element Law.

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

*Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services... facilitate and encourage the development of a variety of types of housing...(Gov. Code, § 65583, subd. (c)(1).)*

Progress toward the Regional Housing Need Allocation (RHNA): The element now incorporates pipeline units, affordability metrics, and development barriers. However, the revised element now has data inconsistencies across Tables C-2 through C-4. For example, Table C-3 states that ten Low Income (LI) ADUs are projected alongside seven pipeline units, while Table C-4 lists seven LI ADUs and zero LI units. Similar inconsistencies exist across all three tables. Revisions

are necessary to correct these potential inconsistencies while ensuring that no units, including ADUs, are double-counted across site categories. Please note that depending on the data verification results, housing opportunities or sites for very low-income (VLI) households may need to be identified and evaluated to accommodate the VLI RHNA. Based on the outcomes of this analysis, the element should add or modify programs, as appropriate.

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

Zoning for a Variety of Housing Types (Employee Housing): The element indicates the City does not have agriculturally designated land and therefore, is not required to identify any zones to provide farmworker housing. However, the Employee Housing Act (Health and Safety Code § 17000 et seq.) is not limited to farmworkers. Specifically, 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. The element must either demonstrate consistency with this requirement or include a program action to amend zoning, as appropriate.

- 2. An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

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

Land Use Controls: The element has been revised to incorporate some analysis of land use control impacts as potential constraints on a variety of housing types. However, the analysis must address the cumulative impacts of all relevant land use controls on the cost and supply of housing, feasibility, and ability to achieve minimum densities. Specifically, the analysis should still address open space and interior courtyard requirements for impacts on housing supply (number of units)

and costs and the ability to achieve maximum densities. The element may use sample or recent projects to demonstrate cumulative impact of land use controls. Lastly, the element should add or modify programs to address identified constraints.

Housing for Persons with Disabilities (Reasonable Accommodation): The element now describes the City's reasonable accommodation procedure but should clarify whether the definition of aggrieved parties allows a third-party to request an appeal hearing and, if so, evaluate the impacts on housing for persons with disabilities and add or modify programs to address identified constraints. For example, a program could be added to allow only the applicant or potential beneficiary of the reasonable accommodation request to request an appeal hearing.

3. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

Housing mobility removes barriers to higher opportunity areas and strategically enhances access to housing choices and affordability to promote more inclusive neighborhoods, cities, and regions. Among other factors, the City is wholly the highest resource community in contrast to the rest of the region. As a result, the element should include significant and robust actions with numerical targets (not limited to the RHNA) to promote housing mobility and increase housing choices and affordability throughout the City. While the element has been revised to include Program 3.2B (and associated programs) that outline several actions and strategies to promote housing mobility, it should be modified to enhance housing mobility strategies. Program 3.2B includes a list of housing mobility actions the City will pursue such as encouraging missing middle zoning under the condition that the City produce 187 housing opportunities (the City's lower-income RHNA) affordable to lower income households by 2027. However, actions to affirmatively further fair housing (AFFH) should not be limited by the RHNA. The City should commit to employing the outlined midcycle alternative actions as primary program actions to remove barriers to higher opportunity areas irrespective of RHNA progress.

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

Public participation in the development, adoption, and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly

available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (December 15, 2023), then any rezoning to make prior identified sites available or accommodate the RHNA shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until all necessary rezones are completed.

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

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

HCD appreciates the cooperation and effort the City's housing element team provided during the housing element update and review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Pierce Abrahamson, of our staff, at [pierce.abrahamson@hcd.ca.gov](mailto:pierce.abrahamson@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager