

~~STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY~~~~ARNOLD SCHWARZENEGGER, Governor~~**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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August 26, 2009

Ms. Andrea J. Ouse
Town Planner
Town of Colma
1190 El Camino Real
Colma, CA 94014

Dear Ms. Ouse:

RE: Review of the Town of Colma's Draft Housing Element

Thank you for submitting Colma's draft housing element received for review on June 30, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on August 17, 2009, with you facilitated the review.

The Department applauds the Town's efforts to amend zoning and permit mixed-use development. The element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must analyze realistic capacity of identified sites and potential governmental constraints. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department appreciates your cooperation and assistance throughout the course of the review and is committed to assist Colma in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Jess Negrete, of our staff, at (916) 323-3185.

Sincerely,

A handwritten signature in cursive script that reads "Cathy E. Creswell".

Cathy E. Creswell
Deputy Director

Enclosure

APPENDIX

TOWN OF COLMA

The following changes would bring Colma's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov/hpd. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at www.hcd.ca.gov/hpd/housing_element2/index.php, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Colma has a regional housing need allocation (RHNA) of 63 units, of which 26 are for lower-income households. To address this need, the element relies on three vacant or underutilized sites. However, to demonstrate the adequacy of these sites to accommodate the Town's RHNA, the element must include analyses as follows:

Suitability and Availability

Sandblaster: While the element discusses steep topography, it should also address any other known environmental constraints that could impede development such as potential contamination.

Bocci Property: While the element generally describes the existing uses and the irregular shape, it should evaluate the extent to which existing uses may impede additional residential development to demonstrate the potential for redevelopment. For example, the element could generally describe whether the use is operating, marginal or discontinued, and the condition of the structure. The element could also indicate whether the existing use will be razed and redeveloped or if development will occur on the site with the existing use. Refer to the sample analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_home.php.

Holy Cross: The element indicates a realistic potential of 26 units on 3.32 acres due to site-specific constraints. However, to utilize this site toward the Town's housing needs for lower-income households, the element should describe the impacts of site specific constraints on development, housing capacity and affordability. This is particularly important since the site constraints appear to preclude maximum densities, which may be necessary to facilitate development with units affordable to lower-income households.

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Realistic Capacity: The element must describe the methodology for determining the residential development capacity of identified sites and account for land-use controls and site improvements. Since the three sites identified for multifamily housing also allow commercial uses, the element should specifically account for the extent to which uses other than residential are allowed. For example, projected residential development capacity should not assume residential-only development on all commercial sites.

Small Sites with Constraints: The Sandblaster site is a .53 acre site, Bocci a .6 acre site and Holy Cross a 3.32 acre site and each has site-specific constraints that limit the buildable area of the sites. The Holy Cross site has the largest development potential with a capacity of 26 units. While it may be possible to build housing on a very small parcel, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units. Therefore, the element must include a complete analysis that demonstrates these sites can realistically accommodate new residential development, particularly new multifamily rental development and housing affordable to lower-income households. The analysis should describe existing and/or proposed policies or incentives the Town will offer to facilitate small lot development, and include an evaluation of the financial feasibility of development for lower-income households on smaller sites, given necessary economies of scale. The element could also include a description of recent residential development trends.

Infrastructure: While the element states there is sewer and water infrastructure available for the Sterling Park development sites, it must identify whether sufficient total water and sewer capacity is planned or available to accommodate Colma's share of the regional housing need.

Sites with Zoning for a Variety of Housing Types

Emergency Shelters: While the element contains Program 4.3 to identify an appropriate zone where emergency shelters will be permitted by-right, pursuant to Chapter 633, Statutes 2007 (SB 2), it must specifically identify the zone(s) or potential zone(s) and demonstrate sufficient capacity to accommodate the need for emergency shelters. The element should also describe the appropriateness of the zone(s) for emergency shelters. In addition, Program 4.3 proposes to limit emergency shelters to six beds. This does not appear to provide a realistic opportunity for the development of emergency shelters. The element must discuss the appropriateness of the six-bed maximum including its impact on the development feasibility of emergency shelters. The element must either identify zoning that allows larger shelters without discretionary review or demonstrate how smaller (less than six persons) represent a realistic opportunity for the development of emergency shelters. See the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

Transitional Housing and Supportive Housing: The element indicates there are no transitional or supporting housing units in Colma and it does not identify how such housing uses are permitted. Pursuant to SB 2, transitional and supportive housing must be permitted as a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone. The element must demonstrate consistency with the requirements of SB 2.

2. *Analyze 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. 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) (Section 65583(a)(5)).*

Land-Use Controls: The element identifies a few residential development standards, such as setbacks, then generally concludes the standards are comparable to other communities and not viewed as a constraint. However, the element should identify all relevant development standards (e.g., parking, heights) by zone and analyze their cumulative impact on the cost and supply of housing and ability to achieve maximum densities. Refer to the Land-Use Control analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php.

Fees and Exaction: The element did not address this requirement. The element must list planning and impact fees and analyze the cumulative effect of fees and exactions for typical single- and multi-family housing development including the proportion of fees on development costs. Refer to the Fees and Exaction analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php.

Local Processing and Permit Procedures: While the element indicates approvals are based on zoning conformance, it must specifically describe and analyze the Town's permit processing and approval procedures by zone and housing type. To address this requirement, the element should discuss processing procedures and time for typical single- and multi-family projects, including type of permit, approval body, and decision-making criteria such as approval findings. Refer to the Process and Permit Procedures analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php.

Planned Development Zoning: The element indicates the Town's Planned Development (PD) processes offer flexibility to development standards and the ability to respond to site-specific constraints. However, the element must demonstrate how the PD permit processing procedures impact the certainty and predictability of development and demonstrate they do not pose a constraint, particularly for residential development affordable to lower-income households. The element should describe and analyze the typical permit process procedures and development standards applied to PD projects.

Inclusionary Housing: The element indicates the Town requires a specific percentage of residential developments to be affordable; however, it must also describe and analyze the impacts of the inclusionary requirements on the cost and supply of housing. For example, the element should describe how the Town promotes compliance with inclusionary requirements, including analyzing the benefit of incentives and regulatory concessions offered by the Town. This is particularly important given current market conditions and the cumulative impact of local regulations. The Town could engage the development community to facilitate this analysis.

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Density Bonus: The element states the Town's density bonus can not be used in the Town's Sterling Park neighborhood. However, a jurisdiction should not preclude the use of density bonus law. The Town should demonstrate either its density bonus ordinance complies with State density bonus law (Government Code Section 65915) or include programs as appropriate. A copy of the law is available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65915-65918>

Constraints on Persons with Disabilities: While the element states the Town has a reasonable accommodation process for disabled persons seeking retrofits of their home to improve accessibility, it should include a description of the process including approval findings. In addition, the element must also include a complete analysis of potential constraints on the development, maintenance, and improvement of housing for persons with disabilities. The analysis should address zoning, development standards, building codes, and approval procedures for the development of housing for persons with disabilities. Examples of standards and requirements that could be analyzed include: (1) spacing or concentration requirements; (2) development standards for community care facilities for more than six persons; and, (3) whether there are relaxed parking standards for housing for persons with disabilities. Refer to the Department's memo and the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

3. *Analyze the opportunities for energy conservation with respect to residential development (Section 65583(a)(8)).*

While the element includes a program for the Town to consider adopting green building design and green landscaping ordinances, it must include an analysis of energy conservation opportunities in residential development and add or revise programs as appropriate. Additional information on potential programs to address energy conservation objectives is available on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_conservation.php and in the Department's *Green Building and Sustainability Resources* bibliography at http://www.hcd.ca.gov/hpd/green_build.pdf.

B. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. 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 provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A-1, the element does not include a complete site analysis and 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.

As noted in Finding A-1, the element should add or revise program(s) as appropriate based on the outcomes of the analysis consistent with SB 2.

2. *The housing element shall contain programs which "assist in the development of adequate housing to meet the needs of extremely low-, low- and moderate-income households (Section 65583(c)(2)).*

The element only includes two programs to assist in the development of housing for lower- and moderate-income households, compliance with State density bonus law and assistance with sewer connection fees. However, the element should include additional actions. For example, the element could include programs to initiate contact with developers and list subsequent steps Colma will take to facilitate development of rental housing such as assisting with site acquisition, fee waivers, priority processing and providing funding or supporting applications for funding. See the Department's *Financial Assistance Program Directory* at http://www.hcd.ca.gov/fa/LG_program_directory.pdf.

In addition, pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should be expanded, or programs added, to specifically assist in the development of a variety of housing types to meet the housing needs of extremely low-income (ELI) households. For example, programs could be included to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as single-room occupancy units, which address the needs of this income group.

3. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in Finding A-2, 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.

C. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7))

The element did not address this requirement. The element must include a complete discussion of how consistency will be achieved and maintained during the planning period. The element could include a program to conduct an internal consistency review as part of its annual general plan implementation report required under Government Code Section 65400. This annual report can also assist future updates of the housing element.

D. Flood Hazard and Flood Management Information

As you are aware, Government Code Section 65302 requires cities and counties in California to amend the safety and conservation elements of their general plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009.

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Government Code Section 65302 also requires cities and counties in California, effective January 1, 2008, to annually review the land-use element for those areas subject to flooding identified by flood plain prepared by the Federal Management Agency or the State Department of Water Resources (DWR).

Any amendments to the safety, conservation, and land-use elements, based on the requirements of Government Code Section 65302, will require a review of the housing element for internal consistency, which may in turn, require amendments to the housing element. Local jurisdictions should contact DWR's Department of Flood Management for assistance in obtaining the most current floodplain mapping information needed for the analysis. Contact information is available at <http://www.dwr.water.ca.gov/floodmgmt/rafm/fmb/>.