



Item No. 1 Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARINGS

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: BRITTANY BENDIX, TOWN PLANNER

DATE: OCTOBER 2, 2024

SUBJECT: CONSIDERATION OF RESOLUTIONS RECOMMENDING ADOPTION OF AN INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION AND MITIGATION AND MONITORING REPORTING PROGRAM AND AMENDMENTS TO THE ATHERTON GENERAL PLAN, AND INTRODUCTION OF AN ORDINANCE WITH FIRST READING TO AMEND THE ATHERTON MUNICIPAL CODE TO IMPLEMENT THE 2023-2031 HOUSING ELEMENT AND ZONING CODE UPDATES

RECOMMENDATION:

Staff recommends that the City Council continue their public hearing that began at their meeting on September 18, 2024, to consider and provide direction to staff on the following actions that will revise and implement the 2023-2031 Housing Element to comply with state law:

- Resolution adopting an Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation and Monitoring Reporting Program (MMRP)
- Resolution adopting amendments to the Atherton General Plan
- Introduction and First Reading of an Ordinance to Amend the Atherton Municipal Code.

BACKGROUND

On September 18, 2024, the City Council held a meeting to discuss the Housing Element and Zoning Code Update project. In advance of that meeting and during the public comment section, members of the public requested the Council continue the item for further discussion. During discussion of the proposed project the Council raised questions and provided feedback on certain topics raised by staff. However, the Council did not complete its discussion and therefore, moved to continue the hearing to a special meeting on October 2, 2024.

At the direction of the City Council, staff has publicized the October 2, 2024 through social media channels, e-mail, and a postcard mailed to all residents.

Additionally, since the September 18, 2024, staff has met with Councilmembers one on one to receive feedback on the proposed RM-10 and RM-20/40 development standards and revised Housing Element text, with specific focus on Sections 3.700 and 3.800. Staff has also met with representatives of the State's Department of Housing and Community Development (HCD) to discuss informal feedback on staff's recommendations. The feedback from Councilmembers and HCD is provided in this report to facilitate further discussion at the October 2, 2024 meeting.

ANALYSIS

This section identifies feedback by topic area, relating directly to the revised Housing Element text and the proposed Zoning Code Amendments that were included as Attachments 8 and 12 in the September 18, 2024, packet of materials. For ease of reference, a link to Attachment 8 is included at the end of this staff report. This document has not changed since the September 18, 2024, meeting. However, Attachment 12 has been re-published as part of this report to address corrections noted at the previous Council meeting. These corrections are also noted in this report.

Revised Housing Element Text

Section 3.414 Multi-family Overlays (RM-20 & RM-40)

HCD has requested that the Town include additional narrative of the site planning circumstances for the identified Sacred Heart Site that would facilitate multifamily residential development. As staff has discussed with HCD, the description would address existing uses and building programs and acknowledge the need for redevelopment. It will not impair the Town's ability to continue to use the site.

HCD has also requested that the Town provide additional narrative describing the methodology behind assumption in *Table HE-17: Adjustment Factors*. Because Atherton does not have a history of RM-20/40 development on the PFS sites, as discussed with HCD, staff will use similar projects in other jurisdictions to assert any assumptions. Recommended language is forthcoming and will address this section.

HCD noted confusion related to the approval process for the development of multifamily residences on school site in the Public Schools and Facilities Zone and RM-20/40. Specifically, it is currently unclear to HCD if the development of multifamily housing on the sites require a Master Plan update. Staff addressed this concern, indicating the multifamily development consistent with the adopted standards for RM-20/40 is ministerially approvable by-right and would not on its own require a Master Plan update. HCD requested that this be clarified in the Housing Element.

Section 3.416 SB-9 Subdivisions

HCD has requested additional qualitative analysis for the sample sites provided in the SB-9 inventory (Table HE – 19). The purpose of this analysis will identify how SB-9 development could occur on these sites. Please note that this list does not mandate that these sites are developed with the SB-9 program. The sites are selected only as lots exemplary of SB-9 development potential within the Town and used to model development capacity. HCD has provided staff with examples from the Town of Ross to support this effort. Recommended language is forthcoming and will address this section.

Section 3.700 Housing Goals, Policies & Quantified Objectives

The following section includes feedback from Councilmembers on the goals, policies and objectives identified in the 2023-2031 Housing Element. One global comment on this section for

consideration is whether or not the list reflects an accurate hierarchy of goal vs. objective vs. policy. As the Council reviews this section and the comments within this report they should note any shifts in language that they would like to make (i.e. elevating a policy to an objective, or demoting an objective to a policy).

Policy 3.712(A):

- Add language to educate residents on rental alternatives and the need for report.
- Expand “*encouraging*” *homeowners and developers* to “*encouraging and incentivizing*” *homeowners and developers*.

Goal 3.730:

- Remove the reference to “near” campuses. This goal address development that should occur on-site.

Policy 3.731(A):

- The number of housing units encouraged at the PFS sites for moderate to very low-income is incorrect at “34 units” and should to align with the stated Regional Housing Needs Allocation (RHNA) goal for sites with multi-family overlays which is 96 units.

Policy 3.732(A):

- Expand “*encourage*” *schools* to “*encourage and incentivize*” *schools*...

Cal Water Goals, Objectives and Policies (3.740-3.742)

- Clarify that housing is for staff.
- Expand this section to reference staff housing for the Circus Club.

Policy 3.772(A):

- A question was raised as to whether “access for handicapped” is a typo and should read as “seniors.” Staff can confirm that this is the intended language and relates to the need for accessibility given the number of Seniors living with disabilities.

Policy 3.791(E):

- Additional information was requested related to Project Sentinel¹ a non-profit organization that provides housing assistance for tenants and homeowners in Northern California. They currently have an office in Redwood City and provide regular informational events related to Affirmatively Furthering Fair Housing (AFFH).

Policy 3.791(F):

- Additional clarification was requested related to the term home-sharing, especially as it relates to the Town’s Accessory Dwelling Unit (ADU) programs. Home-sharing can mean both renting out a room in a single-family home and renting out an ADU or Junior ADU (JADU). However renting a room, even if available at a rent affordable to lower income households, does not count towards the Town’s RHNA goals. This is because the room is not its own distinct unit, as is the case with a JADU.
- Remove the reference to “five” residents and “one” resident. These reflect performance of the program in its early phase and will improve based on the Town’s efforts.

¹ <https://www.housing.org/>

Section 3.800

HCD has requested that conservation objectives tallied in *Table HE-37: Quantified Objectives* include references to performance targets for Program 3.831(B) – Energy Conservation and Program 3.841 Shared Housing. The revised Housing Element currently identifies a target of eight low-income units for Program 3.841. However, there are no targets provided for Program 3.831(B). Staff recommends modifying Program 3.831(B) to indicate that it will serve four above moderate-income units.

The following section includes feedback from Councilmembers on the housing programs identified in the 2023-2031 Housing Element.

Program 3.811(B):

- Align the mid-cycle check-in language for this SB 9 program with the mid-cycle check-in language for the RM-10 program (Program 3.811(D)).

Program 3.811(C):

- Align the mid-cycle check-in language for the RM-20/40 program with the mid-cycle check-in language for the RM-10 program (Program 3.811(D)).
- Additionally, there is confusion among Councilmembers, as well as HCD, relating to the application of this program to the RM-10 overlay and the target of “22 lower income units on a maximum of 1.1 acres...” The reference to RM-10 is a typo and will be removed. The target of 22 lower income units on a maximum of 1.1 acres is specific to the RM-20/40 overlay. The target is explained further in *Section 3.420 Zoning Shortfall Analysis*, it identifies the minimum amount housing needed by the RM-20/40 program to achieve the Town’s RHNA objectives under existing zoning, with current capacity, and with the assumption that SB 9 and ADU goals are met.

Program 3.811(D):

- Modify the program to require modification if “fewer than three of the 11 sites have development or active development proposals.”
- Modify the program to identify a number of new sites based on the deficient number of sites triggering modification. For example, if the only two sites have development or active development proposals and the goal is deficient by one, the Town shall identify one additional site.
- Remove the bullet referencing SB 10.
- Shift the dates to align the performance review with the Council’s consideration of the 2027 Annual Progress Report in March 2028. Provide an additional six months for consideration of modifications – September 2028. Assert effective date as January 2029. This results in one additional year from what was additional proposed by staff.

Staff has discussed these changes with HCD and did not receive any concerns.

Program 3.812(A):

- Assert that ADU data will be provided to the Council annually as part of the Annual Program Report.

- Add a reference to ADU workshops held and anticipated in 2024. (Staff anticipates a workshop in November 2024). Expand “*encouraging*” *homeowners and developers* to “*encouraging and incentivizing*” *homeowners and developers*.
- Update workshop information to indicate ongoing workshops every one to two years.

Program 3.812(B):

- Modify the language related to deed restrictions for 10 to 15 years to align with what is currently in the ADU Ordinance by stating “at least 10 years.”

Program 3.817:

- Modify the program to acknowledge that in the absence of a public hearing process, the Town will still provide a courtesy notice to residents of any approval of multifamily housing, similar to the existing notice provided for tree removals.

Program 3.819:

- This program addresses landscaping screening as constraints and the need to modify the Code to eliminate subjectivity. A question was raised regarding the landscaping standards in the RM-10 and RM-20/40 zoning overlays and whether or not those constituted constraints. Because those standards are objective, they are not considered constraints for the purpose of this program.

Program 3.846:

- Modify the action of “promoting” housing development on the Gilmore House site to “consider.”

Section 3.900

A Councilmember requested that the list of meetings in this section continue to expand to reflect ongoing engagement and meetings that were held between July 27, 2022 and April 29, 2024. That list is available on the Town’s Housing Element Update website and will be incorporated into the document.

Zoning Code Amendments

Land Use Tables

The following changes have been reflected in the land use tables for the respective zoning districts, typos and minor grammar changes are not identified:

R-1A:

- The language in footnote 6 includes clarification on the requirements related to this program.

R-1B:

- The reference to multifamily residential was removed from the table as the RM-10 program does not apply to sites within the R-1B district. Additionally, footnote 5 was added to the mobile and manufactured housing land use.

POS:

- Footnotes 3 and 4 are now attached to land uses identified in the table. Additionally, the language for these footnotes has been revised so that it is identical to references in the R-1A table.

17.36.06 Standards for Emergency Shelter Operation

- Based on feedback from HCD the locational requirement for emergency shelters limiting their proximity from one another, is removed. This was identified as a locational constraint.

RM-10

The following changes have been reflected in the standards for development in the RM-10 overlay district. Additionally, this section now has been given a numeric code reference as Chapter 17.35.

17.35.020 Characteristics of the District

- This paragraph now includes language that identifies a project must include a minimum of five dwelling units (not including ADUs) to apply the RM-10 standards.

17.35.030(A)(1) Height/Sidewalls

- This section limits the maximum sidewall height at the front setback to 30 feet and allows for the height to increase at a ratio of one foot for each one foot increase in the front setback. Councilmember feedback has suggested that the front sidewall height be 28 feet, which is consistent with the maximum height allowed in the R-1A Zoning District through a special structures permit. Should the entire Council provide this direction to staff, the corresponding diagrams in the standards would be updated.

17.35.030(B) Setbacks

- This section includes clarification that the RM-10 setback standards are only applicable if the adjacent RM-10 lots is developed with a multifamily dwelling or has an active application for development of a multifamily dwelling.
- The note in the Minimum Side Yard and Rear Yard tables has been updated to reflect that the adjacent RM-10 lot must have an existing or proposed multifamily development.
- The section on rear yard has been updated to reflect the Planning Commission's maximum height recommendation of 34 feet.

17.35.030(C) Floor Area Ratio

- This section includes a new reference to habitable basement space per Councilmember feedback.
- Councilmember feedback has also included a recommendation to lower the floor area ratio (FAR) to thirty-five percent. Staff has received concerns from HCD regarding *any* FAR limitation and have recently met with HCD to discuss this issue further. HCD attributes the concerns that FAR could be a constraint on development because of the need to provide parking above grade. Dedicating floor area to covered parking would inherently limit the feasibility of both market-rate and affordable units. Staff acknowledged HCD's concerns but pointed to the size of lots in Atherton, noting that the RM-10 sites are approximately 1-acre. Given the 10 du/ac density, the proposed setbacks, and the maximum number of

required parking spaces, HCD estimated that the FAR 0.5 was not overly constraining and indicated that it would be acceptable. They noted concerns should the FAR reduce further.

17.35.030(E) Site Design

- Item no. 2 on Pedestrian Pathways now includes a reference to existing single-family dwellings in the RM-10 overlay.
- Item no. 5 no longer identifies the 8-foot tall fence as a minimum height; simply the required height.
- Item no. 6(d) references the maximum driveway width as 26-feet to be consistent with standards required by the Fire Marshall for buildings taller than 30-feet.

17.35.030(F) Landscape Screening

- Councilmember feedback has raised concerns that the planting timing of 90 days within the issuance of a building permit is not reasonable. Staff has proposed six months as an alternative.
- Councilmember feedback has indicated that a minimum of 12 feet tall screening is unreasonable and that the minimum height should be 8 feet.

17.35.030(H)(8) Window Details

- Staff has included the language recommended by the Planning Commission as item (d).

17.35.030(K) Site Lighting

- Based on Councilmember feedback, staff has included item (3) to provide for additional controls for interior lighting. This would help diminish glare from the multifamily residences onto adjacent properties that comes from the interiors.

17.35.030(L) Accessory Buildings

- Item no. 1(a) relating to the placement of accessory buildings now includes a reference to existing single-family dwellings in the RM-10 overlay.
- Councilmember feedback has suggested the trash and recycling enclosure have a minimum height of six (6) feet.

17.35.030(M) Parking Requirements

- HCD has identified the requirement to enclose all required parking as a development constraint. Having discussed this further with HCD, staff has modified these sections to locate all requirements related to carports under the 'Parking Requirements' section and to include landscaping screening.
- Staff has provided additional language describing required bicycle parking spaces.
- Staff has integrated the Vehicle Miles Travelled (VMT) related Mitigation Measure into the development standards.

RM-20/40

The following changes have been reflected in the standards for development in the RM-20/40 overlay district. Additionally, this section now has been given a numeric code reference as Chapter 17.39.

17.35.020 Characteristics of the District

- The previous reference to the POS Zone in this paragraph was an error and has been removed.

17.39.030(D) Site Design

- Item no. 2(d) references the maximum driveway width as 26-feet to be consistent with standards required by the Fire Marshall for buildings taller than 30-feet.

17.39.030(E) Landscape Screening

- Councilmember feedback has raised concerns that the planting timing of 90 days within the issuance of a building permit is not reasonable. Staff has proposed six months as an alternative.
- Councilmember feedback has indicated that a minimum of 12 feet tall screening is unreasonable and that the minimum height should be 8 feet.

17.39.030(G)(7) Window Details

- Although not part of the Planning Commission recommendation, staff has extended the window sill language from RM-10 to the RM-20/40 requirements for consistency.

17.39.030(J) Site Lighting

- Based on Councilmember feedback, staff has included item (3) to provide for additional controls for interior lighting. This would help diminish glare from the multifamily residences onto adjacent properties that comes from the interiors.

17.35.030(K) Accessory Buildings

- Councilmember feedback has suggested the trash and recycling enclosure have a minimum height of six (6) feet.

17.35.030(M) Parking Requirements

- Staff has provided additional language describing required bicycle parking spaces.
- Staff has integrated the Vehicle Miles Travelled (VMT) related Mitigation Measure into the development standards.

STAFF RECOMMENDATION

Staff recommends that City Council consider the materials presented in this staff report, the staff report provided for the meeting on September 18, 2024, take public comment and take the following actions:

- Discuss the Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation and Monitoring Reporting Program (MMRP) for the 2023-2031 Housing Element and Zoning Code updates and provide direction to staff regarding any changes. Continue to a date certain of October 16, 2024.
- Discuss the proposed amendments to the Atherton General Plan, including specific revisions to the 2023-2031 Atherton Housing Element and provide direction to staff regarding any changes. Continue to a date certain of October 16, 2024.

- Introduce and discuss as a first reading the proposed amendments to the Atherton Municipal Code and Zoning Map, and provide directions to staff regarding any changes to be considered as part of a second reading on October 16, 2024.

ENVIRONMENTAL CONSIDERATIONS

A Draft Initial Study/Mitigated Negative Declaration (Attachment 3) was prepared for the Housing Element. On May 10, 2024, a Notice of Intent (NOI) was distributed pursuant to local noticing requirements and posted with the California State Clearinghouse and the San Mateo County Clerk's Office, which initiated a 30-day public comment period beginning on May 10, 2024, and ending June 11, 2024. The Initial Study/Mitigated Negative Declaration concluded that the Housing Element could result in potentially significant impacts related to Air Quality, Biological Resources, Cultural Resources, Greenhouse Gases, Noise, Transportation/Traffic, and Tribal Cultural Resources. The Initial Study/Mitigated Negative Declaration concluded that potential impacts would be mitigated to less than significant levels through the implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements and Town standards. The Town will impose mitigation measures identified and contained in the Mitigation Monitoring and Reporting Program on future housing projects that implement the Housing Element. The Initial Study and Mitigated Negative Declaration, Response to Comments and the Mitigation Monitoring and Reporting Program are incorporated herein by reference.

FISCAL IMPACT

The overall fiscal impact to the General Fund would be \$323,244 to complete the Housing Element and related CEQA review. Related work would be \$159,553 to complete Objective Design Standards and \$118,553 to complete Zoning Code modifications. Funds were incorporated as part of the Town's FY 2023-24 and 2024-25 Budgets.

PUBLIC NOTICE

Public notification was achieved by posting the City Council agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Legal advertisement of this hearing was published in *The Almanac* newspaper, 10 days prior to the hearing date. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power and sewer), and regional elected officials.

ATTACHMENTS

1. Link to Attachment 8 in the September 18, 2024, Staff Report and Packet:
<https://atherton.primegov.com/portal/viewer?id=2242&type=2>
2. Revised Attachment 12 Atherton Municipal Code Text Amendments (Tracked Changes)