



Item No. {{item.number}}
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 16, 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 SECOND READING OF AN ORDINANCE 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 and adopt 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
- Second Reading and Adoption 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 October 2, 2024 meeting the City Council provided feedback and consensus on items raised by members of the public, individual Councilmembers and ongoing discussions between staff and the California Department of Housing and Community Development (HCD).

The feedback from Councilmembers received at the October 2, 2024 meeting is provided in this report. The attached 2023-2031 Housing Element and proposed Zoning Code Amendments reflect these changes.

***** *These attachments have not changed since the September 18, 2024, staff report******

1. Planning Commission Resolution 2024-001
2. Planning Commission Resolution 2024-002
3. Revised Initial Study and Final Mitigated Negative Declaration (IS/MND) and Technical Studies
4. Response to Comments on the Draft IS/MND
5. Public Comments on the Draft IS/MND
6. Mitigation Monitoring and Reporting Program (MMRP)
7. Resolution Recommending Adoption of the IS/MND and MMRP
9. 2023-2031 Housing Element (As Adopted January 31, 2023)
10. Atherton General Plan Text Amendments (Tracked Changes)
11. Resolution Adopting Amendments to the General Plan
13. Atherton Zoning Map Amendment (Existing and Proposed)
14. Resolution Recommending Amendments to the General Plan and Municipal Code

Revisions have been made to Attachment 8 and 12.

ANALYSIS

This section identifies outstanding issues for discussion by the City Council and the inclusion of any prior feedback provided to staff. These items relate 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. Both Attachments 8 and 12 have been re-published as part of this report to address changes discussed at the previous Council meeting on October 2, 2024. These corrections are also noted in this report.

Revised Housing Element Text

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

The revised draft provides the following narrative changes to include information requested by HCD. This effort was identified and explained at the October 2, 2024 Council meeting.

- Additional narrative of the site planning circumstances for the identified Sacred Heart Site that demonstrate how the site could facilitate multifamily residential development. This includes the use of comparative examples of infill development on educational campuses at similar densities as those envisioned at the Sacred Heart Site, even if programming and architectural details may differ. 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.

- Additional narrative describing the methodology behind assumptions in *Table HE-17: Recent Development Trends*, including comparative details of some sites included in the table. Because Atherton does not have a history of RM-20/40 development on the PFS sites, as discussed with HCD, these similar projects in other jurisdictions demonstrate the development potential of similar sites in Atherton – even if the Atherton sites are smaller than the comparative sites, with a lower total unit yield.

Section 3.416 SB-9 Subdivisions

Additional qualitative analysis for the sample sites is provided in the SB-9 inventory (Table HE – 19) per HCD request. This analysis includes the theoretical and potential subdividing of sample parcels included in Table HE – 19. Note that these theoretical SB-9 subdivisions have not been proposed or recorded, and are only included to demonstrate to HCD that subdividing and development is possible on these lots. 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.

Section 3.421 Analysis of Zoning that Encourages and Facilitates a Variety of Housing Types (RM-10 Overlay)

This section of the revised 2023-2031 Housing Element identifies sites included the RM-10 overlay district. As discussed in the September 18, 2024 staff report, the Planning Commission voted unanimously to recommend approval of the revised Housing Element text, but to remove the four properties along Bay Road and Ringwood Avenue from the Housing Element and related Zoning Map amendments.

The Commission’s recommendation to remove the four sites was provided in response to neighborhood-specific public comment received in advance of and at the hearing. This public comment raised concerns related to the suitability of the four sites for future multifamily development. Although the Commission upheld the CEQA analysis that found no impacts would occur at these four sites, its decision reflects the Commission’s preference for other sites identified in Section 3.412 of the Housing Element.

As previously indicated, staff does not recommend that the Council take the Planning Commission’s recommendation and therefore, the revised Housing Element and any other related attachments continue to include reference to these locations. If the Council upholds the Planning Commission’s recommendation all references to the sites will be removed from the General Plan and Municipal Code amendments.

Staff continues to recommend inclusion of the properties because there is no quantitative requirement asserted in State law for meeting AFFH by introducing a multifamily typology to expand the availability of housing options in the Town. At the Council meeting on September 20, 2023, the Council voted against staff’s recommendation to analyze more sites and to analyze sites at a residential density of 20 dwelling units per acre (du/ac), which would have provided more options for removal and used a density already legally mandated for other housing programs. However, the Council voted to pursue the sites listed in Section 3.412 and to reduce the analyzed density to 10 du/ac. As a reminder, only eight sites in Section 3.412 that are within an R-1A zoning

district provide opportunities for the development of multifamily housing without an institutional affiliation. Removing any four properties is a reduction in the AFFH program by fifty percent.

Section 3.515 Processing and Permit Procedures

At the October 2, 2024, Council meeting, staff noted that HCD had raised confusion related to the approval process for the development of multifamily residences on schools 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 has addressed this concern in Section 3.515 Processing and Permit Procedures as it relates to Master Plans, 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.

Section 3.700 Housing Goals, Policies & Quantified Objectives

The following section addresses edits made as a result of Councilmember feedback on the goals, policies and objectives identified in the 2023-2031 Housing Element.

Policy 3.722(A):

In the October 2, 2024 staff report, this was identified as Policy 3.712(A); the correct reference is Policy 3.722(A).

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

Goal 3.730:

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

Objective 3.731(A):

- The number of housing units encouraged at the PFS sites for moderate to very low-income was corrected to 96 units, from 34 units, to align with the RHNA goal.

Policy 3.732(A):

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

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

- Clarified that housing is for staff.
- Expanded this section to reference staff housing for the Circus Club.

Policy 3.791(E):

- Noted Project Sentinel’s role. The non-profit organization has an office in Redwood City and provides regular informational events related to Affirmatively Furthering Fair Housing (AFFH).

Policy 3.791(F):

- Removed 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. These performance milestones will be noted in the Town’s Annual Progress Reports (APRs).

Section 3.800 Housing Programs

The following feedback from Councilmembers on the housing programs identified in the 2023-2031 Housing Element was incorporated:

Table HE-36: Quantified Objectives (and surrounding text) was revised to include references to performance targets for Program 3.831(B) – Energy Conservation and Program 3.841 Shared Housing (the latter modified to indicate that it will serve four above moderate-income units).
Program 3.811(B):

- Aligned 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):

- The October 2, 2024 staff report indicated that the mid-cycle check-in language for this RM-20/40 program would align with language for the RM-10 program (Program 3.811(D)); however, the mid-cycle evaluation is not required for this program as it is reported on annually. Therefore, additional check-in language has not been included.
- Removed typo reference to RM-10.

Program 3.811(D):

- Modified the program to require modification if “fewer than three of the 11 sites have development or active development proposals.”
- Modified the program to identify a number of new sites based on the deficient number of sites triggering modification. For example, if only two sites have development or active development proposals then the goal is deficient by one, so the Town shall identify one additional site.
- Removed the bullet referencing SB 10.
- Shifted 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 2029. Assert effective date as January 2030. This results in one additional year from what was additional proposed by staff.

Program 3.812(A):

- Asserted that ADU data will be provided to the Council annually as part of the Annual Progress Report.
- Added a reference to ADU workshops held and anticipated in 2024. (Staff anticipates a workshop in November 2024). Expanded “*encouraging*” homeowners and developers to “*encouraging and incentivizing*” homeowners and developers. Changed from “*every one or two years*” to “*every six months to a year*.”
- Updated workshop information to indicate ongoing workshops every one to two years.

Program 3.812(B):

- Modified 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:

- Modified 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.
- Added a requirement for a courtesy notice to properties within 500 feet of the subject property

Program 3.846:

- Modified the action of “promoting” housing development on the Gilmore House site to “consider.”
- Changed unit target from “at least 5 units” to “up to 4 units.”

Section 3.900

Expanded the list of meetings to reflect ongoing engagement and meetings that were held between July 27, 2022 and April 29, 2024.

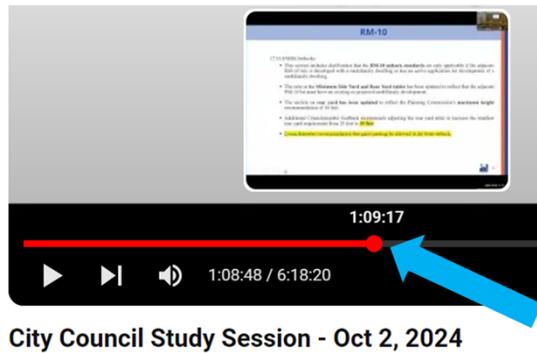
Zoning Code Amendments

This section describes the changes made to the Zoning Code Amendments based on Council discussion and consensus. For added reference a link to the video of the October 2, 2024, Council meeting is provided below. On items that received extended discussion by Councilmembers, a timestamp in the video is provided. Timestamps in the video are noted as hour:minute:second. For example, 3:48:50 refers to the moment at 3 hours, 48 minutes and 50 seconds into the video. A viewer can move through the video using the time bar at the bottom of the image and dragging the red dot to find a specific moment. See Figure 1 for reference.

October 2, 2024 Council Meeting:

- Part 1: <https://www.youtube.com/watch?v=Y90HIbTGSL0>
- Part 2: <https://www.youtube.com/watch?v=TDKDTXJWr7k>

FIGURE 1: TIMESTAMP SCROLL BAR



RM-10

The following changes have been reflected in the standards for development in the RM-10 overlay district, Chapter 17.35 of the zoning code.

17.35.020 Characteristics of the District

- Language in this paragraph specifies that the minimum lot size for RM-10 eligibility is 0.5 acres and that a project must include a minimum of five dwelling units (not including ADUs). This requirement does not apply to the RM-10 sites that are with the Public Open Space (POS) zoning district.

17.35.030(A)(1) Height/Sidewalls

- Modifications to this section limit the maximum sidewall height at the front setback to 28 feet. The section retains its allowance for the height to increase at a ratio of one foot for each one foot increase in the front setback. Figure 17.35.030-1 reflects this change. Council consensus at 3:48:50 (Part 1).

17.35.030(B) Setbacks

- Front Setback: Figure 17.35.030-2 is updated to reflect the 28 foot front sidewall height.
- Rear Setback: This section modifies the rear yard requirement for lots adjacent to R-1 and single-family RM-10 properties to range from 35 feet to 50 feet, depending on lot width. Council consensus at 4:07:40 (Part 1).
- Rear to Front Transfer: Language facilitating a transfer of *additional* rear yard setback to a *reduction* in the front setback, up to 10 feet, has been included. This was added to the front setback requirement for clarity, but it was discussed at the Council meeting in the context of rear setback requirements. Council consensus at 4:11:30 (Part 1).
- Corner Lots: Added language indicates that corner lots within the RM-10 overlay must treat the longer property street frontage as the front property line. Council consensus at 4:23:00 (Part 1).

17.35.030(C) Floor Area Ratio

- This section modifies the maximum floor area ratio (FAR) to 0.45, with a possible increase of 0.10 to a maximum of 0.55 if all residential parking is provided below grade. Council consensus at 4:31:10 and 4:32:15 (Part 1).

- Habitable attic space is removed as an exemption from FAR. Council consensus at 4:35:06 (Part 1).

17.35.030(D) Lot Coverage

- Modified to include a landscaping requirement for the remaining 50 percent of uncovered lot that is consistent with existing landscaping standards in the Atherton Municipal Code (AMC). Council consensus at 4:40:50 (Part 1).

17.35.030(E) Site Design

- Communal outdoor spaces: Modified to allow outdoor communal spaces within the buildable area and to indicate exceptions to this requirement must be sought through a special structures permit. Council consensus at 0:02:50 (Part 2).
- Underground parking approach: The setback requirement for changes in grade attributed to an underground driveway approach was increased to 10 feet. Council consensus at 4:52:50 (Part 1).

17.35.030(F) Landscape Screening

- Modified the timing of installation for landscape screening to be consistent with AMC Section 17.50.060, but to not include an option to use a bond or deposit in lieu of the installation requirement. Council consensus at 4:50:15 (Part 1).

17.35.030(J) Roof and Eave Details

- The prohibition on asphalt shingles was removed.

17.35.030(K) Site Lighting

- Additional language relating to common areas and exterior-facing windows is included to clarify the intent of this requirement. Council consensus at 5:04:40 (Part 1).

17.35.030(L) Accessory Buildings and Structures

- Language relating to outdoor communal buildings and structures has been updated to align with Section 17.35.030(E).
- Modifications have applied a minimum height of six (6) feet and a maximum height of eight (8) feet to the trash and recycling enclosure requirements. Council consensus at 5:14:35 (Part 1).
- The restriction on locating trash and recycling enclosures in the front setback has been removed. Council consensus at 5:24:00 (Part 1).

17.35.030(M) Parking Requirements

- Modified the parking requirements to address HCD's restrictions on mandated covered parking (carports) and provide landscape screening as a requirement. Changed minimum

planting height for parking screening from 6 feet to 8 feet. Council consensus at 5:27:40 (Part 1).

- Corrected typo to refer to combined total parking per unit as 2.4 spaces.
- Modified the restriction on parking within all setback areas to apply to only rear setbacks. Council consensus at 4:13:35 (Part 1).

17.35.030(N) Underground Parking Requirements

- A new section consolidates all underground parking requirements into one location. Council consensus at 4:52:50 and 5:28:04 (Part 1).

17.35.030(O) Underground Parking Incentives

- A new section consolidates all incentives provide for the location of parking underground.

RM-20/40

The following changes have been reflected in the standards for development in the RM-20/40 overlay district. Additionally, this section is now integrated into the existing Public Facilities and Schools (PFS) zoning district as Section 17.36.070, rather than being a distinct zoning chapter.

17.36.070 PFS Preamble

- Modified the preamble to include language previously shared as 17.39.010-030 serving to introduce the RM-20/40 overlay and identify how objective standards are applied. Council consensus at 5:41:15 (Part 1).

17.36.070(A) Height/Sidewalls

- Provided distinction in height and sidewall requirements for RM-20 and RM-40 sites.
 - For RM-20 sites, the maximum height requirement is 34 feet. The maximum sidewall height on a frontage facing an R-1 property is 21 feet, for all other frontages it is 28 feet. The sidewall height may increase at a ratio of 1 foot for every additional 1 foot of setback, up to the maximum height of 34 feet. Council consensus at 5:56:15 and 5:57:30 (Part 1).
 - The maximum height and sidewall requirements for RM-40 sites did not change, but are specifically called out as only apply to RM-40. Council consensus at 5:48:15 and 6:01:04 (Part 1).
 - Corresponding figures were updated in this section.

17.36.070(B) Setbacks

- Modified the setback standards to increase the minimum setback requirement to 50 feet from any property line shared with an R-1 property and 40 feet for all other property lines. Council consensus at 6:01:40 and 6:02:00 (Part 1).
- Updated figures to correspond to modified height and setback requirements, as well as the distinction between RM-20 and RM-40 sites.

17.36.070(C) Lot Coverage

- Modified this language to be consistent with the landscaping standard for RM-10.

17.36.070(D) Site Design

- Deleted the standard that limits communal outdoor activities. Council consensus at 0:08:40 (Part 2).

17.36.070(E) Landscape Screening

- Modified this requirement to be consistent with the language in RM-10. Council consensus at 0:10:10 (Part 2).

17.35.030(I) Roof and Eave Details

- The prohibition on asphalt shingles was removed.

17.36.070(J) Site Lighting

- Modified this requirement to be consistent with the language in RM-10. Council consensus at 0:10:55 (Part 2).

17.36.070(K) Accessory Buildings

- Modified this requirement to be consistent with the language in RM-10. Council consensus at 0:10:55 (Part 2).

17.36.070(L) Parking Requirements

- Provided added clarity relating the “livable space.”

STAFF RECOMMENDATION

Staff recommends that City Council consider the materials presented in this staff report, take public comment and take the following actions:

- Discuss and adopt 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.
- Discuss and adopt the proposed amendments to the Atherton General Plan, including specific revisions to the 2023-2031 Atherton Housing Element.
- Accept for second reading and adopt the proposed amendments to the Atherton Municipal Code and Zoning Map.

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 initial 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. Revised 'Attachment 8' 2023-2031 Housing Element Amendments (Oct '24)
2. Revised 'Attachment 12' Atherton Municipal Code Text Amendments (Tracked Changes)