



Item No. 6 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: FEBRUARY 19, 2025

SUBJECT: CONSIDERATION OF A RESOLUTION ADOPTING REVISIONS TO THE ATHERTON GENERAL PLAN AND INTRODUCTION OF AN ORDINANCE WITH FIRST READING TO AMEND THE ATHERTON MUNICIPAL CODE TO RESPOND TO COMMENTS FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) ON THE 2023-2031 HOUSING ELEMENT AND ZONING CODE UPDATES.

RECOMMENDATION:

It is recommended that the City Council conduct a public hearing to adopt revisions to the Atherton General Plan and Municipal Code to comply with the requirements of Department of Housing and Community Development (HCD).

BACKGROUND

Throughout the Town's efforts to adopt a 6th cycle (2023-2031) Housing Element, the City Council and Planning Commission have held several public hearings to discuss various updates required to achieve state certification throughout the iterative Housing Element review process with state partners. On October 16, 2024, the Atherton City Council adopted revisions to the 2023-2031 Housing Element and Municipal Code Amendments to implement development standards for multifamily housing. This package of updates to the Town's housing programs were intended to address requirements of state housing law and to receive certification of the Town's housing element by the California Department of Housing and Community Development (HCD). After a required public notification period, the updates were sent to HCD for review.

DISCUSSION

On December 30, 2024, the Town received a comment letter from HCD requiring additional changes to the adopted Housing Element and Atherton Municipal Code to receive certification. (Attachment 1) The items raised by HCD and necessary changes required by the Town are summarized in the next section of the report, along with any related changes proposed by staff. On January 29, 2025, the Planning Commission considered revisions to the Housing Element adopted on October 16, 2024. After the Planning Commission hearing, on February 4, 2025, Staff had an informal conversation with HCD about the changes presented to Planning Commission. HCD requested slightly more analysis, which is shown as highlighted track changes in Attachment 2. The track changes that were made for the Planning Commission are shown as regular track changes. A link to the Housing Element, as adopted on October 16, 2024, is included at Attachment 3 for reference.

The revisions listed below also include one change to the adopted Atherton Municipal Code, specifically Section 17.36.030 ‘Allowed Uses and Permit Requirements’ that is shown in Attachment 4. A link to the Zoning Code changes, adopted on October 16, 2024, are included in Attachment 5.

Any additional materials related to the Housing Element update process are maintained on the Town’s website at: <https://www.ci.atherton.ca.us/627/Housing-Element-Update>

Revisions listed below have been made to the adopted Housing Element in response to HCD’s comment letter issued on December 30, 2024. Italicized sections in the “Staff Action/Proposed Changes” column indicate changes made after Planning Commission review on January 29, 2025.

HCD Letter	Summary of Direction	Staff Action/Proposed Changes	Reference
Suitability of Nonvacant Sites	Provide more analysis of the Menlo School and Sacred Heart School sites; similar to what was provided for the example sites.	<p>In Section 3.414 Multi-Family Overlays (RM-20 and RM-40) staff has expanded the description of the Menlo School and Sacred Heart sites and included supporting site graphics. This information reflects the examples provided in the adopted Housing Element for Gonzaga University and Northeastern University.</p> <p><i>Staff included additional information analyzing how the Menlo School and Sacred Heart sites have adequate infrastructure and existing conditions do not preclude development. Additional analysis describes how the sites, currently primarily used for parking (Menlo School) and low-density housing (Sacred Heart), could be understood to contribute</i></p>	See pages 92-94 of Attachment 2.

		<i>to lower FAR (Floor to Area Ratios) than what could potentially be supported by development indicators.</i>	
	Modify Table HE-17 to be organized by indicators utilized as redevelopment indicators.	Table HE-17: ‘Recent Development Trends’ includes a list of recent development trends observed in the Bay Area that could be applied to the Town’s identified housing opportunity sites. To address HCD’s comments staff expanded the table to include additional columns that capture redevelopment trends. These factors, shown in purple on Table HE – 17, correlate to the Site Inventory analysis in Table HE – 18 (page 104). Additional narrative context is also included to describe each redevelopment trend.	See pages 97-99, and 102 of Attachment 2.
Electronic Sites Inventory	HCD reminded the Town to update the electronic sites inventory; if the Town’s response includes any inventory changes.	No changes have been made to the sites inventory; therefore staff is not proposing any modifications.	N/A
Program-Specific Items	Provide clarification in the RM-20/40 standards and in the Housing Element that housing developments with 20 percent affordability to lower-income households do not require discretionary action.	Upon further discussion with HCD, to address this item the term "ministerial approval" should be explicitly written into the relevant Code section. The existing terms in the Atherton Municipal Code “permitted-by-right” and “zoning clearance” are not considered sufficient to convey ministerial actions. Staff has modified this language in both Section 3.420 of the Housing Element and Section 17.36.030 of the Atherton Municipal Code.	See page 120 of Attachment 2. See also Attachment 4.

	<p>Provide more context in the Housing Element and, potentially, in the RM-20/40 standards about the Clovis decision and its application to Atherton.</p>	<p>Staff has discussed with HCD that discussion of the <i>Clovis</i> ruling is addressed in Section 3.420 ‘Zoning Shortfall Analysis.’ To supplement this assertion staff provided a distinction between when housing is and is not approved at the staff/ministerial level. The purpose of this requirement is not to challenge the Town’s approach, but to document it. Additionally, the changes clarify that housing in the Public Facilities and Schools (PFS) zone that is not identified in the Housing Element still requires a Conditional Use Permit (discretionary review).</p>	<p>See pages 119-120 of Attachment 2.</p>
	<p>Revise the SB-9 program, Program 3.811(B), to evaluate development trends and identify alternatives, if necessary, in a mid-cycle check-in.</p>	<p>Staff has revised Program 3.811(B) to include the consideration of development trends and assumptions at the mid-cycle check-in. The revised language also includes “alternatives” as a mid-cycle option for policy direction, with the intent to ensure the Town can pursue alternative programs, if desired, and is not limited.</p> <p><i>Staff slightly modified the language to clarify that alternative sites to meet RHNA may be considered if SB-9 development trends and assumptions are not being met by the mid-cycle check-in (review of the 2027 Annual Progress Report in March 2028).</i></p>	<p>See page 177 of Attachment 2.</p>

In addition to the HCD required changes noted above, staff also recommend making these additional changes to the adopted Housing Element:

- **Page 120:** Included the minimum allowed densities for the RM-20 and RM-40 Multi-Family Residential Overlay Zones. These minimum densities were included in the Development Standards adopted on October 16, 2024, but were not previously included in the Housing Element itself. This change provides consistency between the documents.
- **Page 131:** *In response to informal HCD comments, included additional narrative clarifying the qualitative objective design standards that apply to multi-family development and where they are found in the newly-adopted code.*
- **Page 176 and 181:** Program 3.812(A) addresses the Town’s goals to develop Accessory Dwelling Units (ADUs). Staff recommends revising Program 3.812(A) to include a conservation objective of 8 units for extremely-low income (ELI) households. This would allow ADUs rented at rates suitable for extremely low-income households (i.e., resided in without paying rent or paying less than the appropriate annual extremely low-income rental limit for San Mateo County) to be counted towards meeting Housing Element goals. In 2023-2024 Atherton received rental surveys from property owners that indicated 29 ADUs in the Town are offered at ELI rates. Therefore, the Town has already met an objective of 8 units. Including it as a program measure facilitates the Town’s documentation of this achievement in Annual Progress Reports and in the next Housing Element cycle.

The items raised within HCD’s recent comment letter do not mention an issue with the Town’s approach to meeting its Regional Housing Needs Allocation (RHNA) or Affirmatively Furthering Fair Housing (AFFH) goals, especially through the Town’s RM-20/40 and RM-10 multifamily housing overlay program and the adopted development standards. Accordingly, staff is not currently recommending any changes to those programs. The Town is proceeding with the development of an inclusionary housing ordinance and fulfilling Housing Element programs as appropriate.

At the January 29, 2025 Planning Commission meeting, the Commission voted unanimously 3-0 to recommend approval to adopt revisions to the Atherton General Plan and Municipal Code to comply with the requirements of Department of Housing and Community Development’s (HCD).

ENVIRONMENTAL CONSIDERATIONS

An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the Housing Element and Zoning Code Updates project and adopted on by the City Council on October 16, 2024. The changes described to the Atherton General Plan and Municipal Code described in this report and provided in the attachments are consistent with the scope of the IS/MND and do not result in any environmental impacts or changes to the adopted Mitigation Monitoring and Reporting Program (MMRP). The IS/MND, MMRP and supporting technical studies are available on the Town’s Housing Element website: <https://www.ci.atherton.ca.us/627/Housing-Element-Update>

STAFF RECOMMENDATION

Staff recommends that City Council consider the information included in this report and adopt a resolution adopting amendments to the Atherton General Plan and Municipal Code. The resolution is included as Attachment 6.

PUBLIC NOTICE

Public notification was achieved by posting the 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 and mailed to owners and occupants within the Town and within 500 feet of the Town's boundaries, 20 days prior to the hearing date.

ATTACHMENTS

1. HCD Comment Letter dated December 30, 2024
2. Track Changes version of the January 2025 Draft Housing Element
3. [Adopted 2023-2031 Housing Element \(Oct. 16, 2024\)](#)
4. Municipal Code Text Amendments
5. [Adopted Zoning Code Amendments \(Oct. 16, 2024\)](#)
6. Draft Resolution Adopting Amendments to the 2023-2031 Housing Element
7. Draft Ordinance Adopting Amendments to Atherton Municipal Code Section 17.36.030