



## **Item No. 1 Town of Atherton**

### **CITY COUNCIL AND PLANNING COMMISSION - STUDY SESSION**

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

**FROM: BRITTANY BENDIX, TOWN PLANNER**

**DATE: NOVEMBER 1, 2023**

**SUBJECT: STUDY SESSION TO DISCUSS TOPIC AREAS FOR MULTIFAMILY  
HOUSING OBJECTIVE DESIGN AND DEVELOPMENT STANDARDS**

**CEQA:** Statutorily Exempt from CEQA under Section 15262, Feasibility and Planning Studies

#### **RECOMMENDATION**

Staff recommends that the City Council and Planning Commission discuss and consider topic areas for multifamily housing objective design and development standards.

#### **BACKGROUND**

On January 31, 2023, the Town Council adopted Atherton's 2023-2031 Housing Element and submitted a copy to the Department of Housing and Community Development (HCD) for review and certification. The adopted Housing Element includes goals, objectives and programs that facilitate the by-right approval of multifamily housing projects, subject to objective design and development standards adopted by the Town. However, subsequent feedback from HCD indicated that to receive certification, the Town must expand its multifamily housing program to address Affirmatively Furthering Fair Housing (AFFH) requirements. Furthermore, because the Town did not adopt an HCD certified housing element within 120 days of the statutory deadline (January 31, 2023), any rezoning or modifications to the zoning ordinance necessary to enact the element's housing programs and achieve its regional housing needs allocation must be completed by January 31, 2024. This includes the adoption of objective design and development standards for multifamily housing.

This report provides an introduction to typical objective design and development standards that could apply to multifamily sites identified in the current or amended Housing Element. Additionally, the report includes a summary of feedback received at a community workshop held on October 23, 2023, and an overview of the State's Density Bonus Program – a topic raised at the workshop.

The goal of this study session is to receive direction from both the City Council and Planning Commission regarding the breadth of standards that should apply to multifamily development in the Town and the general approach staff should pursue in preserving the Town’s unique characteristics.

## **ANALYSIS**

The analysis section of this report outlines seven areas of information for the Planning Commission and City Council related to objective design and development standards. Collectively this information and analysis will inform the discussion among the Commissioners and Council members, providing staff with direction on further refinements.

### **1. Objective Design Standards**

State law defines objective standards as “involving no personal or subjective judgment by a public official” and that are “uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.” Standards that do not meet the state’s definition are subjective. Examples of “objective” and “subjective” standards are provided in Table 1. The state encourages, and at times requires, objective standards because they provide clarity and certainty for both developers and reviewers. However, objective design standards can also be a tool for local jurisdictions to apply place-based design when the state requires ministerial and expedited approval of projects.

**Table 1: Objective vs. Subjective Standards**

<b>Subjective Standard</b>	<b>Objective Standard</b>
<p><i>The proposed building or structure will not negatively impact neighboring properties with respect to privacy and view. (Atherton Municipal Code 17.15.040(A))</i></p> <p><u>Subjective:</u> “Negative impact” is undefined and ambiguous.</p>	<p><i>Accessory buildings and structures may include windows and/or skylights, except that no window or skylight openings that face the side or rear property line shall be located over nine feet above the ground level. (Atherton Municipal Code 17.40.040(H))</i></p> <p><u>Objective:</u> Clear direction on windows and skylights relative to neighboring property lines.</p>
<p><i>Pedestrian links should be provided between buildings, common open spaces, and parking areas.</i></p> <p><u>Subjective:</u> Should is suggestive, not required</p>	<p><i>All structures, entries, facilities, amenities, and parking areas shall be internally connected with pedestrian pathways.</i></p> <p><u>Objective:</u> Clear expectation</p>
<p><i>The accessory building should be harmonious with the existing main residence.</i></p> <p><u>Subjective:</u> Use of “should” and “harmonious” are subject to interpretation by reviewer.</p>	<p><i>The accessory building must have the same roof form and materiality as the existing main residence.</i></p> <p><u>Objective:</u> Clear expectation</p>

Local jurisdictions have a variety of options as to how they can approach the application of objective design standards. This includes familiar standards that include specific counts and measurements that are characteristic of minimum or maximum height or setback requirements, or

more complex standards that provide a set of options to choose from or require a proposal to reach a target score for compliance. Specific examples of these applications are provided in Table 2.

**Table 2: Types of Objective Standards**

Type	Examples
Counts and Measurements	Maximum and minimum heights, distances, and/or setbacks
Ratios	Roof pitch requirements (Gable roof of 9:2) Upper story step backs (Additional 1 foot setback required for each 1 foot in height above a certain amount)
Checklists	Checklist of required features An entryway must incorporate at least four of the following elements...
Scorecards	Minimum total of combined scores for eligible design treatment (Proposed landscaping must achieve a score of a least 20 points where shrubs and trees are assigned point values based on plant container size)
Performance Measures and Benchmarks	Minimum amount of open space or permeable area provided.

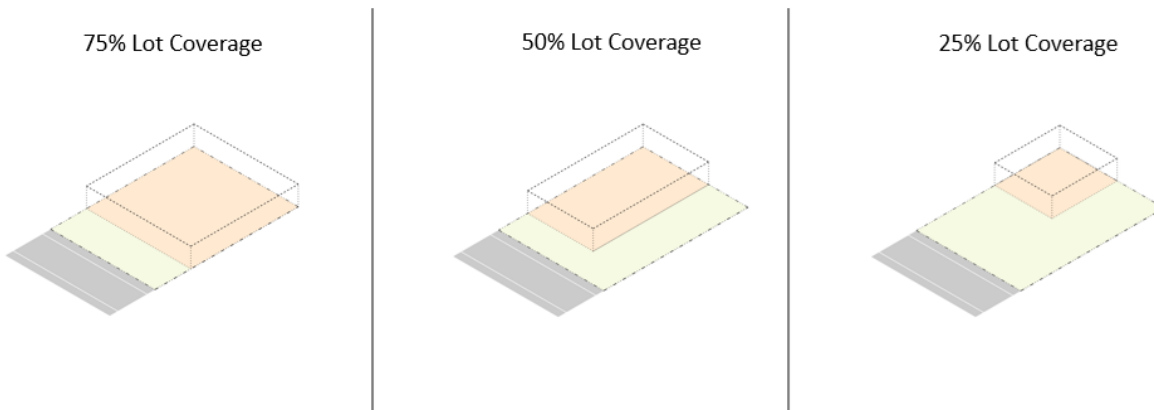
## 2. Design and Development Standards

Typically, objective design standards supplement a set of existing development standards already included in a zoning ordinance. However, because Atherton does not have an existing multifamily zoning district, the Town must establish baseline development standards in addition to design standards. This section of the report provides a framework for basic design and development concepts that can dictate building massing and site design, such as floor area ratio (FAR), lot coverage, setbacks, parking and height.

### *Lot Coverage*

Lot coverage is the percentage of lot that is covered by development. It is not influenced by the height of a building. As shown in Figure 1, a lot with 75 percent coverage means that the entire lot is covered, a lot with 50 percent coverage means that half of the lot is covered and a lot with 25 percent coverage means that a quarter of the lot is covered. The Town of Atherton does not have lot coverage requirements for the R1-A and R1-B residential zoning districts. This is likely because the town uses floor area ratio requirements and setback standards to guide where development on a lot can occur. However, the POS (Public Open Space) district restricts development to a maximum of 20 percent gross lot area and the PFS (Public Facilities and Schools) district restricts development to a maximum of 40 percent gross lot area.

**Figure 1: Lot Coverage**

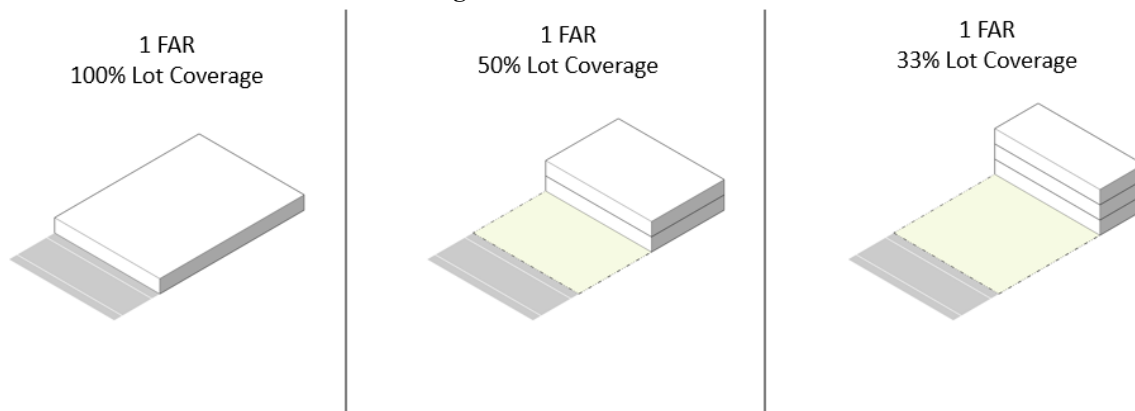


### *Floor Area Ratio (FAR)*

Floor area ratio (FAR) is the relationship between the amount of floor area on a property relative to the lot size. FAR is distinct from lot coverage because it can apply to beyond just the ground level of a property. As shown in Figure 2, an FAR of 1 can account for a single-story building that occupies the entire lot (100 percent lot coverage), a two story building that occupies half of the lot (50 percent lot coverage), or a three story building that occupies a third of the lot (33 percent lot coverage).

In R1-A and R1-B zoning districts the Town requires an FAR of 18 percent, with a restriction of 7.5 percent for second stories in the R1-A district. There are no FAR requirements for the POS and PFS districts.

**Figure 2: Floor Area Ratio**



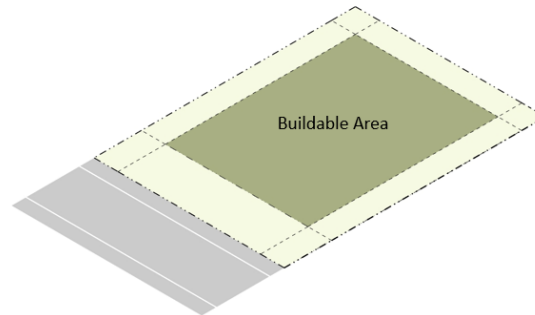
### *Setbacks*

A setback standard is the minimum distance between two objects, typically where construction can occur relative to a property line. A front setback is the distance from the front property line, a side setback is the distance from a side property line and a rear setback is the distance from a rear property line. As shown in Figure 3, the setbacks combine to identify the buildable area of a lot.

The Town has a minimum 60-foot front and rear setback requirement for the R1-A, POS, and PFS zoning districts. The minimum front and rear setback requirement for an R1-B property is 30 feet. This is likely attributed to the smaller lot sizes characteristic of lots within the R1-B district.

Additionally, sites in the PFS district may require a setback up to 75 feet depending on the height of a structure and adjacency to residential neighbors.

**Figure 3: Setbacks and Buildable Area**

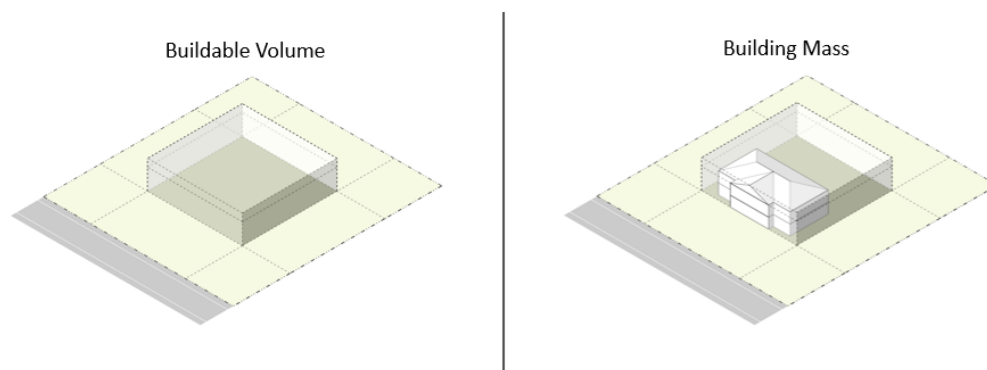


### *Building Massing*

Building mass is a term that describes the three-dimensional space occupied by a building within the buildable volume that results from the combination of lot coverage, FAR, and setbacks when height is applied. Figure 4 illustrates how standards combine to form a buildable volume and the building mass occupied by a code-compliant building. Note that these two concepts are similar, but not identical. This is because limitations on FAR above the first story, as well as specific objective design standards that relate to upper-level setbacks and roof form can serve to sculpt the building at different levels. Building massing may also inform how multiple buildings on a lot relate to each other or how building forms create distinct spaces on site, such as a courtyard.

The Town has varying height limits by zoning districts. The maximum height limit in R1-A is 30 feet, in R1-B it is 28 feet, and in the POS and PFS districts it is 34 feet.

**Figure 4: Buildable Volume and Building Mass**

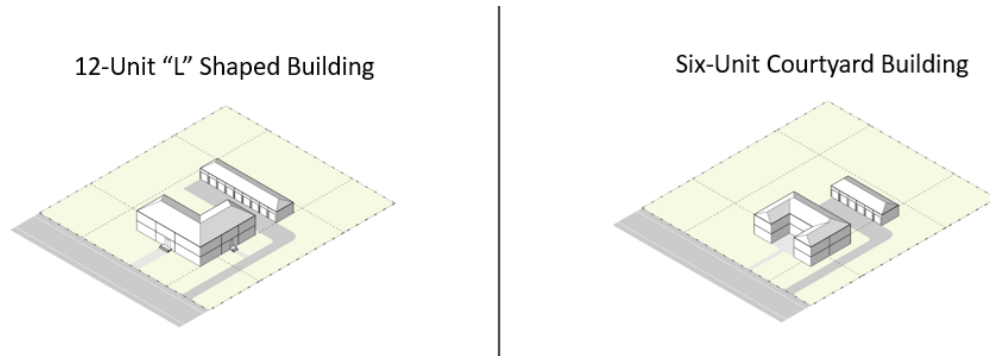


### *Site Design*

Site design refers to the layout of all buildings and uses on a property. This can refer to the orientation and access of a residence and the location of ancillary residential functions such as parking, waste disposal, or amenities. Designation of the appropriate location of these activities can alleviate conflicts between neighbors relative to noise, lighting, and vehicular access. Two examples of simple site design configuration are provided in Figure 5, each which approaches multifamily development within a single building, characteristic of a large single-family residence.

The differences in the two site configurations include the number of units, scale of the building mass to accommodate the units and related parking, orientation of the building, and pedestrian access to the street.

**Figure 5: Site Configuration and Building Mass**



#### *Screening and Walls*

A more detailed component of site design is the location of screening (landscape or fencing) and walls. These features are important components of site design because they can provide privacy, buffering of noise, and control for aesthetics.

#### *Façade Articulation*

Design elements of visible façades can help soften the appearance of any building mass that is visible from the public right-of-way or adjacent properties. This includes standards relating to roof and eave details, window articulation (including finishes, recesses, embellishments, and materials), and pedestrian entry treatments. Collectively these discrete components can contribute to form an objective requirement that provides a high-level of architectural design.

#### *Parking*

The Town does not have standards related to the quantity or location of off-street parking ancillary to residential uses. Therefore, requirements must be incorporated into the proposed objective design and development standards. Typical parking standards may include the location of parking facilities, access from the street, and the number of cars required (minimums or maximums and based on number of units or bedrooms). While below-grade parking facilities may be preferred, excavation could raise development costs and constitute a constraint in housing development. However, the Town could consider crafting incentives to support this preference.

### 3. Large House Typology

At the October 23, 2023, Community Workshop, staff combined the concepts above to introduce a “Large House” typology as a potential multifamily housing strategy. The goal of this approach would be to set objective design and development standards to reflect the existing architectural character of Atherton – stately and refined homes. Examples of 6-unit and 12-unit configurations are provided in Figure 5 above and were shown, along with multiple pictures at the Community Workshop. The presentation for the workshop is provided at Attachment 1.

### 4. Feedback from Community Workshop No. 1

The Town received constructive feedback at the Community Workshop on October 23, 2023, with 24 attendees including one Planning Commissioner and three City Council members. A critical concern of many attendees includes the selection process of multifamily housing sites, both

currently included and up for consideration, in the Housing Element. Concerns also relate to the impacts of future development on immediate neighbors. An overview of community feedback is provided below, notes from the workshop are included at Attachment 2.

*Development Standards.* Multiple attendees indicated a preference that multifamily development should conform to R1-A standards, including setback and height requirements. Additional comments suggested the Town consider providing flexibility through the application of dormers and/or greater flexibility for basement development, especially to accommodate below grade parking or a need for more storage area. This approach should also take into consideration any development that results from the acquisition of multiple adjacent properties. This feedback generally aligns with staff's "large home" typology approach discussed in the next section. However, upon further analysis greater flexibility from the R1-A standards may be required to facilitate development.

*Design Review Board.* A request was made to consider establishing a design review board to process multifamily developments, but not single-family. Staff notes that the direction from the Housing Element is to enable by-right approval of multifamily development, giving minimal discretion to a Design Review Board, especially with the adoption of objective design standards.

*Aesthetics.* Consistent with the feedback on development standards, multiple attendees desired the perception of the multifamily building from the front to read as a single-family home. This could include limitations on the number of unit entries visible from the front and a solid gate at the property's entrance.

*Privacy, Noise and Screening.* Privacy standards were encouraged, including the prohibition of balconies. Noise concerns and the potential need for soundwalls were raised. Staff was asked to consider limitations on resident amenities that cause noise (pools, sport courts, playgrounds). Attendees also desired requirements for ongoing maintenance of required screening up to 40 years.

*Unit Size.* A suggestion was raised for a maximum unit size. Staff has concerns that a maximum unit size would constrain development and, instead, suggests a maximum *average* unit size. This would give the developer greater flexibility in their housing program but still provide a standard acceptable to the Town.

*Heritage Trees.* Residents requested that the Heritage Tree Ordinance should be maintained and applied to multifamily sites consistent with R1-A standards.

*Traffic and Pedestrian/Bicycle Safety.* Attendees raised concerns about traffic with the complexities and dangers of the 5-way stop and traffic at Ringwood and Bay Road mentioned many times. Staff was encouraged to coordinate with the City of Menlo Park. Residents were open to the idea of a traffic mitigation impact fee.

*Parking.* Suggestions were made to locate parking below grade and to provide a minimum of two spaces per unit, enclosed. As mentioned above, staff has concerns that locating parking solely below grade could constitute a development constraint and would suggest requiring enclosure of all parking, with incentives for locating parking below grade.

*Density.* Two concerns led to group discussions regarding density. One concern was that the Town could revert to a 20 dwelling unit/acre (du/ac) density and not inform the public. Staff affirmed that the public would receive notice if the Council were to consider an increase from 10 du/ac and indicated that this could be a possibility if HCD rejects the 10 du/ac program. The second concern related to the density bonus program and its application to the standards. In response to this concern, staff committed to elaborating on the program for this study session and has provided an overview in this report. This concern was also raised by Commissioner Bryant at the October 25, 2023, Planning Commission meeting during the Commissioner Reports section of the agenda.

### 5. Density Bonus Law

The Density Bonus Law is a state law that applies to all jurisdictions and encourages developers to construct affordable housing by providing added density, concessions, and incentives for eligible projects. It is a complex program because the specific amount of density that a developer can apply to their project as a bonus varies depending on the multiple project criteria: the percentage of units that are affordable, the level of that affordability (i.e. very low, low, moderate), and if the project serves specific target populations (foster youth, disabled veterans, homeless, or seniors). There is also a bonus for projects that provide a child-care facility on-site.

In March 2022 the Council received a memo on the state's requirements that included the "Guide to the California Density Bonus Law" (Attachment 3). Together these documents provide an excellent and in-depth explanation of how the density calculations are determined and provide a useful baseline scenario for consideration. While there have been some legislative updates to the program since 2022, these changes do not change the methodology outlined in the Memo, its attachment, or the description in this report. This is a mandatory program requirement for all local jurisdictions, the precise language can be found in California Government Code Sections 65915-65918.

While the Memo is useful in outlining how the Density Bonus program could apply to the Town, it assumes that the Town will adopt an inclusionary housing ordinance that will require 20 percent of development to accommodate moderate-income units. However, the adopted Housing Element indicates that the Town will adopt a minimum inclusionary housing requirement of 20 percent, with income requirements for lower income households. (Attachment 4, Housing Element Program 3.811(C), pgs. 123-125) This baseline requirement of 20 percent lower income affordability would automatically make a project eligible for the State's Density Bonus program and allow the project to include an additional 25 to 50 percent density bonus, depending on the number of units provided at the low- and very low-income categories. (Standards for eligibility are summarized on page 3 of the Guide to the California Density Bonus Law.)

For example, a 1-acre site with a density of 10 du/ac and a 20 percent inclusionary requirement at low-income levels, could develop up to 13 units on the site by meeting the Density Bonus Law requirements and receiving a 25 percent bonus with the ability to seek two exceptions from development standards. If the developer met the inclusionary requirement with 15 percent very low-income and 5 percent low-income, the project would receive a bonus of 50 percent enabling development up to 15 units and the ability to seek three exceptions from development standards.



If the Town were to adopt an Inclusionary Housing program that required housing for moderate-income households, then the example provided above would result in a 15 percent bonus (12 units) and the ability to seek two exceptions.

Regardless of the Town's inclusionary program, the largest density bonus and concession/incentive package would apply in a scenario with a 100% affordable housing development, where a minimum of 80 percent of the units are available to low and very-low income households and no more than 20 percent are available to moderate income. In this scenario a developer could receive an 80 percent density bonus, increasing a 1-acre 10-unit low-income project to 18 units and receiving up to 4 exceptions from development standards. However, if the site is located within 0.5-mile of public transit, the density bonus would be "no density" and the project would be able to build an additional 3 stories (33-feet) above the required height limit.

#### 6. Sites and Standards Identified in the Adopted Housing Element

The adopted 2023-31 Housing Element (Attachment 4) currently includes two programs to develop multifamily housing at sites identified in Table 3. The Housing Element also provides direction for future development review standards:

##### *Program 3.811(C): New Multifamily Housing Development*

Directs the Town to create "a multifamily overlay zoning district, RM 10, permitting multifamily housing development at densities of 10 dwelling units per acre with heights up to 40 feet and adequate setbacks to accommodate the maximum density. Multifamily housing will be allowed by right, provided that each project is consistent with adopted objective design standards. One single family property (has) been identified for rezoning to multifamily (23 Oakwood)." (Housing Element, pgs. 123-124)

Additional standards identified in the Housing Element for the RM-10 overlay district include amending the Zoning ordinance to allow "up to a 40 (foot) height limit and setbacks reasonable to accommodate the new development." (Housing Element, pg. 125)

##### *Program 3.813: Multifamily Housing Development on School Properties*

"The Town will amend the PFS (Public Facilities and School) zoning district to permit new multifamily housing by right at 40 units and 20 units per acre at four locations on the private school properties subject to objective design standards. The Town will complete the CEQA analysis and adopt the Zoning amendment within one year of Housing Element certification. (Housing Element, pg. 130)

The Housing Element also provides some additional guidance for development standards for the school sites including amending the height limit to allow four (4) stories at 48 feet, reducing the minimum front setback requirement to 30 feet (specifying on applicable to Valparaiso for Menlo School), and acknowledging the eligibility of Menlo College for parking reductions through state law. The Housing Element also suggests that parking at the site on the Menlo College O'Brien lot may be replaced to meet the needs of the college and could be provided at the ground level of a podium building or below grade. Additionally, development on the Menlo College parking lot near the Administration Building could accommodate additional parking near the entry to the College off of El Camino real. (Housing Element, pgs. 69-72)

**Table 3: Multifamily Sites in Adopted Housing Element**

Address	Existing Zoning	Proposed Zoning Overlay	Proposed Net Residential Units from Zoning Overlay
23 Oakwood (1.6 acre)	R-1A	RM-10	16
Menlo College (O'Brien Lot)	PFS	RM-40	60
Menlo College (WWII Housing)	PFS	RM-20	30 (net 26)
Menlo College (near Admin Bldg)	PFS	RM-40	40
Menlo School (SW parking lot)	PFS	RM-20	25
Menlo School (SE parking lot)	PFS	RM-20	20
Sacred Heart (Reconstruct Housing)	PFS	RM-20	20 (reconstructed)

### 7. Potential Sites for Inclusion in the Housing Element

At meetings held on July 19, 2023, and September 20, 2023, the City Council considered and included 10 additional privately-owned sites listed in Table 4 for multifamily development in the ongoing analysis under the California Environmental Quality Act (CEQA). Although these additional sites are not officially incorporated into Atherton's Housing Element, they are included in this report, as they may be added in the future.

**Table 4: Potential Multifamily Sites on Privately Owned Lots**

**\*\*These sites are not in the adopted Housing Element and are under evaluation\*\***

Address	Lot Acres	Existing Zoning	Proposed Zoning Overlay	Proposed Net Residential Units from Zoning Overlay
999 Ringwood Ave.	0.90	R-1A	RM-10	9
352 Bay Rd.	0.92	R-1A	RM-10	9
318 Bay Rd.	0.94	R-1A	RM-10	9
296 Bay Rd.	0.93	R-1A	RM-10	9
175 Ravenswood	1.1	R-1A	RM-10	11
185 Ravenswood	1.1	R-1A	RM-10	11
197 Ravenswood	1	R-1A	RM-10	10
Gilmore House	0.9 of infill area	POS	RM-10	9
Circus Club	Approx. 0.5 of infill area	POS	RM-10	5
CalWater	Approx. 0.25 of infill area	POS	RM-10	3

## **DISCUSSION**

Staff has included a list of questions to facilitate discussion among the Commission and Council Members. These questions reflect feedback sought by staff to help inform the crafting of actual standards specific to the Town for further public feedback.

1. Is there additional feedback regarding any specific standard? This could relate to exact language for controls or preferences for how a standard might be applied (i.e., a list vs. scorecard for front entry treatments).
2. Are there additional standards that staff should include that have not been identified?
3. Is there support for the direction of the “large home” approach for guiding building mass?
4. To what extent should the RM-10 standards identified in the Housing Element provide direction to staff?
5. Should the PFS standards identified in the Housing Element provide direction to staff and should the “large home” typology guide building massing and site design for these properties?
6. Council has previously discussed that multifamily development at POS should preserve existing open space and function as infill development. Should the “large home” typology guide building massing and site design for these properties?

## **NEXT STEPS**

Following this study session, staff will look at the feasibility of the direction and craft a recommended approach for objective design and development standards. Staff will then introduce initial concepts and draft standards at a Community Workshop on November 13, 2023. Following this workshop, staff will determine the next steps for further refinement or adoption, pending the CEQA review for the Housing Element. As required by state law, the Town must adopt standards by January 31, 2024.

In addition to the objective design and development standard process outlined above, staff will facilitate a Housing Element Question and Answer Town Hall forum on November 8, 2023. This will provide an opportunity for community members to participate in a dialogue with staff regarding certain requirements and decisions relating to the Housing Element. This meeting will occur virtually.

## **FISCAL IMPACT**

The overall fiscal impact to the General Fund would be \$159,553 to complete Objective Design Standards and \$118,553 to complete Zoning Code modifications. Funds are incorporated as part of the Town’s FY 2023-24 Budget

## **CEQA**

This Study Session is statutorily exempt from CEQA under Section 15262, Feasibility and Planning Studies.

### **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. 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 be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

### **CONCLUSION**

Staff requests that the City Council along with the Planning Commission discuss policy issues for objective design and development standards and to provide direction to staff.

### **ATTACHMENTS**

1. Community Workshop #1 Presentation Slides
2. Summary of Comments received at Community Workshop #1
3. 2022 Staff Memo and Guide to California Density Bonus Law
4. Adopted 2023-2031 Housing Element