



Item No. 1 Town of Atherton

CITY COUNCIL STAFF REPORT – STUDY SESSION

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

FROM: LISA COSTA SANDERS, PLANNING CONSULTANT

DATE: DECEMBER 15, 2022

SUBJECT: REVISIONS TO THE DRAFT HOUSING ELEMENT IN RESPONSE TO HCD COMMENTS

RECOMMENDATION

Provide specific programmatic and policy direction to staff and consultants on the primary housing programs and policies to include in the next responsive iteration of the Draft Housing Element.

BACKGROUND

All California cities and counties are required to accommodate their fair share of regional housing need in its General Plan. The next Housing Element cycle covers the period of 2023 through 2031 and is required to be adopted by January 31, 2023.

The [Final RHNA for the Bay Area \(https://abag.ca.gov/sites/default/files/documents/2021-12/Final_RHNA_Allocation_Report_2023-2031-approved_0.pdf\)](https://abag.ca.gov/sites/default/files/documents/2021-12/Final_RHNA_Allocation_Report_2023-2031-approved_0.pdf) was adopted by the Association of Bay Area Governments (ABAG) Executive Board on December 16, 2021. The Town's allocation for the period of 2023-2031 is as follows:

Income Level	Housing Units
Very Low (less than 50% of area median income) Max income of \$63,950 for single person to \$91,350 for family of 4	94
Low (50% - 80% of area median income) Max income of \$102,450 for single person to \$146,350 for family of 4	54
Moderate (80-120% of area median income) Max income of \$125,640 for single person to \$179,520 for family of 4	56
Above Moderate (more than 120% of area median income) Market rate housing	144
Total	348

The City Council held a joint session with the Planning Commission on April 28, 2021 to discuss the Housing Element process and provide direction to staff on potential strategies to consider. The City Council, at its January 12, 2022, February 24, 2022 and March 16, 2022 meetings received update reports from Staff on the initial housing strategies and provided direction to staff. The Town hosted a Community Open House on April 26, 2022 from 5:00 p.m. until 7:00 p.m. at the Holbrook Palmer Park Pavilion to discuss potential strategies with the community and receive input. The City Council met on May 18, 2022 to refine the housing strategies and again on May 24, 2022 to provide additional direction on site selection.

The Draft Housing Element was released on June 10, 2022 for a 30-day public review and comment period. Following review of public comments, the City Council revised the Draft Housing Element programs including;

- removed the multi-family overlay zone;
- removed changes to the PFS zone relating to multi-family housing at school sites; and
- expanded the ADU program

The revised Draft Housing Element was submitted to HCD on August 2, 2022. Staff and consultant met with HCD on October 14, 2022 to hear HCD's preliminary comments. The Town received the HCD formal written comments on October 31, 2022. The City Council, at its November 2, 2022 study session discussed the HCD comments and requested additional information from the consultant team. The City Council, at its November 17, 2022 study session reviewed HCD comments line by line with legal citations and discuss responses.

The Draft Housing Element is available on the Town's website:

https://www.ci.atherton.ca.us/DocumentCenter/View/10638/Atherton-Housing-Element-Draft-to-HCD-8_2_2022

The purpose of this meeting is to review responses to HCD's comments as incorporated in the Draft Housing Element and provide direction to staff and consultants.

ANALYSIS

The Town received the HCD comment letter October 31, 2022 included as Attachment 4. The Town's consultant team prepared a matrix of the HCD comments with a reference the corresponding Housing Element section (Attachment 2) and a matrix with the legal citation for each HCD comment (Attachment 3).

Root Policy, the Affirmatively Furthering Fair Housing (AFFH) consultant with the 21 Elements Group, prepared draft responses relating to the AFFH comments. The Town's consultant team prepared draft responses for a majority of the HCD comments and are working on a few remaining items. The Revised Draft Housing Element, included as Attachment 1, includes the draft responses in strikethrough and underline text. This is still a work in progress.

Staff is seeking specific Council programmatic and policy direction related to housing programs, policies and potential site opportunities to include in the next iteration of the Draft Housing Element. These include direction on the Cal Water Bear Gulch Reservoir Site, School Sites and other sites previously considered by the City Council. Below is a discussion of potential modifications and multi-family sites.

Multifamily Housing on School and Facility Sites

- **Bear Gulch Reservoir Site:** The entire property is approximately 50-acres in area and includes the reservoir (occupying approximately 1/3 of the site), water tanks, pump stations, treatment plant, equipment buildings, offices and several residential units for staff. The site is owned by the California Water Service Company (Cal Water). The property is currently zoned Park and Open Space (POS). That zoning designation does not allow residential uses other than caretaker housing. There are two areas on the property that could accommodate new housing, the upper site near the water tanks and the lower portion of the property at the end of Reservoir Road.
 1. **Potential Housing Site No. 1:** A 2-to-3-acre potential housing site is located on the higher elevations of the property, southwest of the reservoir with access to Moore Road and Woodside Road. At a density of 20-units per acre this potential site could yield approximately 40 to 60 dwelling units.
 2. **Potential Housing Site No. 2:** A 5-to-7-acre potential housing site is located at the end of Reservoir Road. This is also the site of the Cal Water Corporation Yard. At a density of 20-units per acre this potential site could yield approximately 40 to 60 dwelling units

The Draft Housing element submitted to HCD included a program to add 4 new housing units at the Bear Gulch property. This was supported by correspondence from Cal Water. It is recommended that the Town expand the discussion in the Housing Element with a program that would rezone the two portions of the Bear Gulch site as discussed above with a density of 20 units/acre. Designating two locations would provide Cal Water with flexibility in their feasibility and planning for housing based on other site improvements at the property. To accommodate residential development, the zoning would be modified as listed below:

- Rezone two sites on the Bear Gulch property to permit multifamily housing without discretionary review at a density of 20-units per acre.
- Minimum required front setback – 30 feet.
- Maximum height – 4 stories or 48 feet.

The appropriate environmental analysis under the California Environmental Quality Act (CEQA) would be completed at time of rezoning. Cal Water would be required to complete any necessary infrastructure improvements and implement any identified mitigation measures with the new development, such as ingress and egress to Moore Road. It is recommended that the Draft Housing Element include both sites and plan for the development of 20 new housing units during this planning period.

- **Menlo College:** Menlo College is a private 4-year college located at 1000 El Camino Real. The college property contains 21.7 acres of land. The college property is divided into two parcels; the 21.0-acre main campus and a 0.7-acre parcel at 98 Leon Way, site of the College President's home. The college property does not include Cartan Field nor Wunderlich Field, both owned jointly by Menlo School and Menlo College. The campus abuts the Victoria Manor residential subdivision to the south (R-1A Zoning), the MacBain Avenue residences to the west (R-1A Zoning), Alejandro Avenue to the north, and Menlo School to the south (PFS Zoning). The existing PFS Zoning District requires a conditional use permit for residential uses and allows multifamily residential uses by right (with the provision of very low and low-income units), subject to Planning Commission review of the location, size, proximity to heritage trees and environmental aspects of the project. There are seventeen existing buildings on the campus with a total floor gross area of approximately 307,700 square feet. The total building footprint area is 269,500 square feet and the existing floor area ratio is 28.5%. Based on discussions with the College President and review of site improvements, there are two viable locations on the property for multifamily housing as outlined below:

1. **Potential Housing Site:** The existing O'Brien surface parking lot at the southwest corner of El Camino Real and Alejandra Avenue is approximately 75,000 square feet (1.7 acres) in area. Construction of a multi-family housing project could occur on the site, with podium parking at ground level and 3 stories of housing above or a separate parking garage. Another option would be to build below grade parking. At 20 units per acre, 34 housing units could be developed. If the Town were to zone this property for 20 units per acre, the College would be able to apply State Density bonus provisions for additional housing units.

The College's interest in development at this location satisfies a need for faculty and student housing. The College has expressed that student housing would be suite-based housing that would qualify as affordable housing for the purposes of the Town's Housing Element.

2. **Potential Housing Site:** There are four residences located at the campus in WWII barracks that are currently utilized for faculty housing. These residences could be replaced with 30 apartment units, resulting in a net increase of 26 multi-family housing units.

Both housing sites would be located near a public transportation route (SamTrans bus route) and would therefore qualify for State mandated reduced parking provisions. To accommodate the new housing development, the zoning should be modified as listed below:

- Minimum required front setback – 30 feet.
- Maximum height – 4 stories or 48 feet.
- Allow residential uses by right with objective design standards

- Rezone to allow 20 units per acre

It is recommended that both sites on the Menlo College property be rezoned to allow multi-family housing by right with objective design standards, increased height and reduced setbacks to ensure the development is feasible. It is recommended that the Draft Housing Element plan for the development of 40 new multi-family units at the College property. The College President has indicated support for such a project and plans to submit a revised letter to the Town for inclusion in the Revised Housing Element.

- **Menlo School:** Menlo School is a private school for grades 6 – 12 located at 50 Valparaiso Avenue. The school property contains 16.4 acres of land. It abuts the Victoria Manor residential subdivision to the east (R-1A Zoning), the Michaels Way residential subdivision to the west (R-1A Zoning) to the west, and Menlo College to the north (PFS Zoning). The school is also zoned PFS Zoning District. There are eleven existing buildings on the campus with a total floor gross area of 311,574 square feet.

- 1. Potential Housing Site No. 1:** An approximate 56,000 square foot (1.28 acre) potential housing site is located in the southwest corner of the campus with frontage on Valparaiso Avenue and the school entry drive. A 75-foot setback for buildings higher than 22 feet is required by the zoning along the west property line. An emergency access road required by the Menlo Park Fire District exists within this 75-foot setback. At a density of 20-units per acre this potential site could yield approximately 25 dwelling units. Parking would need to be provided either below grade or in a structure.
- 2. Potential Housing Site No. 2:** An approximate 44,000 square foot (1 acre) potential housing site is located in the southeast corner of the campus with frontage on Valparaiso Avenue and the school entry drive. A 75-foot setback for buildings higher than 22 feet is required by the zoning along the east property line. An emergency access road required by the Menlo Park Fire District exists within this 75-foot setback. At a density of 20-units per acre this potential site could yield approximately 20 dwelling units.

In order to accommodate a building of this density, the zoning for the two sites listed above should be modified as follows:

- Minimum required front setback – 30 feet (along Valparaiso) – no changes to setback adjacent to single family residential.
- Maximum height – 4 stories or 48 feet.
- Allow multi-family residential by right with objective design standards
- Rezone to allow 20 units per acre

It is recommended that the Revised Housing Element plan for 20 new units at Menlo School. The housing sites are shown on the Menlo School Master Plan and have support for development by the School.

Multifamily Housing on Private Property

It is recommended that the Town reconsider the multifamily overlay zone for private properties with a density of 20 units per acre, heights up to 40' and adequate setbacks to accommodate the maximum density. Multifamily housing will be allowed by right, provided the project complies with objective design standards. Analysis under the California Environmental Quality Act (CEQA) will be completed with the zoning adoption and before consideration of each project. The developer will be required to upgrade an insufficient infrastructure and implement identified mitigation measures.

It is recommended the Town also adopt an Inclusionary Ordinance to require a minimum of 20% of the dwelling units be affordable. A deed restriction will assure the affordability of the units remain.

- **23 Oakwood:** The site is 1.6 acres in area, located at the end of Oakwood Drive adjacent to the City of Redwood City. There is an existing single-family home on the site and the property owner has expressed interest in developing the site with townhouse units. The property has adequate access to an improved public right-of-way and is currently served with utilities. It is recommended that this site be reconsidered for inclusion in the Draft Housing Element with a minimum density of 20 units per acre by right. This density is recommended as it is the default density identified by HCD whereby further feasibility analysis is not required and the jurisdiction can assume affordable housing will be built. The added benefit to this site is the property owner interest in developing. If included in the Draft Housing Element as a multi-family housing site, the Town would be required to rezone the property within one year of the adoption of the Housing Element. Rezoning of the site will include community outreach and analysis under the California Environmental Quality Act (CEQA) and will include mitigation measures to address any identified impacts. The developer will be required to upgrade any insufficient infrastructure and implement the CEQA mitigation measures. The site zoning will include height limits, setbacks, parking standards, objective design standards and landscape screening requirements to reduce impact to adjacent residences.

It is recommended that the Draft Housing Element include this site and plan for the development of 32 new multi-family housing units during this planning period.

- **Bay Road:** The Council previously identified properties along Bay Road for a new multi-family overlay zone.

Address	Lot Size	Density	Development Potential*
264 Bay Road	0.91 acre	20 units per acre	18 housing units
296 Bay Road	0.93 acre	20 units per acre	18 housing units
318 Bay Road	0.94 acre	20 units per acre	19 housing units
352 Bay Road	0.92 acre	20 units per acre	18 housing units
999 Ringwood	0.9 acre	20 units per acre	18 housing units

If the properties were consolidated the combined 4.6 acres would yield up to 92 units. If developed separately the yield would be up to 91 units. It is recommended that these sites be included in the Revised Housing Element without a planned production of units during this cycle.

A resident with development experience suggested a subdivision multifamily development prototype that could be applied to an Atherton city block modeled on a Brownstone Development concept. The concept was shared with members of the Council by the resident. Staff includes this option for discussion by the Council as an alternative to an overlay zone as described above. The Brownstone Development concept consists of subdividing existing portions on both side of the street frontages with 45' wide by 93'-100' deep sized lots. The remaining portions of the existing acre lots would be reduced in size accordingly. Brownstone style single family attached homes plus JADUs and 6-plex attached buildings would be developable on the site.

The sites would be developed with zero-lot lines for side setbacks, 8' front setbacks and shared rear open space. A 36' height limit would allow 3 floors over a garage with a requirement for an ADU adjacent to the garage.

The Bay Road properties could support a varietal combination of development including single-family homes, Brownstone homes, ADUs, and 6-plex below-market rate units. The approximate density at these locations would be 31 units per acre.

ADUs

Additional description of the new Accessory Dwelling Unit (including JADUs) program has been included in the Draft Housing Element including a monitoring program if anticipated production is not achieved. The Draft Housing Element as submitted projects the production of 35 ADUs per year over the next 8 years for a total of 280 new housing units. HCD commented that the production number should be reduced to 19 units per year (152 total new units) based on actual past production. Staff conducted an inventory of ADUs and JADUs approvals in the past two years and found an average of 27 new ADUs. Additional description has been added to the Draft Housing Element to describe the changes the Town made to ADU regulations to support the increased production realized in the last two years and assumed to continue.

It is recommended that the Town plan for 35 ADUs per year for a total of 280; however, it is anticipated that the ADU production numbers will be either reduced by HCD or restricted to moderate and above moderate categories to some degree. As such, additional production of units at the very low and low affordability categories is strongly recommended from other categories.

Lot Splits (SB9)

The Draft Housing Element described the new interest from property owners in developing properties under SB9 regulations. In most cases, these developments would result in three new residences on each existing lot. HCD stated that the Town needs to include additional analysis

including trends and market conditions that allow lot splits and identify each property that would be developed as well as developer/property owner interest. Unlike ADU production where the Town can show trends, HCD requires the Element list each property that is likely to develop under the SB 9 program. This is difficult to determine for future year production. Given that the Town has 11-12 inquiries on SB 9 and 6 properties at some stage of application, an average of 10-12 per year could indeed be realistic; but HCD will not accept a trend.

Staff will reach out to interested property owners and developers requesting letters of interest to include in the resubmittal to HCD. However, HCD will likely reduce the Town's projections in this category. It is recommended that the Lot Split (SB 9) production be reduced from 96 units to 48 units. This section of the Housing Element has not yet been revised.

Summary of Proposed Housing Sites and Programs:

	Very low - Low	Mod	Above Mod	Total
ADUs	102	66	112	280
Lot Splits (SB9)			48	48
Vacant sites			10	10
Bear Gulch	10	10		20
Menlo College	20	20		40
Menlo School	10	10		20
23 Oakwood	6		26	32
Bay Road				0
Total	148	106	196	450
RHNA	148	56	144	348

In general, the Town's housing production is anticipated to be strong over the next 8-year cycle and likely to exceed HCD requirements in the moderate and above moderate affordability categories. However, production at the very low and low affordability categories will be difficult to achieve and difficult to track. ADU production in these categories is shown at about 12-13 units per year. The units produced at 23 Oakwood, if project moves forward, would be deed restricted giving the Town 6 units if full density were developed. The units at Menlo College and Menlo School, if the projects move forward, would provide the next best source of affordability options. The Town does not have a buffer in the very low and low affordability category.

NEXT STEPS

Distributed neighborhood outreach meetings are currently being planned at several locations throughout Town (dates/times are to be determined). The meetings will be hosted by property owners and attended by a Council member and staff/consultants with invites to nearby residents. These are intended to be more informal discussions with smaller groups on strategies to respond to HCD. A Community wide meeting will also be held in January 2023.

Given the limited timing, the consultant team will revise the document to include the direction provided by the Council at the December 15, 2022 meeting and respond to the remaining HCD

comments. The Draft Element will be provided to the Council at the January 11, 2023 Study Session; but it will also be the document that is used when discussions occur at the distributed outreach meetings in early January. Once the outreach meetings complete, a final public meeting will occur at the Planning Commission in January with a recommendation to the City Council for adoption. The Council will need to meet on or before January 31, 2023 at a Special Meeting to adopt and authorize submission of the Draft Housing Element to the State.

The Housing Element is required to be adopted by cities and counties by January 31, 2023, and the State then has 60 days in which to certify the Element as in compliance with State Law. If the Town's Housing Element is still deemed non-compliant, HCD will provide an additional response letter with comments and the Town and HCD will begin a further dialogue and revision process to achieve certification.

The Town has 120-days from January 31, 2023 to obtain a certified Housing Element. Failure to achieve a certified Element within 120-days will shorten the time allotted from 3-years to 1-year for the Town to adopted land use and development changes proposed within the Housing Element. In addition, so long as the Town does not have a certified Housing Element, the Town is exposed to potential litigation or Builder's Remedy development solutions.

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. 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

- Attachment 1 - Draft Housing Element with Draft Responses to HCD
- Attachment 2 - HCD Comment Matrix with Responses
- Attachment 3 – HCD Comment with Legal Citation
- Attachment 4 - HCD Comment Letter
- Attachment 5 – Public Comments Received as of 12.15.22 12:00 PM (Supplemental)
- Town Housing Element Draft Update Website Link:
 - [Housing Element Draft Update |Website](#)