



Item No. 1 Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

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

DATE: JANUARY 31, 2023

FROM: LISA COSTA SANDERS, PLANNING CONSULTANT

SUBJECT: CONSIDERATION OF A RESOLUTION ADOPTING A GENERAL PLAN AMENDMENT TO REPEAL THE 2015-2022 HOUSING ELEMENT AND REPLACE IT WITH THE 2023-2031 HOUSING ELEMENT (SIXTH CYCLE).

CEQA: The consideration and adoption of the Town-initiated Housing Element (6th Cycle) is not a project pursuant to the California Environmental Quality Act (CEQA). The consideration and adoption of the Housing Element is alternatively exempt from CEQA pursuant to CEQA Guidelines Section 15002 as the adoption of the Housing Element is a planning study and will not have any impacts to the environment. Further, to the extent the Regional Housing Needs determinations are made, the Project is further exempt from CEQA pursuant to Section 15283, which provides, “CEQA does not apply to regional housing needs determinations made by the Department of Housing and Community Development, a council of governments, or a city or county pursuant to Section 65584 of the Government Code.” A CEQA analysis will be conducted for any future zoning code amendments and/or development of specific projects when those are considered.

RECOMMENDATION

The Planning Commission recommends that the City Council adopt the Resolution adopting the 2023-2031 Housing Element with revisions including an expanded multifamily housing overlay zone.

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 City Council, at its December 15, 2022 and January 11, 2023 meetings reviewed the revised Draft Housing Element and provided direction to staff on responses to HCD's comments.

Several distributed neighborhood outreach meetings throughout Town were conducted on the revised Draft Housing Element. In addition, a community meeting was conducted on January 12,

2023 at the Menlo College campus and public comments were received at the January 18, 2023 City Council meeting.

The Planning Commission, at its January 19, 2023 meeting conducted the public hearing and voted 3 in favor (Lane, Narancic, Lerner) with 2 absent (Lamb and Konce) to recommend the City Council adopt the Housing Element with the following changes:

- Replace the upzoning on El Camino Real with an overlay zone allowing for multifamily RM-20 (20 units per acre) along all of El Camino one parcel deep on both sides.
- Add a multifamily overlay zone allowing RM-10 (10 units per acre) along Valparaiso Avenue.
- For lots of 1 acre in size or more, remove the SB9 residency requirement.
- Identify incentives for streamlining of lot consolidation while minimizing impacts to neighbors.
- Authorize notification of property owners of multifamily overlay.

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

<https://www.ci.atherton.ca.us/627/Housing-Element-Update>

ANALYSIS

The Town received the HCD comment letter October 31, 2022 included as Attachment 6. The Town's consultant team prepared a matrix of the HCD comments with a reference the corresponding Housing Element section (Attachment 4) and a matrix with the legal citation for each HCD comment (Attachment 5).

Staff and consultants have extensively revised the Draft Housing Element to respond to HCD's comments. Many of the comments requested additional data, analysis and additional justification on the proposed housing programs.

In response to HCD's comments, the City Council, at its January 11, 2023 meeting directed the Housing Element programs be revised as follows:

- Identified 23 Oakwood for rezoning to multifamily at 10 units per acre. The site is 1.62 acres in area resulting in 16 housing units.
- Rezone 18 properties along western side of El Camino Real from Stockbridge to the Redwood City limits to allow 20 units per acre with a lot consolidation program. The properties are less than ½ acre and would need to be consolidated to be considered a viable housing site per HCD.
- Adopt an Inclusionary Ordinance to require 20% of multifamily units be designated as affordable to lower income households

Summary of Proposed Housing Sites and Programs:

	Very low - Low	Mod	Above Mod	Total
ADUs	112	56	112	280
Lot Splits (SB9)			48	48
Vacant sites			10	10
RM 10 (23 Oakwood)	4		12	16
RM 20 (ECR north)	4		15	19
Menlo College	30	30		60
Menlo School	10	10		20
Total	160	96	197	453
RHNA	148	56	144	348

The City Council established the following criteria for identification of sites as multifamily housing: along a major arterial; proximity to transit; infrastructure; proximity to retail and services and near higher density land uses.

As noted above, the Planning Commission recommends the Housing Element programs be further revised as follows:

1. Remove the proposed upzoning of the 17 properties along El Camino Real from Stockbridge to Redwood City limits. At the January 19, 2023 Planning Commission meeting, property owners within the upzoning area presented the Commission with a signed petition indicated they had no interest in selling their property or developing multifamily housing. They further indicated that the lots are small with relative high land cost. Members of the public also suggested that the Town identify additional properties, including reconsidering the multifamily overlay zone on all arterial streets including the length of El Camino Real, Middlefield Road, Valparaiso, etc.

As the Council is aware, HCD requires substantial evidence that the designated sites will develop within the next 8 years. Staff also reached out to HCD to determine if the opposition from property owners would be considered by HCD in the site evaluation. HCD staff noted that letters stating that specific sites would not be viable because of property owner disinterest was something they took very seriously. However, they did understand that some property owners may just be attempting to discourage the process. However, they would not be able to provide any specific feedback about sites or viability until they received the Town's draft Housing Element as adopted by the Town. Given this new information, the Planning Commission recommended the City Council consider an expanded multifamily overlay zone as outlined in items 2 and 3 below.

2. Incorporate a new multi-family overlay zone (RM-20) of 20-units per acre along the entirety of El Camino Real in Atherton that includes parcels one lot deep on both sides of the roadway. This includes 88 properties. At the January 18, 2023

Planning Commission meeting, Commissioners discussed the site selection criteria established by the City Council and reviewed sites on Town maps. Commissioners recommended the entirety of El Camino to support the use of an overlay zone on a wider range of properties. These properties are located along a major arterial, along an established transit route, and near other higher density land uses.

With the proposed multifamily overlay zone, the current single-family regulations would remain in place, but property owners would have the option to develop their property as either a single-family home or consistent with the multifamily development regulations. Staff recommends the new zone be prepared as a dual zoning designation that would permit both single family and multifamily with necessary development standards. This dual zoning designation has the advantage of not establishing the current single family home as non-conforming and allows property owners to rebuild. It also provides opportunities on a parcel by parcel basis to develop multifamily housing over an expanded area. Appropriate development standards will be prepared with the rezone for multifamily housing to limit height, setbacks, parking requirements, landscape screening, objective design standards and fence regulations. The recommended multifamily overlay zone on El Camino includes 88 properties, some of which are larger than ½ acre. It is anticipated that three properties would be consolidated and developed as multifamily housing for a total of 19 units, 4 of which would be affordable, during the planning period. Staff has prepared suggested wording of this program as Attachment 3 should the Council wish to include in the adopted Housing Element.

3. Incorporate a new multi-family overlay zone (RM-10) of 10-units per acre along the entirety of Valparaiso that includes one lot deep. This includes 22 properties. At the January 18, 2023 Planning Commission meeting, Commissioners discussed the site selection criteria established by the City Council and reviewed sites on Town maps. Commissioners recommended the entirety of Valparaiso to support the use of an overlay zone on a wider range of properties. These properties are across from higher density land uses in Menlo Park, along a major arterial, near an established transit route and near retail and services.

Similar to the multifamily overlay discussed above, the current single-family zoning would remain in place, but the underlying property owners would have the option to develop their property as single-family or consistent with the development criteria for the multi-family overlay. The recommended multifamily overlay zone on Valparaiso includes 22 properties, most of which are larger than ½ acre. It is anticipated that two properties would develop as multifamily housing for a total of 20 units, 4 of which would be affordable, during the planning period. Staff has prepared suggested wording of this program as Attachment 3 should the Council wish to include in the Housing Element for adoption

4. Remove the residency requirement for lots of 1 acre in size or more that subdivide

under SB9. The Commission found the residency restriction to be a possible deterrent for new development and recommended it be removed for larger lots to facilitate more lot splits and development of new housing units. Staff has prepared suggested wording of this program as Attachment 3 should the Council wish to include in the Housing Element for adoption

5. Identify incentives for streamlining of lot consolidation while minimizing impacts to neighbors. The revised Housing Element includes a program to encourage lot consolidation as the designated multifamily sites are less than ½ acre in area. The Commission recommended this program be expanded to further incentivize lot consolidation. Suggested wording to expand this program is included in Attachment 3 should the Council wish to include in the Housing Element for adoption.

The Planning Commission did not recommend any changes to the proposed upzoning of 23 Oakwood, however Commissioner Lane expressed concern with the density at 23 Oakwood. The Commission did not recommend changes to the proposed affordable housing inclusionary program or other housing programs included in the revised Housing Element.

Although staff was not supportive on an overlay zone for the 17 properties designated along the north side of El Camino Real, staff is supportive of the overlay zone along the entirety of El Camino Real and Valparaiso as the number of properties included is greatly expanded (from 17 to 110) and the expanded area includes larger properties. All of the properties along El Camino Real are within the Town's R-1B Zoning District and consist of lots less than ½-acre. These lots would likely require consolidation to be viable. However, all of the lots along Valparaiso are within the Town's R-1A Zoning District and consist of lots *larger* than ½-acre. These lots would not necessarily require consolidation to be viable. This provides the Town (and HCD) with a variety of opportunity sites of varying size.

Revised Summary of Proposed Housing Sites and Programs based on Planning Commission Recommendation:

	Very low - Low	Mod	Above Mod	Total
ADUs	112	56	112	280
Lot Splits (SB9)			48	48
Vacant sites			10	10
RM 10 (23 Oakwood)	4		12	16
RM 20 (ECR)	4		15	19
RM 10 (Valparaiso)	4		16	20
Menlo College	30	30		60
Menlo School	10	10		20
Total	164	96	213	473
RHNA	148	56	144	348

	+16	+40	+69	+125
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Based on the expanded multifamily overlay sites, the Council could reduce the projected number of ADU units or retain the higher number as a buffer.

The Town has also received several comments suggesting the Town designate Town-owned property for affordable housing and multifamily housing. There are two Town-owned properties: the Civic Center (Town administrative offices, library, corporation yard, landscaping and parking) and Holbrook Palmer Park (sports field, open space and trails, three community buildings, a preschool and one residence). Staff evaluated the corporation yard as a possible site for housing development and noted the challenges with relocating this important facility as well as the limited size of the site for any new housing development. Holbrook Palmer Park was gifted to the Town with a deed restriction that limits the use as to Park purposes. In addition, the Park is also encumbered for a limited time in a debt service agreement for the Bay Front Canal Public Works Project. Based on this analysis, Town-owned sites are not recommended for inclusion at this time. The Town could choose to add the portion of the Park currently used as residential housing for considered multi-family should a site be eliminated from the Housing Element during the Annual Reporting periods

NEXT STEPS

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.

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, 15 days prior to the hearing date. Notice of this hearing was also mailed to all property owners along El Camino Real and Valparaiso and within 500 feet. 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 – Letter to Property Owners and Public Hearing Notice
- Attachment 2 - City Council Resolution
- Attachment 3 – Revised Draft Housing Element, with all associated appendices (Exhibit A to Resolution)
- Attachment 4 – Planning Commission recommended programs
- Attachment 5 - HCD Comment Matrix with Responses (Exhibit B to Resolution)
- Attachment 6 – HCD Comment with Legal Citation
- Attachment 7 - HCD Comment Letter
- Town Housing Element Update Website Link:
 - [Housing Element Update | Atherton, CA - Official Website](#)
- Recent Public Comments