



Item No. 9

Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

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

**FROM: GEOFF BRADLEY, AICP, PRINCIPAL-IN-CHARGE, M-GROUP AND
BRITTANY BENDIX, PROJECT MANAGER, M-GROUP**

DATE: MAY 17, 2023

**SUBJECT: RECIEVE SUMMARY OF THE DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT’S RESPONSE TO THE TOWN OF
ATHERTON’S 2023-2031 HOUSING ELEMENT AND A REPORT ON
NEXT STEPS TO RECEIVE CERTIFICATION**

RECOMMENDATION

Receive a summary of the Department of Housing and Community Development’s (HCD) comment letter and a report on next steps to complete and certify the Town of Atherton’s 2023-2031 Housing Element.

BACKGROUND

On January 31, 2023 the Town Council adopted Atherton’s 2023-31 Housing Element. Pursuant to state law, the Town submitted a copy of the adopted housing element to the Department of Housing and Community Development (HCD) for review and certification. This provided HCD with its second opportunity to review the Town’s 2023-31 Housing Element, which included modifications that addressed prior HCD comments received in a letter dated October 31, 2022.

On April 4, 2023, the Town received a letter from HCD that found the adopted housing element addresses many statutory requirements; however, additional revisions are necessary to substantially comply with State Housing Element Law (Article 10.6 of the Government Code). Furthermore, because the Town did not adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), any rezoning required to enact the element’s housing programs and achieve its regional housing needs allocation must be completed by January 31, 2024.

The following report provides a summary of HCD’s most recent and prior comment letters and identifies next steps to achieve certification.

FINDINGS | ANALYSIS

HCD Comments and Response

To facilitate a discussion of HCD's comments and the recommended actions to achieve certification of the housing element, staff has provided a summary table at Attachment 1. This table lists each topic identified in the HCD comment letter dated April 4, 2023 (Attachment 2) and addresses how to resolve outstanding items. However, because many of these comments refer to prior direction received from HCD, the table also includes summaries of how the adopted housing element (Attachment 3) addressed the HCD comment letter dated October 31, 2022 (Attachment 4).

The presentation of this information collectively demonstrates the progress the Town has made in addressing HCD's concerns and enables the Town to focus on key areas where efforts address multiple topics or have a significant influence on the Town's housing strategy. These key areas are listed below and categorized as needing either additional high-level analysis, programmatic changes or relating to multifamily and affordable housing needs. Each area also includes references to the HCD topic areas addressed in the summary table.

1. High Level Analysis

A. Extremely Low-Income (ELI) households and Special Needs Populations

The comments from HCD require the Town to provide further analysis of how past and recently adopted programs in the element mitigate housing issues for ELI households and Special Needs Populations (elderly, persons with disabilities, large households, female-headed households, farmworkers and persons experiencing homelessness). This required analysis includes additional reporting of specific quantitative attributes, comparison between the Town and the region, and identification of gaps in resources and constraints on the Town's ability to provide housing for these populations. The element must then address how its programs mitigate any identified issues. This effort applies to the following topic areas raised in Attachment 1:

- Review of Prior Housing Element
- Integration and Segregation
- ELI Households
- Constraints on Housing for Persons with Disabilities
- Special Needs
- Programming for ELI and Special Needs Households

B. Affirmatively Furthering Fair Housing (AFFH)

To comply with HCD comments, the Town must provide additional information in its assessment of AFFH. This includes an analysis of the distribution of the units resulting from the housing opportunity sites and a discussion of how that distribution mitigates any AFFH issues identified in the Town. Based on that analysis, the Town must also update the discussion of any housing constraints identified in the element and any

related actions or programs the element applies to mitigate those constraints. This effort applies to the following topic areas raised in Attachment 1:

- Fair Housing Enforcement and Capacity
- AFFH and Site Inventory
- Local Data and Knowledge and Other Relevant Factors
- Contributing Factors to Fair Housing Issues
- AFFH

C. Housing Needs Assessment

The element must expand the discussion of the housing needs assessment to include specific quantitative data related to income level and tenure as required by HCD. This effort applies to the following topic areas raised in Attachment 1:

- Overpayment
- Housing Cost

D. Site Inventory and Analysis – SB 9 Sites

HCD has requested further analysis of the SB 9 sites to demonstrate that the unit yields from this strategy will achieve the Town's RHNA goals. This effort applies to the following topic areas raised in Attachment 1:

- SB 9 Sites

E. Site Inventory and Analysis – General

HCD's comments require various information for all sites included in the site inventory. This includes an analysis for each site/strategy that addresses the realistic capacity, resource availability, sewer and dry utility infrastructure, acreage, feasibility of developing lower-income units, and feasibility of developing housing on sites with existing use. If the Town determines the site inventory and analysis does not meet stated RHNA goals, HCD has included a reminder that the Town must also include a program to address any housing unit shortfalls. This effort applies to the following topic areas raised in Attachment 1:

- Realistic Capacity
- Small and Large Sites
- Zoning for Lower-Income Households
- Suitability of Nonvacant Sites
- Infrastructure
- Shortfall of Adequate Sites

F. General Constraints

The housing element's discussion of governmental and nongovernmental constraints requires additional information to address comments in HCD's letter. This includes expanding discussion of the Conditional Use Permit process, identifying any local

ordinances that could constrain housing development, addressing the Town's streamlining process for eligible SB-35 projects (or indicating how eligibility is not possible), approval timeframes for development review, and the propensity for development applications/inquiries below density. HCD also requires that the element identify any constraints that may result from the element's programs, as well as indicate how programs may mitigate or eliminate constraints. This effort applies to the following topic areas raised in Attachment 1:

- Local Processing and Permit Procedures
- Local Ordinances
- Streamlining Provisions
- Approval Time and Requests for Lesser Densities
- Program 3.814 (Adoption of an Inclusionary Zoning Ordinance)
- Governmental and Nongovernmental Constraints

2. Programmatic Changes

A. *Program Specific Comments*

The HCD comment letter identified specific items for various programs that require attention. This includes specific language necessary to comply with related housing laws (i.e. emergency shelters and group housing), the identification of program incentives, the need for specific dates in timeframes (i.e. "2 years" vs. "January 31, 2025") and additional details for outreach efforts. This effort applies to the following topic areas raised in Attachment 1:

- Emergency Shelters
- Program 3.815 (Conservation and Rehabilitation of Existing Units)
- Program 3.823 (Equal Housing Opportunity)
- Program 3.824 (Emergency Shelters, Transitional and Supportive Housing)
- Program 3.841 (Shared Housing)
- Replacement Housing Requirements
- Program 3.850 (Group Housing)

3. Multifamily and Affordable Housing

A. *Multifamily Sites Inventory, Analysis and Program Language*

HCD had multiple comments regarding the Town's strategy for multifamily units; however, many of these comments relate to discrepancies with the information provided in the adopted element and require clarification. For example, discussion of the multifamily strategy should consistently identify the permitting process (by-right vs. discretionary) for sites within the PFS Zoning District or within a multifamily overlay, the extent and applicability of an overlay, and the inclusion of any public-school sites. The Town must also estimate any fees or exactions for multifamily development and discuss any potential constraints relating to those requirements. This effort applies to the following topic areas raised in Attachment 1:

- Sites Inventory
- Multifamily Housing
- Publicly Owned Sites
- Land Use Controls
- Fees and Exaction
- Program 3.813 (Multifamily Housing Development on School and Other Properties)

Staff acknowledges that the Town Council is currently analyzing the multifamily programs adopted in the housing element and that this may require additional updates on this topic.

- B. Site Inventory, Analysis and Program Language – Accessory Dwelling Units (ADUs)*
The comments from HCD raise concerns that the Town does not provide sufficient information to support the unit yield anticipated by the element's ADU strategy. The project team will follow up directly with HCD to understand this concern for the total yield, which is consistent with recent past performance. The team will also work with HCD to understand what additional information may be necessary to support the Town's estimation of lower income ADUs. This effort applies to the following topic areas raised in Attachment 1:

- Accessory Dwelling Units (ADU)
- Program 3.814 (Adoption of an Inclusionary Zoning Ordinance)

Initial Study

The Town's previously adopted 2023-31 Housing Element received an exemption from environmental review pursuant to the California Environmental Quality Act (CEQA) sections 15061(b)(3)(Common Sense), 15002, and 15283. At that time the housing element was exempt from environmental analysis because it would be speculative to analyze potential environmental impacts from future development when zoning code changes and development standards have yet to be approved. Instead, the Town would conduct a CEQA review when it brought forth any zoning code amendments or land use ordinance to effectuate the Housing Element or upon receipt of development applications, whichever occurred first.

However, the Town has not yet adopted a compliant housing element. Therefore, any rezoning required to enact the element's housing programs that are necessary to achieve its regional needs allocation must be completed by January 31, 2024. To achieve this effort, the Town will now pursue certification of its housing element in tandem with zoning code modifications and the adoption of objective design standards. Accordingly, the Town must now prepare an initial study to evaluate the potential environmental impacts from the revised 2023-31 Housing Element.

Next Steps

As described above, the Town's effort to adopt a compliant housing element now includes an initial study, zoning code modifications and the creation of objective design standards. Staff is

currently working with consultants to commence these efforts, complete background research, compile data requested by HCD, and continue discussion and outreach related to refining the Town's multifamily housing strategy to ensure that the CEQA process will conclude prior to the January 31, 2024 deadline. A preliminary schedule for certification of the Housing Element and related tasks for CEQA Review, related Zoning Code modifications, and development of Objective Design Standards is included at Attachment 5.

Staff strongly encourages the City Council to identify any additional multifamily sites at its meeting on July 19, 2023. Identification of sites will facilitate a complete "project description," which is a necessary component to commence the public outreach and research phase of the initial study and development of design guidelines. The remaining summer months and early fall will then focus on working with the community towards refining any revisions to the housing elements, anticipated modifications to the zoning code and crafting objective design standards. Adoption hearings would then begin in late Fall and continue through the end of 2023.

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 would be as part of the FY 2022/23 and FY 2023/24 Budget.

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. 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.

CEQA

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

ATTACHMENT

Attachment 1:	Summary Table of HCD Comments, Town Response and Approach
Attachment 2:	Comment Letter from HCD dated April 4, 2023
Attachment 3:	Adopted Housing Element and Appendix 5
Attachment 4:	Comment Letter from HCD dated October 31, 2022
Attachment 5:	Atherton Housing Element Schedule