



**CORTE MADERA PLANNING COMMISSION
STAFF REPORT**

REPORT DATE: May 19, 2023
MEETING DATE: May 23, 2023

TO: Planning Commissioners

FROM: Martha Battaglia, Senior Planner
Adam Wolff, Town Manager

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SUBJECT: Public Hearing to Consider Recommendations to the Corte Madera Town Council to 1) Adopt a Resolution Repealing the 2015 – 2023 Corte Madera Housing Element and Adopting the 2023 – 2031 Corte Madera Housing Element Update; and 2) Adopt a Resolution confirming that the Town Council’s findings and conclusions regarding the Final SEIR, and Certification thereof in Town Council Resolution 02/2023 apply to the proposed Safety Element update, and adopting the update to the Safety Element including Changes to Chapter 7 (Flooding & Flood Plain Management) and Chapter 8 (Public Safety & Hazards) to the 2009 Corte Madera General Plan



RECOMMENDED ACTION:

Staff recommends that the Planning Commission, after reviewing all information, presentations, and public testimony adopt Resolution No. 23-012 (Attachment 1) recommending that the Town Council takes the following actions:

1. Adopt a Resolution (Attachment 2) repealing the 2015 – 2023 Corte Madera Housing Element and adopting the 2023 – 2031 Corte Madera Housing Element Update; and
2. Adopt a Resolution (Attachment 3) confirming that the Town Council’s findings and conclusions regarding the Final SEIR, and Certification thereof in Town Council Resolution 02/2023 apply to the proposed Safety Element update, and adopting the update to the Safety Element including Changes to Chapter 7 (Flooding & Flood Plain Management) and Chapter 8 (Public Safety & Hazards) to the 2009 Corte Madera General Plan.

BACKGROUND:

Since the Summer of 2021, the Town has been working on an update to its Housing Element consistent with requirements under California State law. The Housing Element is one of seven mandated elements of the general plan and must be updated every eight years to address existing

and projected housing needs for all economic segments of the Town. Unlike the other elements of the general plan, the Housing Element must be certified by the State. To comply with additional State legislation, the Town is also updating the Safety Element. The Safety Element Update includes changes to Chapter 7 (Flooding & Flood Plain Management Element) and Chapter 8 (Public Safety & Hazards Element) to the 2009 General Plan. The amendments to Chapters 7 and 8 are meant to comply with recently adopted State law related to climate adaptation and resiliency.

Arguably the most significant component of the Housing Element is the Housing Sites Inventory, which requires the Town to identify specific locations for potential housing development or redevelopment (sometimes referred to as housing opportunity sites) and ensure that such sites are zoned at sufficient housing densities to meet the future need at all income levels as determined by the Regional Housing Needs Allocation, also known as the RHNA.

The final RHNA allocation for Corte Madera is shown in Table 1 below.

Table 1. Corte Madera 2023-2031 Final RHNA Allocation:

Income Level	Units
VERY LOW INCOME (<50% of Area Median Income)	213
LOW INCOME (50-80% of Area Median Income)	123
MODERATE INCOME (80-120% of Area Median Income)	108
ABOVE MODERATE INCOME (>120% of Area Median Income)	281
TOTAL ALLOCATION	725

Through public outreach and consultation with the Corte Madera community at a series of public workshops, and through subsequent public meetings with the Town’s Planning Commission and Town Council, the Town developed a list of eleven (11) properties meant to help satisfy the RHNA. These 11 properties were identified as needing to be “re-zoned” to permit a higher number of housing units (and as a result larger buildings) than what was previously allowed pursuant to the Town’s zoning code. Staff subsequently removed a property from the housing sites inventory list. This change resulted in a reduction from 11 housing opportunity sites to 10. The Corte Madera Housing Sites Map is included as [Attachment 4](#).

Additional new housing units that could help satisfy the Town’s RHNA, and which do not require “re-zoning” of property, could also include new single-family residences on vacant parcels, single-family homes on parcels proposed to be split using the provisions of Senate Bill 9, Accessory Dwelling Units (ADUs), and the 18 units at the Casa Buena (Project Homekey). Altogether, the Town’s Site Inventory Table demonstrates that a total of 1,011 new housing units can be developed in Corte Madera between July 2022 and December 2031 (refer to Table 11 of the draft Housing Element).

On December 13, 2022, the Planning Commission held a public hearing to consider the adoption of the Final Subsequent Environmental Impact Report (SEIR), amendments to the General Plan Land Use Element, and Zoning Ordinance amendments. After deliberating, the Planning Commission adopted Resolution No. 22-018 unanimously recommending by a vote of 5-0 that the Town Council take the following actions: 1) adopt a resolution certifying the Final Subsequent Environmental Impact Report for the Town of Corte Madera 6th Cycle Housing Element project, 2) adopt a resolution adopting amendments to the General Plan Land Use Element, and 3) adopt an ordinance to rezone the identified housing opportunity sites and adopting amendments to Title 18 of the Corte Madera Municipal Code.

On January 11, 2023, the Town Council adopted Resolution No. 02/2023 certifying the Final SEIR prepared for the Town of Corte Madera 6th Cycle (2023 – 2031) Housing Element Update project and made findings including adopting a Mitigation Monitoring and Reporting Program. All environmental documents prepared for the project, including the Final SEIR, Draft SEIR, Errata, and technical appendices are available at the Town's Housing webpage (www.cortemaderahousing.org).

Also, on January 11, 2023, the Town Council adopted Resolution No. 03/2023 adopting amendments to the Land Use Element of the General Plan. These amendments created a new Mixed-Use Housing Element land use designation to ensure consistency between the Town's General Plan and its Zoning Ordinance. The Mixed-Use Housing Element designation consists of three variants (Housing Element Mixed-Use Neighborhood, Housing Element Mixed-Use Corridor, and Housing Element Mixed-use Core) that are differentiated by minimum lot sizes, permitted residential densities, and applicable zoning districts.

On January 17, 2023, the Town Council adopted Ordinance No. 1026 to rezone the identified ten housing opportunity sites (comprised of 18 parcels) associated with the update to the Town of Corte Madera Housing Element (6th Cycle). The ordinance created a Housing Element Overlay District within Chapter 18.18 (Special Purpose Overlay District) of the Corte Madera Municipal Code that includes three sub-areas (HE-1, HE-2, and HE-3). The different sub-areas are based on the allowable density as shown in the Opportunity Sites Map included as Attachment 4. The regulations in the Housing Element Overlay District will apply to housing opportunity sites developed in the future with residential uses, mixed-use development that includes residential uses, and residential care facilities.

DISCUSSION:

The Housing Element Update is intended to be an opportunity, every eight years, for all California communities to have a dialogue about local and regional housing issues and to find solutions at the local level to address these housing issues. The Housing Element typically addresses a range of housing issues such as affordability, housing diversity, density and location, and establishes goals, policies and programs for existing and projected housing needs. The Housing Element must be internally consistent with other parts of the general plan and is critical to having a legally adequate general plan.

State law does not require that jurisdictions *build* or *finance* new housing, but they must *plan* for it. It is in the Housing Element that local governments make decisions about where safe, accessible, and diverse housing could be developed to offer a mix of housing opportunities for households with varying incomes. State law also requires that sites identified for such purposes meet strict eligibility criteria defined in State law. The Housing Element must also identify how the Town will meet its share of the region's housing need, called the Regional Housing Needs Allocation, or RHNA, by selecting housing sites and densities that, if developed, would satisfy the RHNA.

Corte Madera Housing Element Update 6th Cycle, 2023 - 2031

The Town of Corte Madera Housing Element Update (6th Cycle, 2023 – 2031) includes the following components:

1. *Chapter 1: Introduction.* This chapter provides an overview of the Housing Element requirements and summarizes the public outreach conducted as part of the Housing Element Update.
2. *Chapter 2: Housing Needs Analysis.* This chapter examines demographic, employment and housing trends and conditions and identifies existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).
3. *Chapter 3: Housing Sites.* This chapter identifies locations of available sites for housing development or redevelopment to meet the future need at all income levels as specified in the RHNA. Table 11 lists the various sites included in the Site Inventory.
4. *Chapter 4: Housing Constraints.* This chapter analyzes existing and potential governmental and nongovernmental barriers to housing development.
5. *Chapter 5: Policies and Programs.* This chapter identifies goals, policies, and programs based on housing needs, community interests, and State laws. Many of the policies and programs have been carried forward from the Town's current Housing Element, and others have been added that are intended to address public comments and input received through community engagement efforts.
6. Appendices:
 - a. Public Outreach.
 - b. Evaluation of 2015 Housing Element Programs.
 - c. Affirmatively Furthering Fair Housing (AFFH).

The 6th Cycle Housing Element Update included new requirements for jurisdictions to affirmatively further fair housing. Assembly Bill (AB) 686, passed in 2018, states affirmatively furthering fair housing means to take “meaningful actions, in addition to combating discrimination, which overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” The four main goals are to:

- Address significant disparities in housing needs and in access to opportunity, and
- Replace segregated living patterns with truly integrated and balanced living patterns, and
- Transform racially and ethnically concentrated areas of poverty into areas of opportunity, and
- Foster and maintain compliance with civil rights and fair housing laws.

The Towns' AFFH analysis was prepared by Veronica Tam & Associates in consultation with Town staff, with funding provided to the County of Marin through a Regional Early Action Planning grant from HCD.

Community Engagement

As part of the Housing Element Update, local governments are required to implement a robust community engagement program that includes reaching out to individuals and families at all economic levels of the community plus historically underrepresented groups. Staff worked closely with a community engagement consultant – Plan to Place – on developing a multi-pronged outreach approach. One of the primary goals of the outreach strategy was to connect with as many segments of the community as possible through a variety of methods to ensure broader participation.

The Town's outreach efforts began in Fall 2021, with a town-wide mailer, produced in English and Spanish, delivered to every residence and business in Corte Madera. The mailer announced a series of six-monthly workshops and encouraged community members to visit the project website (<https://www.cortemaderahousing.org/>) to learn more about the housing element and engage with the process.

A key component of the workshop series was to engage the community and stakeholders in conversations and listen to input on housing-related policy considerations and issues. These conversations eventually led to a methodical approach to developing Corte Madera's vision and planning framework for addressing local housing needs, the role the Town could take in contributing to regional solutions, and meeting State mandated Regional Housing Needs Allocation (RHNA) requirements. Most importantly, the workshop series and the public engagement efforts were designed to seek input from the Corte Madera community and create a regular forum to share ideas, raise questions and concerns, and provide feedback on the Town's housing goals, policies, and programs and selection of housing opportunity sites.

Staff used a variety of methods to advertise the housing workshops, including:

- Mailing a postcard to every residence and business in Corte Madera;
- Hanging banners in multiple locations in Town in advance of each community workshop;
- Promoting the workshop on an electronic readerboard in front of the community center;
- Publishing articles in the Town newsletter;
- Promoting the workshops through the Town's social media platforms;
- Newsflash messaging sent through the Town's website subscription list;

- Notifying community-based organizations via email and asking them to share with their membership; and
- Sending emails to the interested parties list.

In addition to the workshop series, numerous interactive pop-up events were held to reach those people that were not as likely to engage in more traditional workshops. These pop-up events occurred during the day and evenings; on weekdays, weekends, and holidays; and at various community gathering places such as shopping centers, parks, farmers markets, and recreational events.

Hearing from underrepresented members of the community was important during this process; therefore, the Town developed a Housing Needs Feedback form in both English and Spanish and distributed the forms to apartment complexes and local businesses. The Town incentivized residents to complete the feedback form through periodic raffle drawings for \$50 gift certificates to Corte Madera restaurants. The Town also conducted four focus groups with community members, which included a focus group meeting at the San Clemente Place apartments, which is a 100% affordable housing development in Corte Madera. In addition, stakeholder interviews were conducted with organizations that serve underrepresented populations in Marin County, including Fair Housing Advocates of Northern California, Legal Aid, and Canal Alliance. Town staff also provided presentations on the Housing Element to the Marin Sunrise Rotary Club and the Corte Madera Women's Club.

Through the outreach efforts described above, the Town engaged with approximately 3,600 people.

The community engagement and outreach materials and documentation are provided in Appendix A of the Housing Element.

Housing Element Drafts & HCD Comment Letters

On July 8, 2022, staff released the Town's draft Housing Element and update to its Safety Element for a 30-day public review in accordance with State law requirements. The release of the draft Housing Element and Safety Element was promoted on the Town's social media accounts, through its website, and via a direct mailer that was sent to all residences in Town. In addition, staff held multiple pop-up workshops during the 30-day public review period to promote the release of the draft Housing Element. The release of the draft Housing Element followed months of additional outreach events and public meetings, including a six-part workshop series held from October 2021 to March 2022.

At the close of the public comment period on August 8, 2022, staff received a total of 21 public comments from Corte Madera residents and businesses, and Marin County and Bay Area community-based and advocacy organizations. Staff reviewed and discussed these public comments with the Town Council on August 16, 2022 and received authorization from the Town Council to submit the draft Housing Element to the California Department of Housing and Community Development (HCD) for its 90-day review. The draft submitted to HCD on August 23, 2022 incorporated comments and suggestions received from the community during the public review period.

Staff received comments from HCD on the draft Housing Element on November 21, 2022 ([Attachment 5](#)). Staff in consultation with the Town's Housing Element Consultant – Christine O'Rourke of O'Rourke & Associates – revised the draft Housing Element to address HCD's comments on the draft Housing Element and to ensure consistency with State Housing Element law based on HCD's review. Following a 7-day public review period, staff submitted a revised draft Housing Element (second draft) and revised appendices B & C to HCD on February 22, 2023 for a 60-day review. Staff also submitted a response letter describing the changes made to the draft Housing Element and appendices, and how each comment in HCD's letter dated November 21, 2022 has been addressed ([Attachment 6](#)).

Staff received a second comment letter from HCD on April 21, 2023 ([Attachment 7](#)). Staff in consultation with Christine O'Rourke revised the draft Housing Element to address HCD's comments on the revised draft Housing Element. Following a 7-day public review period, staff submitted a revised draft Housing Element (third draft) to HCD on May 4, 2023. Staff also submitted a response letter describing the changes made to the draft Housing Element, and how each comment in HCD's letter dated April 21, 2023 has been addressed ([Attachment 8](#)).

Staff received preliminary comments from HCD on May 16, 2023 on the revised draft (third draft) submitted to HCD on May 4, 2023 (refer to the email received from Fidel Herrera included as [Attachment 9](#)). Staff's response to those comments are included as [Attachment 10](#). The draft Housing Element has been revised to address the most recent comments from HCD.

Staff will continue to work with HCD on revisions to the draft Housing Element necessary to obtain a letter stating that the Town's Housing Element has been found to be in substantial compliance with State law. Such letter is expected to be received prior to Town Council adoption of the Housing Element Update.

Penalties for Non-Compliance & Incentives for Compliance

There are a number of new consequences of not having a certified Housing Element. If a jurisdiction does not comply with State housing law, then HCD may refer the jurisdiction to the Attorney General. Significant fines could be imposed if a jurisdiction does not comply with a court order. A court finding a Housing Element is inadequate may limit local land use decision-making authority until the jurisdiction brings its Housing Element into compliance, or the local government may lose the right to deny certain projects.

Conversely, a Housing Element certified by HCD makes jurisdictions eligible for – or with higher priority for – numerous sources of funding, such as Affordable Housing and Sustainable Communities Grants, SB 1 Planning Grants, CalHOME Program Grants, Infill infrastructure Grants, Pro-Housing Designation funding, Local Housing Trust Funds, and Regional Transportation Funds (such as MTC's OneBay Area Grants). Refer to the informational handout prepared by HCD for additional information on Housing Element compliance incentives and Housing Element noncompliance consequences ([Attachment 11](#)).

The draft Town Council Resolution repealing the 2015 – 2023 Corte Madera Housing Element and adopting the 2023 – 2031 Corte Madera Housing Element Update is included as Attachment 2 with the Draft Housing Element dated, May 18, 2023 and appendices included as Exhibit A to Attachment 2.

Safety Element Update

Government Code Section 65302(g) requires Safety Elements to address the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards or geologic hazards; flooding; and wildfires and urban fires. The statute also requires that seismic and geologic hazard areas be mapped.

Recent amendments to Section 65302(g) require that the Safety Element of the General Plan be updated concurrently with the Housing Element. Senate Bill (SB) 1035 requires local governments to revise their Safety Element to identify flood hazards and address the risk of fire hazards upon each revision of the Housing Element. The Safety Element Update includes changes to Chapter 7 (Flooding & Flood Plain Management) and Chapter 8 (Public Safety & Hazards) to the 2009 General Plan. The changes are intended to comply with recently adopted State law requirements for integrating information and programs related to new wildfire, evacuation routes, and climate adaptation and resilience requirements in an integrated manner. Planning staff worked with RJ Suokko, Public Works Director, and Ruben Martin, Central Marin Fire Department Chief, on the update to the Safety Element.

The update to the Safety Element includes:

- A vulnerability assessment that identifies the risks climate change poses to Corte Madera and the geographic areas at risk from climate change;
- A set of adaptation and resilience goals, policies, and objectives based on the information specified in the vulnerability assessment; and
- Feasible implementation measures designed to carry out the goals, policies, and objectives identified in the adaptation objectives.

Much of the new information for the update to the Safety Element comes from the Town's Climate Adaptation Assessment, completed in 2021. At that time, staff noted that several of the adaptation goals, policies, and objectives, and potential implementation measures would be more appropriately adopted as part of the Town's Safety Element update. Staff did not undertake a comprehensive update to Chapters 7 and 8 of the General Plan. New text to these chapters is underlined. Text that is not underlined is existing text from the 2009 General Plan that is being retained. In some instances, portions of the 2009 General Plan text have been relocated within the chapters. In addition, some policies have been renumbered.

The draft Town Council Resolution confirming that the Town Council's findings and conclusions regarding the Final SEIR, and Certification thereof in Town Council Resolution 02/2023 apply to the proposed Safety Element update, and adopting amendments to the Safety Element (Chapters 7 & 8 to the General Plan) is included as Attachment 3 with draft Safety Element Update included as Exhibit A to Attachment 3.

Conclusion

Staff is seeking the Planning Commission’s formal recommendation to the Town Council on the Update to the Housing Element 6th Cycle covering 2023 – 2031 and the Update to the Safety Element (Chapters 7 & 8 of the General Plan). A subsequent public hearing, tentatively planned for June 20, will be held at the Town Council.

ENVIRONMENTAL IMPACT:

The California Environmental Quality Act (CEQA) and CEQA Guidelines require that certain projects be reviewed for environmental impacts and that environmental documents be prepared to analyze project impacts. In 2009, the Town certified the *2009 Town of Corte Madera General Plan Revised Final EIR* (“General Plan EIR”), a program environmental impact report for the General Plan adopted that same year. The Town, as the lead agency under CEQA, determined that the 2023 – 2031 Housing Element, associated amendments to the General Plan, including the Land Use Element and Safety Element, and associated Zoning Ordinance amendments (collectively referred to as the “Project”) could result in significant adverse impacts beyond those addressed in the General Plan EIR. Accordingly, the Town prepared a subsequent environmental impact report (“SEIR”).

On January 11, 2023, the Town Council adopted Resolution No. 02/2023 certifying the Final SEIR prepared for the Project and made findings including adopting a Mitigation Monitoring and Reporting Program. All environmental documents prepared for the project, including the Final SEIR, Draft SEIR, Errata, and technical appendices are available at the Town’s Housing webpage (www.cortemaderahousing.org).

Town staff has revised the draft Housing Element in response to comments by California Department of Housing & Community Development (HCD) since the Town Council certified the Final SEIR prepared for the Project. These revisions do not require additional CEQA review because the changes would not result in any new impacts that were not already addressed in the Final SEIR certified by the Town Council. The Town has not made any substantive changes to the draft Safety Element since circulating the draft SEIR. Non-substantive changes to the draft Safety Element were made, which include correcting typos and changing “Planning and Building Department” to “Community Development Department.”

OPTIONS:

1. Forward a recommendation of adoption to the Town Council on the Update to the Housing Element, 6th Cycle (2023 – 2031) and Update to the Safety Element.
2. Provide direction to staff on the project.
3. Direct staff to return with additional information and analysis and continue the discussion at a future public meeting.

ATTACHMENTS:

1. Draft Planning Commission Resolution 23-012.
2. Draft Town Council Resolution Repealing the 2015 – 2023 Corte Madera Housing Element and adopting the 2023 – 2031 Corte Madera Housing Element Update with the Housing Element Update and appendices included as Exhibit A.
3. Draft Town Council Resolution Confirming that the Town Council’s Findings and Conclusions regarding the Final SEIR, and Certification thereof in Town Council Resolution 02/2023 Apply to the Proposed Safety Element Update, and Adopting Amendments to the Safety Element including changes to Chapters 7 and 8 to the 2009 General Plan with the Safety Element included as Exhibit A.
4. Corte Madera Housing Sites Map.
5. Comment letter from the California Department of Housing and Community Development, dated November 21, 2022.
6. Corte Madera Response to HCD Comments of November 21, 2022.
7. Comment letter from the California Department of Housing and Community Development, dated April 21, 2023.
8. Corte Madera Response to HCD Comments of November 21, 2022.
9. Email received from the California Department of Housing and Community Development, dated, May 16, 2023.
10. Corte Madera Response to HCD Comments of May 16, 2023.
11. HCD handout: Housing Element Compliance Incentives & Housing Element Noncompliance Consequences.