

**CORTE MADERA TOWN COUNCIL  
STAFF REPORT**

**REPORT DATE:** January 6, 2023  
**MEETING DATE:** January 11, 2023

**TO:** Honorable Mayor and Members of the Town Council

**FROM:** Martha Battaglia, Senior Planner

*MB*

Adam Wolff, Town Manager

*AW*

**SUBJECT:** Public Hearing for the Consideration and Possible Action to: 1) Adopt Resolution No. 02/2023 Certifying the Final Subsequent Environmental Impact Report (Final SEIR) Prepared for the Town of Corte Madera 6<sup>th</sup> Cycle (2023 – 2031) Housing Element Update Project and Making Findings, Including Adopting a Mitigation Monitoring and Reporting Program Pursuant to CEQA Guidelines Sections 15090 & 15091; 2) Adopt Resolution No. 03/2023 Adopting the General Plan Land Use Element Amendment to Create a New Mixed-Use Housing Element Land Use Designation; and 3) Introduce an Ordinance to Rezone Eighteen (18) Parcels Associated with the Update to the Town of Corte Madera Housing Element (6<sup>th</sup> Cycle, 2023 – 2031) and to Adopt Amendments to Title 18 of the Corte Madera Municipal Code (CMMC) to Amend Chapter 18.04 (Definitions) and to Add a New Housing Element Overlay District to Chapter 18.18 (Special Purpose Overlay Districts) of the CMMC



**RECOMMENDED ACTION:**

Staff recommends that the Town Council, after reviewing all information, presentations, and public testimony take the following actions:

1. Adopt Resolution No. 02/2023 (Attachment 1) certifying a Final Subsequent Environmental Impact Report (Final SEIR) for the Town of Corte Madera 6<sup>th</sup> Cycle (2023 – 2031) Housing Element Update Project and making required findings, including adopting a Mitigation Monitoring and Reporting Program pursuant to CEQA Guidelines Sections 15090 & 15091 with the Findings of Fact included as Exhibit A and the Mitigation Monitoring and Reporting Program included as Exhibit B; and
2. Adopt Resolution No. 03/2023 (Attachment 2) adopting an amendment to the General Plan Land Use Element creating a Mixed-Use Housing Element land use designation with the General Plan text amendments included as Exhibit A and the Land Use diagram amendment included as Exhibit B; and
3. Introduce an ordinance (Attachment 3) to rezone eighteen (18) parcels associated with the Town of Corte Madera Housing Element Update (6<sup>th</sup> Cycle, 2023 – 2031) and adopt amendments to Chapter 18.04 (Definitions) and Chapter 18.18 (Special Purpose Overlay Districts) of the Corte Madera Municipal Code with the Zoning Map amendment included as Exhibit A.

**BACKGROUND:**

For the past 15 months, 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. As part of the Housing Element Update, the Town is also amending the General Plan Land Use Element and the Zoning Ordinance. In order to comply with additional State legislation, the Town will also be updating the Safety Element. Town Council consideration of updates to the Town’s Housing Element and Safety Element will occur once the actions that are the subject of this report have been completed and after successful completion of the ongoing consultation process with the California Department of Housing and Community Development.

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
<b>TOTAL ALLOCATION</b>	<b>725</b>

Through consultation with the Corte Madera community at a series of public workshops and outreach events, 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 is currently allowed pursuant to the Town’s existing zoning code. 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). The 18 supportive housing units at the Casa Buena are already constructed but are counted for the 6<sup>th</sup> Cycle RHNA purposes because the Town issued the certificate of occupancy after July 1, 2022.

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 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, 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 incorporates 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 4](#)). Staff and the Town's Housing Element Consultant – Christine O'Rourke of O'Rourke & Associates – are revising the draft Housing Element to address HCD's comment on the draft Housing Element and to ensure consistency with State Housing Element law based on HCD's review. Staff plans to submit a revised draft to HCD in January for a second 60-day review. Staff will return to the Council with the Housing Element Update following successful completion of the ongoing consultation with HCD. It is anticipated that the update to the Housing and Safety Elements will be approved by the Town in the Spring of 2023.

Since the release of the draft Housing Element in the summer, staff decided to remove the property at 601 Tamalpais Drive from the Town's site inventory list. This decision was based on further discussion with the property owner, who expressed interest in removing his property from the opportunity site list, given their interest in commercial uses for the site and the relatively low residential density proposed for the site; and due to public comments previously received by neighbors of the property, who expressed the desire for the site to be removed from the housing site inventory list. This change results in a decrease from 11 housing opportunity sites to 10, as shown in Figure 1 below and included in [Attachment 5](#).

In addition, relatively minor modifications to the realistic development capacity for the property at 41 Tamal Vista Boulevard (Site 3) and 5651 Paradise Drive (Site 2) were made. The realistic development capacity of Site 3 was increased from 63 units to 74 units, representing a change in allowed residential density at the site from 30 to 35 dwelling units/acre, consistent with other medium density housing sites identified for the Housing Element Update. On the other hand, the realistic development capacity of Site 2 was decreased from 39 to 33 units, representing a reduction in the area of land able to be used in the calculation of total residential units for the site. The

revised site inventory table, which includes the removal of 601 Tamalpais Drive, the increase of units at 41 Tamal Vista Boulevard, and the decrease of units at 5651 Paradise Drive, is included as Attachment 6. All together, the Town’s site inventory table (as revised) demonstrates that a total of 1,011 new housing units can be developed in Corte Madera between July 2022 and December 2031. This is a decrease of five units compared to what was included in the site inventory table submitted to HCD in July 2022.

**Figure 1. Corte Madera Opportunity Sites Map (Updated, Nov. 2022)**



**DISCUSSION:**

January 31, 2023 Rezoning Deadline

Housing element law allows a jurisdiction to rezone after the housing element due date by including a housing element program that commits to rezone the housing sites within three years and 120 days from the housing element due date (i.e. by May 31, 2026). However, rezonings completed after the due date of the housing element (i.e. after January 31, 2023) must allow multifamily development “by right” – meaning ministerial approval with no Town discretionary approvals (i.e. Design Review) – for projects where at least 20% of the units are affordable to lower-income households. Town staff has completed required environmental analysis and has drafted General Plan land use and Zoning Ordinance amendments, attached to this report, to allow

the Town to rezone the 10 sites identified in Figure 1 before January 31, 2023. This process will allow the Town to use its design review approval process when evaluating proposed new multi-family housing development.<sup>1</sup>

### Subsequent Environmental Impact Report

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. 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 and therefore, determined that an environmental impact report (EIR) was required. The EIR prepared for the Housing Element Update project is subsequent to the *2009 Town of Corte Madera General Plan Revised Final EIR* (general plan EIR). The Town prepared a Draft Subsequent Environmental Impact Report (SEIR) to evaluate the potentially significant adverse environmental impacts of the project. The Draft SEIR updates existing analysis of the general plan EIR where appropriate and presents new analysis as necessary. The purpose of the Draft SEIR is to provide public agencies and the public with detailed information about the effects that the proposed project may have on the environment, list ways in which the significant effects of the project might be minimized, and to indicate alternatives to the project. The Town found that all potentially significant environmental effects of the proposed project can be avoided or reduced to insignificance with feasible mitigation measures and no unavoidable significant adverse impacts would occur due to implementation of the proposed project.

The Town circulated the Draft SEIR for a 45-day public review from October 7, 2022 through November 21, 2022. The Town held a public meeting on October 27, 2022 to hear public comments. CEQA Guidelines Section 15200 states that the purpose of the public review process include sharing expertise, disclosing agency analysis, checking for accuracy, detecting omissions, discovering public concerns, and soliciting counter proposals. The Town received comments and letters concerning the Draft SEIR from three public agencies and, pursuant to CEQA Guidelines Section 15088, the Town prepared written responses to all comments received on the Draft SEIR that raised environmental issues.

The Town has prepared a Final SEIR that includes the public comments and the Town’s response to public comments on the Draft SEIR. The [Final SEIR](#), [Draft SEIR](#), and technical appendices are available at the Town’s Housing webpage ([www.cortemaderahousing.org](http://www.cortemaderahousing.org)).

In the interim, staff modified the project description to allow more senior housing units than evaluated in the Draft SEIR and Final SEIR. The Town prepared an Errata to the Final SEIR to

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<sup>1</sup> Even if the Town adopts ordinance amendments rezoning the 10 properties by January 31, 2023, the Town cannot use the design review approval process to reduce a housing development’s density or deny a housing development, except in very rare instances, pursuant to the Housing Accountability Act (Government Code Section 65589.5).

evaluate the changes in the project description after circulation of the Draft SEIR (Attachment 7). The Town concluded that the change in the project description would not result in any new impacts that were not already addressed in the Draft SEIR and Final SEIR. The changes to the project description include the following:

1. *Removal of Site 1 (601 Tamalpais Drive) as a Housing Opportunity Site.* The evaluation in the Draft SEIR assumed that this site would be developed with 11 units.
2. *Increase to the Density for Senior Housing Projects.* The draft zoning ordinance amendments include Special Standards for Senior Housing Projects. These provisions allow for an increase of five dwelling units/acre above the base density for sites in the HE-1 and HE-2 sub-areas.
3. *Residential Care Facilities.* The draft zoning ordinance amendment includes this type of use as a conditional use in the HE-1 and HE-2 subareas. The density established in the sub-area would not apply to this type of use. The allowable floor area ratio would be established through the discretionary review process – Design Review and Conditional Use Permit.

The Draft SEIR prepared for the project analyzed the environmental impacts of the 2023 – 2031 Housing Element, updates to the Land Use Element and Safety Element, and associated zoning ordinance amendments. At this time, the Town Council is considering the proposed update to the Land Use Element and the Zoning Ordinance amendments. The Town Council must certify the Final SEIR before it can approve any component of the project.

As noted earlier, Town staff and Christine O'Rourke are revising the draft Housing Element to obtain HCD's certification. If those changes require revisions to the SEIR, the Town will perform additional environmental review before bringing the Housing Element to the Council for adoption. As of the date of this report, staff believes that the HCD-required changes will not warrant further environmental review, but we will not be certain until HCD has actually certified the document.

The [draft Housing Element submitted to HCD](#) and the [draft Safety Element](#) are available on the Town's Housing webpage ([www.cortemaderahousing.org](http://www.cortemaderahousing.org)).

Draft Town Council Resolution No. 02/2023 certifying a Final Subsequent Environmental Impact Report for the Town of Corte Madera 6<sup>th</sup> Cycle (2023 – 2031) Housing Element Update Project and making findings including adopting a Mitigation Monitoring and Reporting Program is included as Attachment 1 with the Findings of Facts included as Exhibit A to Attachment 1 and the Mitigation Monitoring and Reporting Program included as Exhibit B to Attachment 1.

### General Plan Land Use Update

The proposed amendments to the Land Use Element creates a new Mixed-Use Housing Element land use designation to ensure consistency between the Town's General Plan and its Zoning Ordinance. This designation is intended to support infill multi-family residential development at densities necessary to meet the Town's RHNA by promoting site and building redevelopment within multi-family residential and mixed-use neighborhoods, along mixed-use and commercial corridors, and within commercial centers. The Mixed-Use Housing Element designation consists

of three variants that are differentiated by minimum lot sizes, permitted residential densities and applicable zoning districts. The three variants include Housing Element Mixed-Use Neighborhood, Housing Element Mixed-Use Corridor, and Housing Element Mixed-use Core as further described below.

#### *Housing Element Mixed-Use Neighborhood*

- Minimum Lot Size: .5 acres
- Floor Area Ratio: Up to .20 FAR for nonresidential uses in mixed-use projects that include residential uses; up to .34 for nonresidential-only projects.
- Development Density: Maximum of 25 dwelling units per acre and 30 dwelling units an acre for senior housing.

#### *Housing Element Mixed-Use Corridor*

- Minimum Lot Size: 1.0 acre
- Floor Area Ratio: Up to .20 FAR for nonresidential uses in mixed-use projects that include residential uses; up to .34 for nonresidential-only projects.
- Development Density: Maximum of 35 dwelling units per acre and 40 dwelling units an acre for senior housing.

#### *Housing Element Mixed-Use Core*

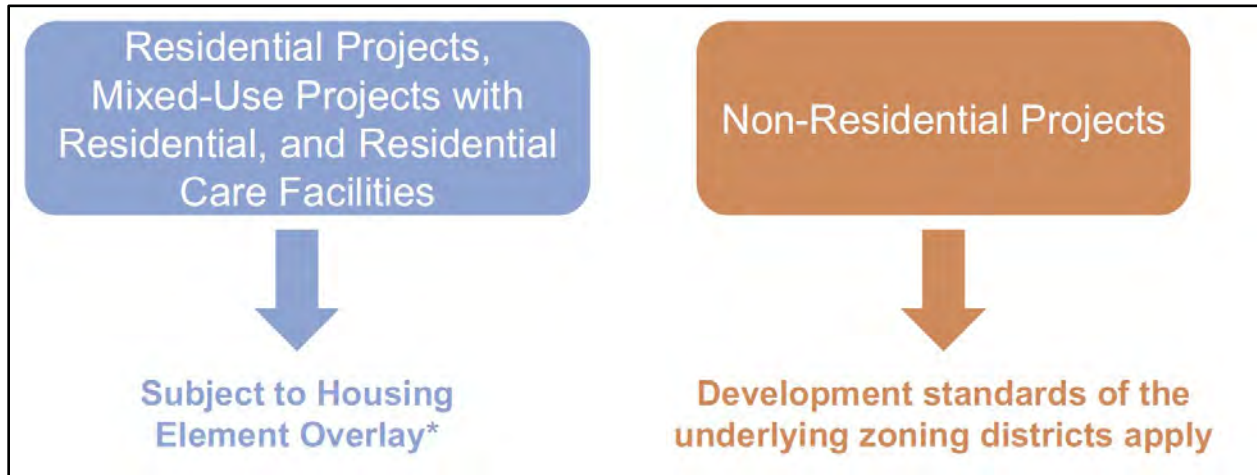
- Minimum Lot Size: 2.0 acres
- Floor Area Ratio: Up to .34 FAR for nonresidential uses in mixed-use projects that include residential uses; up to .47 for nonresidential-only projects at the Village.
- Development Density: Maximum of 40 dwelling units per acre.

Draft Town Council Resolution No. 03/2023 adopting amendments to the General Plan Land Use Element is included as Attachment 2 with the General Plan Text amendments included as Exhibit A to Attachment 2 and Land Use Diagram amendments included as Exhibit B to Attachment 2.

#### Zoning Ordinance Amendment

The draft zoning ordinance amendments would allow for greater housing density and larger buildings on the 10 housing opportunity sites (18 parcels) consistent with the Town's Draft Housing Element and its strategy to meet RHNA. The proposed amendment creates a Housing Element Overlay District within Chapter 18.18 (Special Purpose Overlay Districts) of the Corte Madera Municipal Code. The regulations in the Housing Element Overlay District will apply to housing opportunity sites that are developed with residential uses, mixed-use developments that includes residential uses, and residential care facilities. The overlay framework allows property owners to continue to use the existing "underlying" zoning districts for non-residential only projects; therefore, the regulations in the overlay would not apply if a non-residential project is proposed on one of the housing opportunity sites as illustrated in Figure 2 below.

**Figure 2. Regulation Pathways for Projects on a Housing Opportunity Site**



\*Chapter 18.18 of the Zoning Ordinance

### *Zoning Overlays*

The proposed zoning ordinance amendment creates a Housing Element Overlay District within Chapter 18.18 (Special Purpose Overlay Districts) that includes three sub-areas (HE-1, HE-2, and HE-3) as shown in [Attachment 8](#). The different sub-areas are based on the allowable density as further described below.

- HE-1 (Sites 1, 2) – Allows a maximum of 25 dwelling units an acre and 30 units an acre for senior housing and a maximum height of 34 – 40 feet. These sites are adjacent to residential neighborhoods and within local serving commercial areas.
  - Site 1: 111 Lucky Drive
  - Site 2: 5651 Paradise Drive & two Town owned parcels (3 parcels)
- HE-2 (Sites 3, 4, 5, 6, 7, 8 & 9) – Allows a maximum of 35 dwelling units an acre and 40 units an acre for senior housing and a maximum height of 50 feet. These sites are generally closer to the highway and located within areas that already have larger buildings of a more significant scale.
  - Site 3: 41 Tamal Vista Blvd.
  - Site 4: 400 & 500 Tamal Plaza (2 parcels)
  - Site 5: 2 Fifer Ave., 10 Fifer Ave., 110 Nellen Ave. & 150 Nellen Ave. (4 parcels)
  - Site 6: 5804 Paradise Drive
  - Site 7: 5750 Paradise Drive (3 parcels)
  - Site 8: 100 Tamal Plaza
  - Site 9: 240 Tamal Vista Blvd.
- HE-3 (Site 10) – Allows a maximum of 40 dwelling units an acre and a maximum height of 70 feet. There are many factors that lend itself to a higher density at this site, which includes its location away from existing residential areas, proximity to highways and transportation, and the support that such a development could provide the Village Retail Center.
  - Site 10: 1400 Redwood Highway (Macy’s property at the Village)



## *Development Standards*

The draft zoning ordinance amendment includes general objective development standards that will apply to all of the housing sites developed with a residential project, mixed-use project with residential uses, or a residential care facility. These general standards are included in Section 18.18.1115 of the draft ordinance, and include such things as parking standards, public frontage standards (i.e. minimum sidewalk widths and street tree requirements), lighting requirements, and landscaping requirements. The draft zoning ordinance amendment also includes incentives to promote affordable and senior housing projects, which include additional density of 5 units an acre and reduced parking requirements for a senior housing project, the inclusion of development standards for a residential care facility, and potential fee reductions for projects that exceed the Town's inclusionary requirement by a minimum of 10% (refer to Attachment 3, Sections 18.18.1112, 18.18.1113, and 18.18.1170).

In addition to establishing general requirements, the draft ordinance establishes site-specific development standards for the three sub-areas (HE-1, HE-2, and HE-3). The development standards specific to the sub-areas include maximum building height, maximum density, and usable open space/recreational space requirements. In addition, setbacks are established for each site.

The draft ordinance includes massing and articulation standards. These standards would apply to sites in the HE-2 sub-area that have a street frontage of 250 feet or more and to the HE-3 sub-area. The massing and articulation standards require façade composition changes (i.e. change in wall materials/colors or change in window pattern) and a planar change to the primary wall plane that results in a variation to the depth of the primary wall plane (i.e. utilization of a wall insert). The draft ordinance also includes building height articulation standards for the HE-3 sub-area. Among other things, the height articulation standards limit the heights of buildings in the portion of the site closest to Redwood Highway and Tamalpais Drive and establish a maximum average building height of 52 feet and maximum overall height of 70 feet. Refer to Attachment 3, Sections 18.18.1136, 18.18.1146, and 18.18.1148 for these massing, articulation, and height standards.

As part of the zoning ordinance amendment, the existing density ranges of the housing opportunity sites will be increased as shown in Table 2 below. The recommended densities have been discussed at multiple Planning Commission and Town Council meetings and in several public community workshops. All of the proposed housing opportunity sites currently allow residential uses, most at a density of 15.1 units/acre and up to 20 units/acre for a senior project. The proposed density for the ten housing opportunity sites create a zoning capacity of 868 housing units. Refer to Table 2 below for the allowable units per site.

**Table 2. Rezoning Proposal**

REZONING PROPOSAL					
SITE	ADDRESS	Lot Size (acres)	Existing Density (Units/Acre)	Proposed Density (Units/Acre)	Allowable Units per Site <sup>1,2</sup>
Site 1	111 Lucky Drive	1 <sup>3</sup>	15.1	25	25
Site 2	5651 Paradise Drive	1.54 <sup>4</sup>	X <sup>5</sup>	25	33
Site 3	41 Tamal Vista Blvd.	2.11	15.1	35	74
Site 4	400 & 500 Tamal Plaza	3	15.1	35	105
Site 5	2 Fifer Ave.; 10 Fifer Ave., 110-150 Nellen	3.44	15.1	35	120
Site 6	5804 Paradise Drive	1.16	15.1	35	41
Site 7	5750 Paradise Drive	1.76	15.1	35	62
Site 8	100 Tamal Plaza	1.50	15.1	35	53
Site 9	240 Tamal Vista Blvd.	1.57	15.1	35	55
Site 10	1400 Redwood Avenue	7.48	5.0 – 7.5	40	300
<b>Total Units:</b>					<b>868</b>

1: If a fractional unit of one half or more is obtained, the allowable units per site is rounded up to the next whole number

2: Density bonus may result in additional units if/when development occurs

3. Lot size excludes the Black Kettle Lagoon

4. Town owned parcels is excluded in the calculation of permitted density.

5. At densities determined by the Planning Commission

It is important to note that the total units shown in the table above does not take into account State Density Bonus law, which allows for an increase in the base density for housing projects that provide affordable units. The additional density is a sliding scale, meaning that increased density is allowed for projects that provide higher percentages of affordable units (i.e. a project that provides 20% affordable units may receive a bonus of 35% and a project that provides 100% affordable units may receive a bonus of 80%). The Town’s Inclusionary Policies require that a minimum of 20% of the units be set-aside as affordable units; therefore, it is very likely that some developers may take advantage of State Density Bonus Law to build additional units beyond what the base density allows. The State Density Bonus Law also includes a larger package of incentives intended to help make the development of affordable and senior housing economically feasible. Other tools include reduced parking requirements, and incentives and concessions such as reduced setback and minimum square footage requirements.

The total units shown in Table 2 also do not account for additional housing units that could be constructed through the zoning incentive proposed for senior housing on sites 1-9, where an additional 5 units/acre would be permitted.

The draft Town Council ordinance rezones the ten housing opportunity sites comprised of 18 parcels to allow greater density on the housing opportunity sites consistent with the draft Housing Element Update 6<sup>th</sup> Cycle and establishes development standards for sites developed with

residential uses, including a residential only project, mixed-use project that includes residential, and residential care facilities. The draft ordinance also includes amendments to two existing definitions within Chapter 18.04. Revisions are proposed to the definitions of “Residential Care Facility” and “Housing, Senior.” The draft Town Council ordinance is included as Attachment 3 with the Zoning Ordinance Map amendment included as Exhibit A to Attachment 3.

### Planning Commission Workshop & Public Hearing

On November 9, 2022, the Planning Commission held a workshop on the draft zoning ordinance amendments and provided direction to staff. Staff made modifications to the draft ordinance based on feedback received from the Planning Commission. Public comments were provided at the workshop by Corinne Calfee of Opterra Law, Inc. Ms. Calfee on behalf of her client, the Nugget Market, requested that Housing Opportunity Site 2 (5651 Paradise Drive) be removed from the site inventory. Ms. Calfee also provided written comments prior to the workshop (Attachment 9). Video of the Planning Commission workshop is available at <https://www.youtube.com/watch?v=BZOagD6ymlU>.

Several refinements were made to the draft ordinance after the Planning Commission workshop on November 9, 2022, which include the following:

- Revised the guest parking space from 1.5 space units per 5 units to 1 space per 5 units (refer to Attachment 3, Section 18.18.1115(2)).
- Refined the lighting standards (refer to Attachment 3, Section 18.18.1115(7)).
- Added a spacing requirement for street trees (refer to Attachment 3, Section 18.18.1115(8)(b)(v)).
- Added a maximum height to the eave and a maximum building height for buildings in the HE-1 sub-area (refer to Attachment 3, Section 18.18.1120)).
- Added building massing and articulation standards for sites in the HE-2 sub-area. Standards apply to sites with street frontage of 250 feet or more (refer to Attachment 3, Section 18.18.1136)).
- Revised the curb cut standard for the HE-2 subarea to allow for a second curb cut on streets that have a frontage length of 300 feet or more (refer to Attachment 3, Section 18.18.1130).
- Added building massing and articulation standards for the HE-3 subarea and added additional height standards (refer to Attachment 3, Sections 18.18.1146 & 18.18.1148)).

On December 13, 2022, the Planning Commission held a public hearing to consider the adoption of the Final SEIR, amendments to the General Plan Land Use Element, and Zoning Ordinance amendments. Written comments were submitted to the Town from Corinne Calfee of Opterra Law, Inc. and Mark Bovone of Bovone Properties, LLC (the property owner of 5627 Paradise Drive, property occupied by the Nugget Market). Ms. Calfee and Mr. Bovone both requested that Housing Opportunity Site 2 (5651 Paradise Drive) be removed from the rezoning proposal. These comment letters are included as Attachments 10 & 11. Refer to staff discussion below in the following section.

During deliberations, two Commissioners expressed concerns with the parking at the Paradise Shopping Center, and one Commissioner stated that he felt that Housing Opportunity Site 2 should be removed from the rezoning proposal. After deliberating, the Planning Commission adopted Resolution No. 22-018 (Attachment 12) 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 6<sup>th</sup> Cycle Housing Element, 2) adopt a resolution adopting amendments to the General Plan Land Use Element, and 3) adopt an ordinance adopting amendments to Title 18 of the Corte Madera Municipal Code. Video of the Planning Commission's discussion is available at: <https://www.youtube.com/watch?v=ZSJ6ARJy4TQ>. The Planning Commission discussed the comments and requests made by the representative of the Nugget Market and recommended that Site 2 be retained in the rezoning proposal as an appropriate site for multi-family housing.

### Housing Opportunity Site 2 (5651 Paradise Drive)

Since the December 13, 2022 Planning Commission meeting, the Town has received many comment letters concerned about the Town's inclusion of Site 2 in its zoning ordinance proposal. These comments stem from a petition authored by the Nugget Market over the holiday break requesting its customers oppose the Town's proposal to rezone Site 2 based on the potential negative effects it would have on parking at the Paradise Shopping Center and to write to the Town Council to request that Site 2 be removed from the Town's rezoning proposal. The petition submitted to the Town is included as Attachment 13. At the time of publication, staff and the Council had received 183 comment letters. The comment letters are available on the webpage and can be accessed at the following link: <https://www.townofcortemadera.org/Archive.aspx?ADID=4360>.

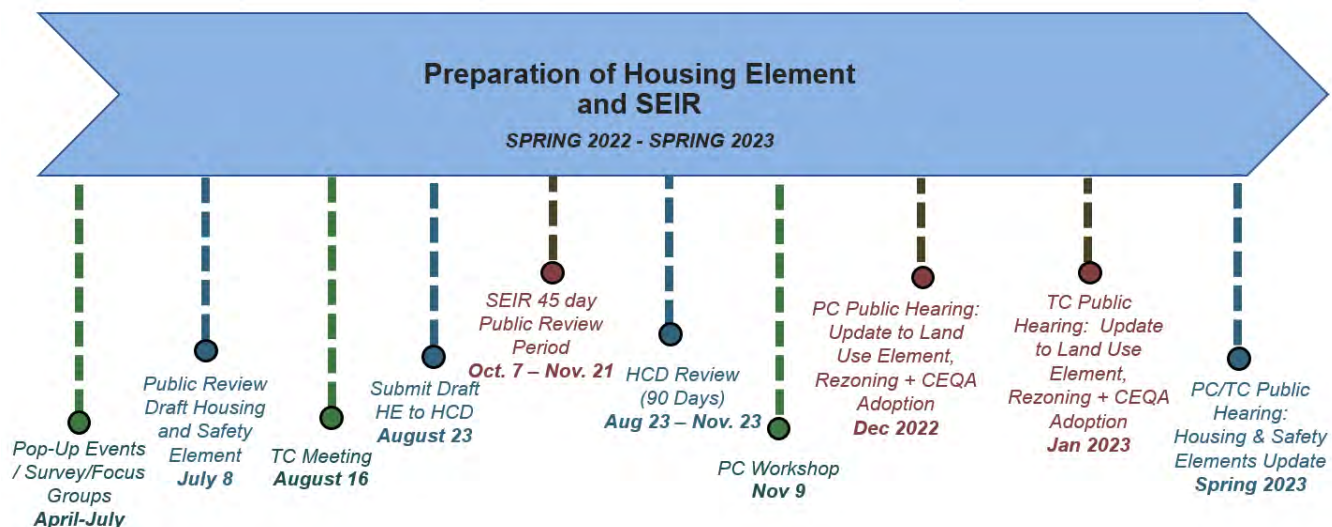
Town staff has since met with representatives of the Nugget Market and has proposed modifications to the draft ordinance amendment specific to Site 2, as included in Attachment 3, that are meant to address the concerns expressed, and that continue to achieve the housing policy goals and implementation programs that have been carefully articulated and supported throughout the Housing Element's public planning process. Nugget Market has indicated that these changes address their most significant concerns and they intend to provide a follow up to their petition, expressing support for the Town's process to move forward with Site 2 included. The Nugget Market provided a copy of the letter to staff, which is as Attachment 14.

In general, the changes codify the expectation that redevelopment of Site 2, if it were to occur, would be limited to the existing developed area of Lot 28 (the Five Points Fitness Gym) and that the existing parking and vehicular circulation areas would not be affected. Additionally, ground floor uses of a newly developed project would contain both retail uses and residential parking and certain measures would be taken during construction to ensure continued access to the other shopping center uses. The specific proposed modifications are included in Sections 18.18.1120 and 18.18.1127 of the proposed ordinance.

### Conclusion

Staff is seeking the Town Council's approval on the Final Subsequent Environmental Impact Report, amendments to the General Plan Land Use Element, and Zoning Ordinance amendments related to the Town of Corte Madera Housing Element Update 6<sup>th</sup> Cycle. As shown in the timeline slide below and included as Attachment 15, it is anticipated that the update to the Housing Element and Safety Element will be approved by the Town in the Spring of 2023. As previously discussed, it is a priority of the Town to adopt the rezoning associated with the Housing Element Update by January 31, 2023 in order to avoid the by-right consequence.

**Figure 3. Housing Element Project Timeline**



**FISCAL IMPACT:**

N/A

**WORK PLAN:**

The Housing Element is a Category I Work Plan item for 2022.

**OPTIONS:**

1. Adopt Resolution No. 02/2023 to Certify the Final Subsequent Environmental Impact Report, adopt Resolution No. 03/2023 to adopt amendments to the General Plan Land Use Element, and introduce an ordinance to rezone the ten housing opportunity sites and amend portions of Chapters 18.04 and 18.18 of the Corte Madera Municipal Code.
2. Introduce and approve the resolutions and/or ordinance with modifications.
3. Direct staff to return with additional information and analysis and continue the discussion at a future public meeting.

**ATTACHMENTS:**

1. Draft Town Council Resolution 02/2023 Certifying the Final Subsequent Environmental Impact Report and Making Findings including Adopting a Mitigation Monitoring and Reporting Program with the Findings of Fact included as Exhibit A and the Mitigation Monitoring and Reporting Program included as Exhibit B.
2. Draft Town Council Resolution 03/2023 Adopting Amendments to the General Plan Land Use Element, with the General Plan Text Amendments included as Exhibit A and the Land Use Diagram Amendments included as Exhibit B.

3. Draft Town Council Ordinance Adopting the rezoning of 18 Parcels and Adopting Amendments to Chapters 18.04 (Definitions) and 18.18 (Special Purpose Overlay Districts) of the Corte Madera Municipal Code with the Zoning Map Amendments included as Exhibit A.
4. HCD Comment Letter, dated November 21, 2022
5. Updated Housing Sites Map
6. Revised Site Inventory Table
7. Errata to Final SEIR
8. Housing Element Overlay Zones Map
9. Comment letter from Corinne Calfee of Opterra Law, Inc. dated November 9, 2022
10. Comment letter from Mark Bovone of Bovone Properties, LLC dated December 12, 2022
11. Comment letter from Corinne Calfee of Opterra Law, Inc. dated December 13, 2022
12. Final Planning Commission Resolution No. 22-018
13. Petition Opposing the Rezoning of Housing Opportunity Site 2 and link to emailed public comments received prior to agenda publication  
<https://www.townofcortemadera.org/Archive.aspx?ADID=4360>
14. Letter from the Nugget Market to their Customers
15. Housing Element Project Timeline