

# 6<sup>th</sup> Cycle Housing Element Update

City Council  
July 25, 2023



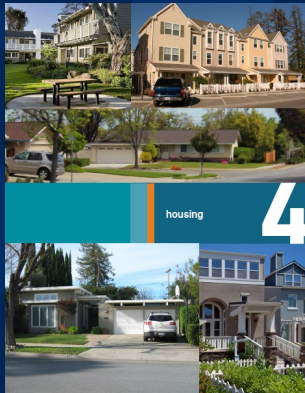
**CUPERTINO**

# Agenda

- Background
- What we know now
- Updated sites strategy
- Policies
- Timeline and next steps

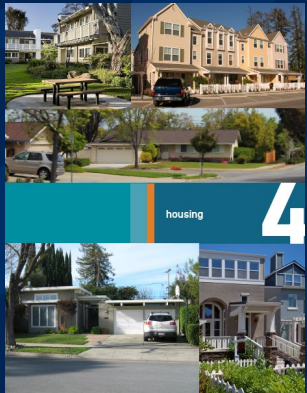
# Background

- What is a Housing Element?
  - State-mandated Element of City's General Plan
- Why update it now?
  - Unlike other General Plan Elements required by State law to be updated every 8 years
- Purpose of the Update:
  - Study and plan for housing needs in the community, across all income levels



# Background

- What does State law require?
  - Public Participation
  - Needs Analysis
  - Review of prior Housing Element policies/programs
  - Develop goals/policies/programs to address current needs
  - Housing Sites Inventory
- Who reviews and certifies compliance with State law?
  - CA Department of Housing and Community Development (HCD)

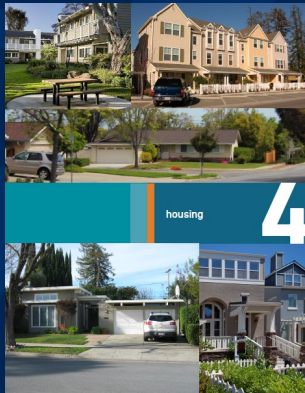


# Related Updates

- Conforming changes:
  - Other General Plan Elements – Land Use, Transportation, Specific Plans
  - Rezoning
- State law requirements:
  - Health and Safety Element
  - Zoning amendments (emergency shelters etc.)
- Other – necessary to implement HE programs (e.g. Objective standards for housing developments)

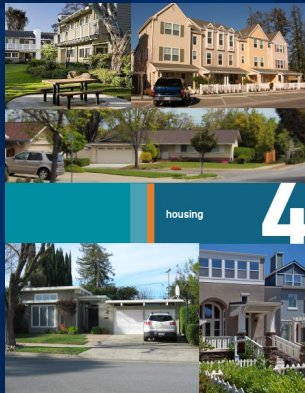
# Background

- 6<sup>th</sup> Cycle Housing Element update covers 2023 – 2031 Planning Period.
- Certification deadline: January 31, 2023 (passed)
  - Rezoning must be completed by Jan 31, 2024
- 11 jurisdictions in Santa Clara County (15 cities/1 county) do not have compliant Housing Elements
  - ~56% of 109 ABAG jurisdictions not in compliance
  - ~1/3<sup>rd</sup> of SCAG jurisdictions still out of compliance



# Background

- State-wide Housing Needs Determination made by HCD for each region within State
  - Cupertino in 9 County ABAG region



## ABAG Regional Housing Needs Determination from HCD

| Income Category | Percent | Housing Unit Need |
|-----------------|---------|-------------------|
| Very Low        | 25.9%   | 114,442           |
| Low             | 14.9%   | 65,892            |
| Moderate        | 16.5%   | 72,712            |
| Above Moderate  | 42.6%   | 188,130           |
| Total           | 100%    | 441,176           |

# Santa Clara County 6<sup>th</sup> RHNA Cycle

| Jurisdiction               | VERY LOW INCOME<br>(<50% of Area<br>Median Income) | LOW INCOME<br>(50-80% of Area<br>Median Income) | MODERATE INCOME<br>(80-120% of Area<br>Median Income) | ABOVE MODERATE<br>INCOME<br>(>120% of Area<br>Median Income) | TOTAL  |
|----------------------------|--|---|---|--|--------|
| <b>SANTA CLARA COUNTY</b>  |  |   |   |  |        |
| Campbell                   | 752  | 434   | 499   | 1,292  | 2,977  |
| Cupertino                  | 1,193  | 687   | 755   | 1,953  | 4,588  |
| Gilroy                     | 669  | 385   | 200   | 519  | 1,773  |
| Los Altos                  | 501  | 288   | 326   | 843  | 1,958  |
| Los Altos Hills            | 125  | 72  | 82  | 210  | 489    |
| Los Gatos                  | 537  | 310   | 320   | 826  | 1,993  |
| Milpitas                   | 1,685  | 970   | 1,131   | 2,927  | 6,713  |
| Monte Sereno               | 53   | 30  | 31  | 79   | 193    |
| Morgan Hill                | 262  | 151   | 174   | 450  | 1,037  |
| Mountain View              | 2,773  | 1,597   | 1,885   | 4,880  | 11,135 |
| Palo Alto                  | 1,556  | 896   | 1,013   | 2,621  | 6,086  |
| San Jose                   | 15,088   | 8,687   | 10,711  | 27,714   | 62,200 |
| Santa Clara                | 2,872  | 1,653   | 1,981   | 5,126  | 11,632 |
| Saratoga                   | 454  | 261   | 278   | 719  | 1,712  |
| Sunnyvale                  | 2,968  | 1,709   | 2,032   | 5,257  | 11,966 |
| Unincorporated Santa Clara | 828  | 477   | 508   | 1,312  | 3,125  |



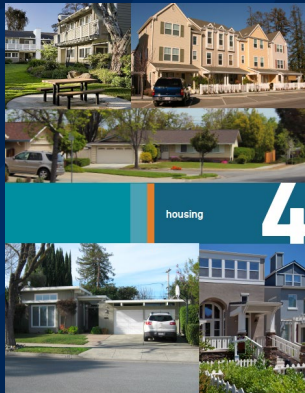
# Cupertino's 6<sup>th</sup> Cycle RHNA

| Income Group                                   | Units        | % of total  |
|--|--------------|-------------|
| <b>Very Low Income</b><br>(<50% of AMI)        | <b>1,193</b> | <b>26.0</b> |
| <b>Low Income</b><br>(50%-80% of AMI)          | <b>687</b>   | <b>15.0</b> |
| <b>Moderate Income</b><br>(80%-120% of AMI)    | <b>755</b>   | <b>16.5</b> |
| <b>Above Moderate Income</b><br>(>120% of AMI) | <b>1,953</b> | <b>42.5</b> |
| <b>Total</b>                                   | <b>4,588</b> | <b>100</b>  |

Affordable  
Units =  
2,635

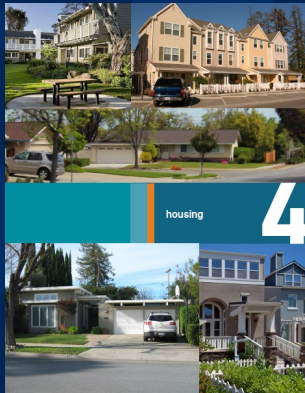
# Background: 5th Cycle Performance

- City's 5<sup>th</sup> Cycle RHNA: 1,064 units
- Housing Element sites: 5 total, capacity ~1,400 units
- Approved projects on all 5 Housing Element sites
  - Total approved units: **3,370 units**
  - VLI units: 362; LI units: 847; Mod units: 75
- Building Permits issued: **546 units**
  - VLI units: 48; LI units: 19; Mod units: 158
- 4 out of 5 projects utilized State Density Bonus law
  - Density Bonus requested: 3 projects
  - Incentives: 2 projects
  - Waivers: 3 projects
  - Reduced parking standards: 3 projects



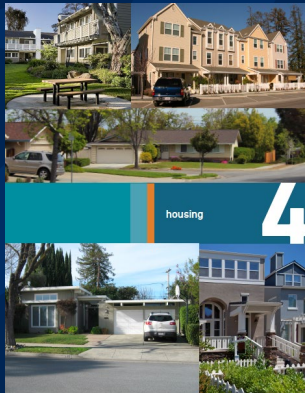
# Background: 6th Cycle vs. 5th Cycle

- RHNA ~3x higher in Bay Area
- Fewer undeveloped sites, more reliance on redevelopment to meet RHNA
- New legislation adds requirements in:
  - Developing policy/programs
  - Greater accountability to produce housing
  - Site selection
  - Less discretion in housing development
  - More reporting
  - Affirmatively Furthering Fair Housing (AFFH)
  - More outreach and inclusion
- HE more like contract than standalone document.



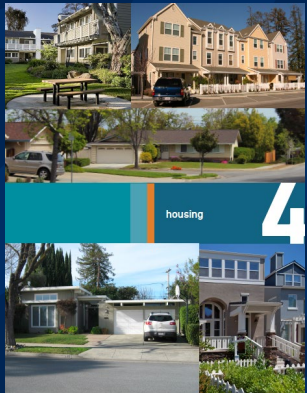
# Background

- What can happen if city does not have a certified Housing Element?
  - Loss of local land use control – Builder’s Remedy projects
  - Court receivership appointing an agent to bring City’s Housing Element compliance
  - Lawsuits and attorney fees
  - Ineligibility for grant funding
  - Financial penalties, court issued fines
  - Streamlined ministerial approval of projects



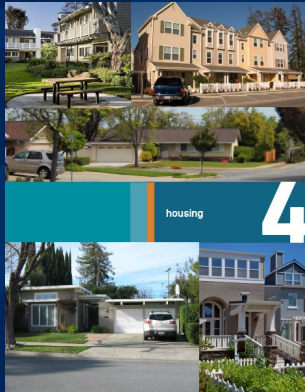
# What is Affirmatively Furthering Fair Housing (AFFH)?

- AB 686 (2018) defines AFFH as: “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”
- Three community meetings focused on AFFH held May-September 2022.



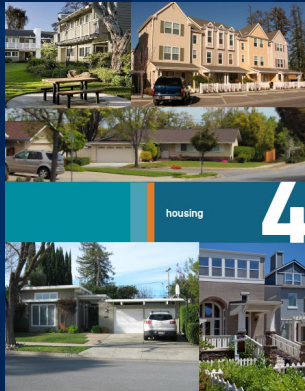
# Affirmatively Furthering Fair Housing (AFFH) - Goals

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



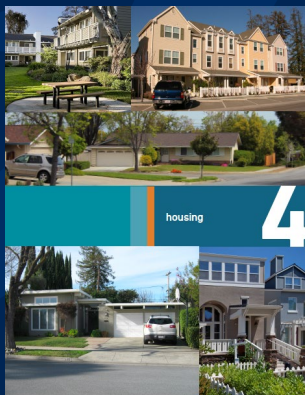
# Affirmatively Furthering Fair Housing (AFFH) - Cupertino

- Most of City is Highest Resource with Access to Opportunities
- Housing anywhere in City would regionally Affirmatively Further Fair Housing
- City has higher RHNA and must look to accommodate persons who currently do not reside here



# What's happened so far?

- **Community meetings** – Aug & Dec 2021
- **AFFH focused** meetings:
  - May 2022 – Unhoused, Veterans & individuals with disabilities
  - Jul 2022 – Students and Seniors
  - Sept 2022 – Cash-poor/House rich and workers
- **Consultant released** – Oct 2022
- Council directs staff to submit Draft HE to HCD – Nov 2022
- Draft HE submitted to HCD – Feb 4, 2023
- New Consultant approved – Mar 2023
- NOP for EIR sent to OPR's clearinghouse – Apr 2023
- EIR scoping meeting – April 18, 2023
- Comments received from HCD – May 4, 2023

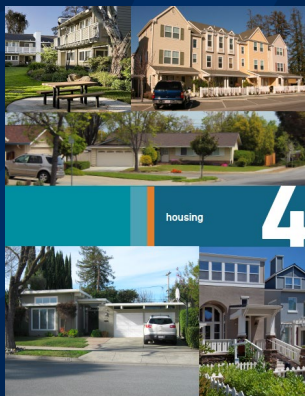




# What's happened so far?

- **Joint Study Sessions** with HC/PC/CC - April/May 2021 (2 meetings)
- **Consultant selected:** September 2021, following multiple RFPs
- **City Council:** Sept 2021 – Aug 2022 (8 meetings)
- **Housing Commission** – Dec 2021, Jun/Jul 2022 (3 meetings)
- **Planning Commission** – Jan 2022 – Jul 2022 (6 meetings)
- **Community Engagement Plan – Strategic Advisory Committee\*** – Mar 2022 – Oct 2022 (8 meetings)

\* Two councilmembers, HC Chair and PC Chair



# Cupertino's 6<sup>th</sup> Cycle RHNA

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# RHNA Buffer

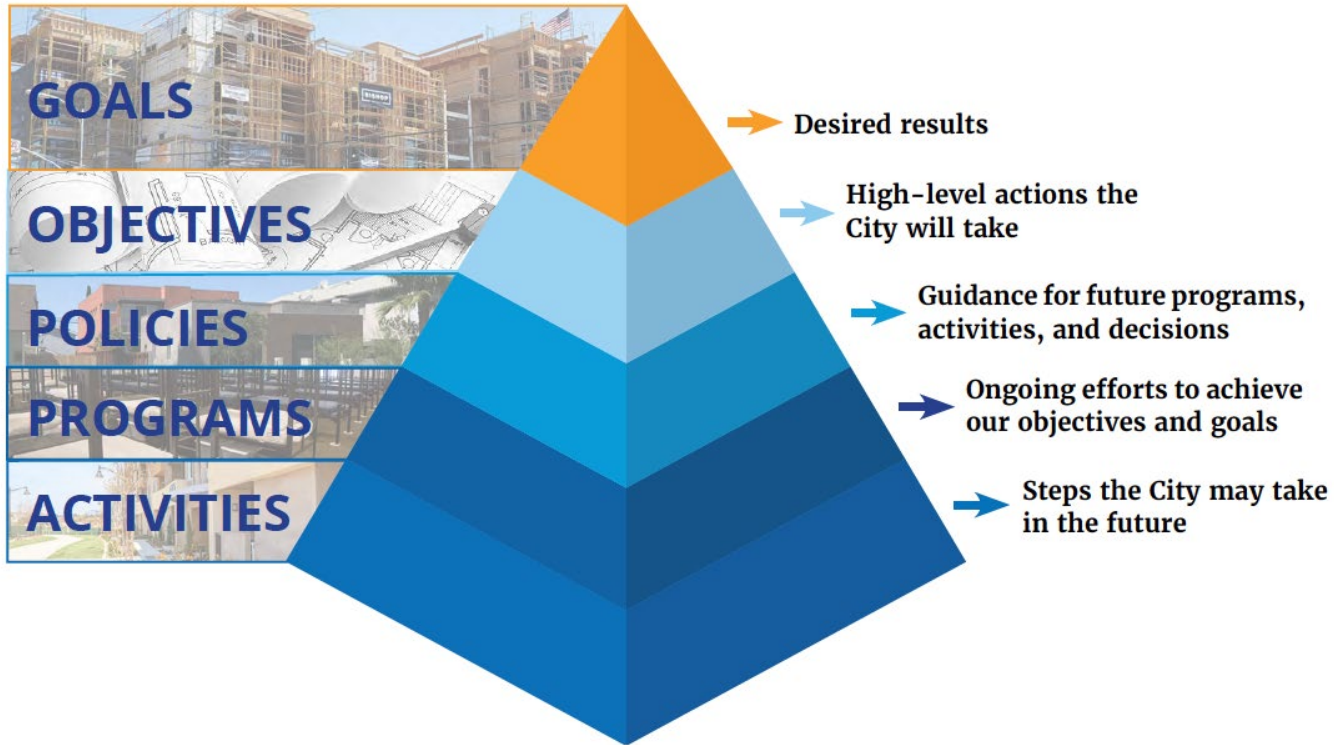
- Why do you need a RHNA Buffer?
  - SB166 (2017): No net loss law
  - Mandates that jurisdictions must maintain adequate site inventory to accommodate remaining unmet RHNA **by each income category** at all times
- How much is recommended?
  - ~ 25 - 30% particularly for lower income levels to ensure city does not have to update sites inventory before next HE update

# Goals / Policies / Programs



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# Goals, Policies and Programs



# Required Programs and Policies

- Programs to provide **Adequate Housing Sites**
- Programs to **Assist Lower-Income Housing Development**
- Programs to Address Housing **Constraints**
- Programs to **Conserve and Improve the Housing Stock**
- Programs to **Affirmatively Further Fair Housing**
- Programs to **Preserve "at risk" Units**
- Programs for **ADUs/Second Units**

# Sites Inventory

- Robust discussion in 2022 at Housing and Planning Commissions and City Council
- Started with all potential sites throughout the City which:
  - Met HCD size criteria – b/w 0.5 – 10 ac.
  - Indicated owner interest
  - Outside of fire hazard and geologic and other hazard zones – *more environmental impacts*

# Sites Inventory

- More Interest in accommodating more development in western and southern parts of city
- Less interest in accommodating housing east of De Anza Blvd
- Locate housing sites to counteract declining school enrollment



# Site selection strategy

- Comments from HCD: reliance on pipeline units
- New State law realities (AB 2011)
- Proximity to transportation – AB32/SB375
- Consultant experience based on likelihood of site acceptance by HCD
- Development potential of site
- Size of sites (0.5 acres (min.) to 10 acres (max.))

# Pipeline Projects

- Over 3,500 units in first Draft HE
- Likely 1,500–1,600 units will be allowed at Vallco (west side only)
- Likely elimination of Hamptons (600 units) from pipeline
- If developed by 2031, City still gets credit for these units

# Land use and Transportation

- State laws focus on linking land use and transportation to align with AB32 (2006) and SB375 (2008) – Climate Change and GHG reduction
- Regional plans (Plan Bay Area 2050 and Regional Transportation Plan) align with state law:
  - Identifies Heart of the City as Priority Development Area
  - Identifies transportation investment to support growth to reduce GHG
  - City's policies align

## **POLICY LU-1.1: LAND USE AND TRANSPORTATION**

Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors. Figure LU-2 indicates the maximum residential densities for sites that allow residential land uses.

# AB 2011/SB 6

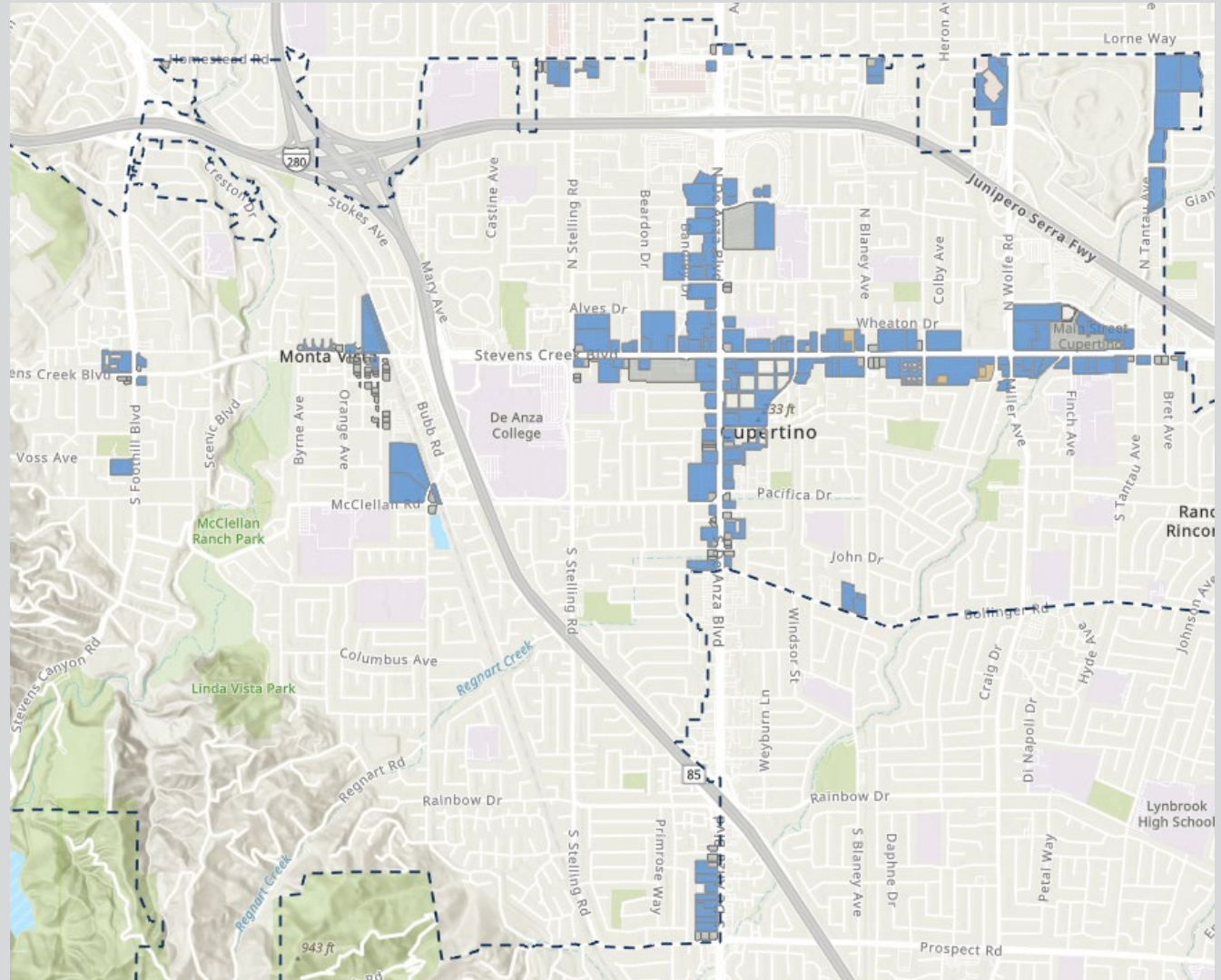
- Effective July 1, 2023
- Allows Residential development on Commercial-Office Corridors regardless of Zoning
- Density and building height varies depending on lot size and width of corridor
- 45-foot minimum building height
- Zero-foot front setback

# AB 2011 / SB 6?

| SITE  | DENSITY    |
|---|------------|
| Site < one (1) acre   | 30 du/acre |
| Site > one (1) acre and Commercial Corridor right-of-way < 100 feet         | 40 du/acre |
| Site > one (1) acre and Commercial Corridor right-of-way > 100 feet         | 60 du/acre |
| Site within one half-mile of Major Transit Stop ( <u>N/A in Cupertino</u> ) | 80 du/acre |



# AB2011 with HCD size criteria



# Updated Site Selection strategy

- Staff recommends using updated site selection strategy based on:
  - Consultant's feedback based on extensive HE update experience
  - Input from HCD on pipeline projects
  - HCD size and other criteria
  - State law (AB2011/SB6) framework to align transportation with land use



# Housing Policy Areas

- Programs to **Assist Lower-Income Housing Development** –
  - Examples: Support Grant applications; Provide technical support; Issue NOFA for BMR Affordable Housing Funds
- Programs to Address Housing **Constraints** –
  - Examples: Adopt Objective standards, Continue fee waivers for affordable units and/or 100% affordable projects; evaluate Parking standards

# Housing Policy Areas (cont.)

- Programs to **Conserve, Improve and Expand City Housing Stock** –
  - Examples: Requiring replacement of at least as many units as exist on a site; Disallow conversion of multi-family units to Single Family; CDBG funds for conservation/ improvements

# Housing Policy Areas (cont.)

- Programs to **Affirmatively Further Fair Housing** –
  - Examples: Upzone sites adequately to allow accommodation of RHNA; Support teacher housing and ELI projects; Continue to support the development of ADUs, which offer opportunities with modest increases in density; Enhance "missing middle" housing policies

# Housing Policy Areas (cont.)

- Programs to **Preserve "at risk" Units** –
  - Examples: programs to meet with affordable housing operators annually.
- Programs for **ADUs/Second Units** –
  - Examples: Continue to offer streamlined pre-approved plans; Evaluate and participate in local and regional efforts on ADU programs.

# HCD comments

- Received May 4, 2023
- General in nature but comprehensive
- Asks for more analysis in several areas
- Some comments do not apply to City (e.g. manufactured homes/ADUs)
- No specific feedback on Sites Inventory, except pipeline (*discussed earlier*)

# Council consensus on:

- Updated sites strategy
- Identifying priority housing policy areas among the following:
  - Assist lower income households
  - Address constraints
  - Conserve and Improve Housing Stock
  - Affirmatively Further Fair Housing
  - Preserve “at risk” units
  - ADUs/Second Units

# Timeline and Next Steps



**Sept 2023**

- Submit revised draft to HCD



**Dec 2023**

- Publish Draft EIR
- Prepare 2<sup>nd</sup> Revised Draft HE



**Mar/Apr 2024**

- Comments from HCD
- Final EIR
- Adoption Hearings

**Aug/ Early Sept 2023**

- Publish Revised Draft HE
- Public Outreach re: zoning



**Oct/Nov 2023**

- EIR preparation continued
- Comments from HCD



**Jan 2024**

- Revised Draft to HCD
- Review/Comment on Draft EIR

