



COMMUNITY DEVELOPMENT DEPARTMENT  
CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
(408) 777-3308 • FAX (408) 777-3333

## HOUSING COMMISSION STAFF REPORT

Meeting: August 28, 2014

### Agenda Item No. 4

#### **SUBJECT:**

Draft 2014-2022 Housing Element and associated Municipal Code amendments.

#### **RECOMMENDATION:**

Staff recommends that the Housing Commission recommend that the City Council:

1. Adopt the zoning text amendments (Attachment A to Attachment 1) related to:
  - a. Density Bonus,
  - b. Conformance with State Housing Law and
  - c. Below Market Rate Program
2. Authorize staff to send the Draft 2014 – 2022 Housing Element to the Department of Housing and Community Development for review and certification in compliance with State Law (Attachment B to Attachment 1)
3. Adopt a list of housing sites to be included in the Housing Element that can accommodate 1,400 units in order to meet the Regional Housing Needs Allocation (RHNA) per the criteria list in Attachment C to Attachment 1.

#### **BACKGROUND:**

##### Housing Element Overview

In accordance with State law, California cities must have an adopted General Plan, which must contain a Housing Element. Housing Element law requires that all jurisdictions facilitate housing development by creating policies and adopting land use plans and regulatory schemes that provide opportunities for housing development, including units that could accommodate households with very low, low, moderate and higher incomes.

State law requires that each city and county update its Housing Element on a regular cycle established in the Government Code. The Housing Element for the 2007-2014 planning period was adopted in 2010 (see Attachment 2). For the current cycle, the updated Housing Element

must be adopted by January 31, 2015 (plus a 120-day grace period). If this adoption deadline is met, the planning period for this cycle extends from adoption to January 31, 2023 (or eight years). Otherwise, the City must update the Housing Element again in 2019 (every four years). State law also requires that the Element be reviewed by a State agency—the Department of Housing and Community Development (HCD)—to certify compliance with State law.

## **DISCUSSION:**

### **Municipal Code Amendments**

#### **Density Bonus**

HCD allows “streamlined review” of the Housing Element if jurisdictions meet certain criteria. Streamlined review provides priority in the HCD review process (shortening review times) and limits HCD staff review and comments to just those sections of the document where changes are proposed relative to the 2007-2014 Element. If a jurisdiction is not eligible for streamlined review, HCD’s review generally takes longer; up to the 60-day period HCD is permitted by law to review the documents, thereby potentially delaying the adoption of the Housing Element. The adoption deadline remains January 31, 2015 (plus a 120-day grace period.)

The City meets all requirements to qualify for the streamlined review with the exception of the adoption of an updated Density Bonus ordinance to comply with changes to State Law. The City would have to comply with State Law with or without an updated ordinance. However, if the City adopts an updated ordinance prior to HCD submittal of the Housing Element, the City will then be eligible for streamlined review.

In order to qualify for streamlined HCD review, a draft Density Bonus Ordinance has been prepared (See Attachment A to Attachment HC-1). State density bonus law is prescriptive in establishing parameters for density bonuses, both related to the scale of the bonus that must be provided and the number of incentives that the City must provide if a developer proposes to include certain types of housing and amenities within their project (including affordable housing, senior housing, land donation and child care centers). The proposed Ordinance has been drafted to replicate State Law requirements.

#### **Other Ordinance Amendments**

A number of ordinance amendments are necessary to update the City’s Municipal Code to comply with changes to State Housing Law and HCD guidelines. These were identified through the constraints analysis conducted in the preparation of the Housing Element update (see section “*Constraints Analysis*” below.) Other minor changes have also been identified in Title 19 (Zoning) of the Municipal Code related to improving readability and eliminating redundancy.

#### **Below Market Rate Ordinance**

In order to implement the City’s Residential Housing Mitigation Program identified in the City’s previous planning period, 2007-2014 Housing Element, staff is recommending the

adoption of an implementation ordinance in Title 19 of the Municipal Code. The Below Market Rate (BMR) Housing Program ordinance identifies the purpose of adopting such an ordinance and the administration of the program. Details regarding the implementation of the program are identified in the current BMR Mitigation Manual.

The City is working on a nexus study to update the BMR fee mitigation requirements and an update to the BMR mitigation manual. These items will be brought to the City Council along with the adoption of the Final Housing Element early next year.

### **Housing Element Content**

The Housing Element is the City's primary policy document regarding the development, rehabilitation, and preservation of housing for all economic segments of the population. Per State Housing Element law, the Housing Element must be periodically updated to:

- Examine the local need for housing with a focus on special needs populations (Needs Assessment)
- Analyze potential constraints to new housing production (Constraints Analysis)
- Describe goals, policies and implementation programs to achieve local housing objectives (Housing Plan)
- Outline the community's housing production objectives consistent with State and regional growth projections per the Regional Housing Needs Allocation (RHNA) and identify adequate sites for the production of housing serving various income levels (Housing Resources)
- Evaluate the Housing Element for consistency with other General Plan elements (Consistency with General Plan)
- Evaluate accomplishments in implementing programs in the previously adopted 2007-2014 Housing Element, and evaluate the effectiveness and appropriateness of continuing these programs in the 2014-2022 Housing Element (Review of Previous Housing Element)

### **Needs Assessment**

This section describes the demographic, housing, and economic conditions in Cupertino; assesses the demand for housing for households at all income levels; and documents the demand for housing to serve special needs populations. The Housing Needs Assessment establishes the framework for defining the City's housing goals and formulating policies and programs that address local housing needs. The analysis in this section has been updated with recent data; however, the conclusions from the earlier Housing Element have not changed.

Analysis indicates that the demand for affordable housing among lower income, median and moderate income households, including persons with a need for special needs housing (e.g. seniors, single-parent households, persons with disabilities, etc.) continues to remain unmet in the city. Housing costs have continued to rise, especially after the housing market crisis between 2008 and 2010 concluded, making homeownership generally out of reach for most except the highest earning households. It is also equally difficult to find affordable rental

housing. A summary of the Needs Assessment is included in the Housing Element. The detailed and complete Needs Assessment is provided in the Technical Appendix (Section 2).

### Constraints Analysis

The Housing Element must analyze the potential and actual governmental constraints upon the maintenance, improvement or development of housing for all income levels. In addition, this section of the Housing Element analyzes other factors such as infrastructure availability, environmental features, economic and financing constraints, market conditions and community acceptance of different housing types and densities.

The constraints analysis indicates that the City's General Plan and Zoning Ordinance are not development constraints to new housing. However, it indicates that currently, the Heart of the City Specific Plan reduces density of sites by removing lot area devoted to commercial area and parking from the density for housing. This would reduce the realistic capacity on housing sites; thereby requiring the identification of additional sites for housing and making sites unable to meet affordability criteria set by HCD (at a minimum capacity of 20 units/acre). In order to for HCD to approve the sites selected at the realistic capacity assumed for each site, the Heart of the City Specific Plan would need to be revised so that the area devoted to commercial area would be included in housing density calculations. Projects would be reviewed for conformance with zoning requirements including setbacks, heights, etc. as well as compatibility with the neighborhood.

Other minor updates need to be made to the zoning ordinance to eliminate restrictions on emergency shelters, farmworker and employee housing. These zoning ordinance updates will be forwarded to the Planning Commission and City Council for adoption with the Draft Housing Element.

The constraints analysis also indicates that processing time and fees for development are comparable to surrounding communities and jurisdictions. Potential constraints include road capacity, the availability of financing for affordable housing, aging waste water infrastructure in some parts of the city and community acceptance of housing development. The Constraints Analysis is contained within the Technical Appendix of the Housing Element (Section 4).

### Housing Plan

The Housing Plan section identifies the goals, policies, and implementation programs that will guide the City's housing policy during the Plan period. State law requires that the Housing Plan section include implementation programs that achieve the following:

1. Make sites available to meet the Regional Housing Needs Allocation (RHNA)
2. Assist in the development of adequate affordable housing
3. Address, and where possible, remove governmental constraints to housing improvement and development
4. Conserve and improve the condition of existing affordable housing

5. Promote equal housing opportunities regardless of race, religion, sex, marital status, etc.
6. Preserve affordable housing developments that may be at risk of converting to market-rate.

The Housing Plan section must also identify appropriate funding sources, timeframes for completion, and responsible parties for each implementation program.

As part of the 2007-2014 Housing Element process, a wide-ranging public outreach effort was undertaken, including interviews with stakeholders, public meetings, and study sessions with decision makers. These meetings contributed to the development of the goals, policies, and implementation programs that were adopted in that Housing Element (adopted in 2010).

The Draft 2014-2022 Housing Element draws strongly from the 2007-2014 Housing Element. The input received after several community meetings (including stakeholder interviews in 2013, three community workshops/open houses, and four study sessions—outlined in more detail below under Public Noticing and Outreach), very closely reflects the input received during preparation of the previous Housing Element. As a result, the draft 2014-2022 Housing Plan reflects minimal changes from the 2007-2014 Housing Plan.

The following changes are recommended:

- Policies and programs have been reformatted to reduce redundancy and reorganized for ease in reading and implementing;
- Programs have been revised to ensure that the 2014-2022 Housing Element complies with State law. Specifically, programs were revised to encourage housing opportunities for extremely low-income households (AB 2634) and persons with developmental disabilities (SB 812). Programs were also added to reflect amendments to the zoning ordinance related to density bonuses, emergency shelters, and farmworker and employee housing to comply with State law and to amend the Heart of the City Specific Plan to revise the method in which residential density is calculated in mixed-use developments.
- A new goal to highlight City efforts in energy conservation regarding new and existing development has been added;
- An existing general plan policy related to mixed-use development to encourage development near transportation facilities and employment centers has been added to the Housing Plan;
- Amendments have been made in the following areas to comply with State Law and the outcome of recent litigation:
  - *Redevelopment Funding*: Redevelopment Agency (RDA) housing set-aside funds, which used to be a primary local funding source for affordable housing in the past, are no longer available to assist in new affordable housing development or acquisition/rehabilitation of existing units for conversion into affordable housing. This

loss is associated with the Governor's 2011 State budget revisions and subsequent court cases, making funding sources for affordable housing significantly more constrained.

- *Housing Mitigation Program:* The City's affordable housing program—the Housing Mitigation Program—has been amended to comply with recent litigation. A 2009 court-case (Palmer vs. the City of Los Angeles) has resulted in cities suspending or amending the portion of their Housing Mitigation program requiring affordable units to be included in market-rate rental developments.
- *Housing Preservation Program:* The existing Rental Preservation Program has been amended to provide mitigation for impacts on displaced tenants in developments with four or more units.

### **Housing Resources & Regional Housing Needs Allocation (RHNA)**

One of the primary requirements of State Housing Element law pertains to the Regional Housing Needs Allocation (RHNA). The RHNA is an estimate of state-wide projected housing construction needs and is based on regional allocations provided by the Department of Housing and Community Development (HCD) to regional councils of government. Through a process coordinated by regional councils of government, each jurisdiction in California receives a determination of housing need (RHNA). The Housing Resources Section in the Housing Element and the Technical Appendix is incomplete at this time since the sites for the Sites Inventory have not been selected yet. These sections will be completed prior to the submittal of the Draft to HCD.

The Association of Bay Area Governments (ABAG) conducted the process to determine RHNA allocations for the 101 cities and nine counties in the Bay Area. The City of Cupertino's RHNA allocation is 1,064 new housing units between 2014 and 2022. The City is not obligated to construct the housing units identified by the RHNA process – HCD recognizes that the market will determine the actual development of units. Rather, the City's responsibility is to demonstrate adequate capacity—by identifying specific sites—to satisfy the RHNA under existing land use policy and zoning. State Law allows jurisdictions to take credit for residential projects that have been approved, building permits issued during the plan period in which the review is taking place and second dwelling units (also known as accessory dwelling units) that are anticipated to be constructed during the plan period.

Currently, the City has issued entitlements and/or building permits for 30 units since January 1, 2014. Additionally, it is anticipated that since 32 second units (on single-family lots) were constructed in the 2007-2014 plan period, 32 second units will be constructed in the current plan period as well. Therefore, the City can take credit for a total of 62 units (30 units approved and 32 second units anticipated). As a result, the City only has to identify sites for the construction of the balance or 1,002 units. However, HCD generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the RHNA realistically can be accommodated. Per consultation with HCD and the City's consultant, it is anticipated that HCD will require sites to

accommodate units equivalent to an additional 40 percent above the City's housing need, or approximately 1,400 units.

### Housing Sites

The Housing Commission, Planning Commission, and City Council have conducted multiple study sessions and community workshops to review potential housing sites to meet the RHNA. On April 1, 2014, the City Council authorized staff to prepare environmental review for three alternatives (A, B and C) for a maximum of nineteen (19) sites based on the criteria outlined below.

### HCD Criteria for Site Selection

HCD reviews each Housing Element's sites inventory to determine if adequate sites have been identified to meet the RHNA. Preparation of a "site suitability analysis" is an important step in addressing the adequate sites requirement. This analysis must demonstrate that identified sites can accommodate the housing needs—by income level—within the current planning period of the element (2014-2022).

While the site suitability review has a degree of subjectivity, HCD review primarily focuses on the following criteria in determining the likelihood that a developed site will be converted to some form of housing over the planning period: existing use on the site, realistic potential for recycling, site size and ownership patterns, and development density.

1. *Existing Use on the Site.* The following types of sites are not considered good candidates for private residential development:

- Sites with existing multi-family housing developments consisting of 10 or more units, due to the potential loss of existing investment and revenue stream to the owner, unless the owner indicates his/her interest in redeveloping the site with additional residential uses that would result in a substantial increase in the number of units.
- Sites with condominium developments, since they typically have complicated ownership patterns and a developer would have to reach sales agreements with multiple owners.
- Well-established organizations and institutions because of the difficulty such organizations and institutions would face relocating to locations, unless the owner indicates his/her interest in redeveloping the site with residential uses.

2. *Realistic Potential for Recycling.* HCD evaluates the feasibility of redevelopment based on a variety of factors, some of which include property owner interest in redevelopment with housing, market factors related to location or site characteristics, existing uses on the site that are highly valued and anticipated to remain, the condition and age of existing development on the site, and environmental liability risks, such as toxic contamination.

3. *Site Size and Ownership Patterns.* Larger sites provide the opportunity to increase capacity potential and to provide flexibility with regard to design, public amenities, mix of housing types, and mixed use development. Additionally, lot consolidation potential of parcels can be a

factor in determining site suitability. Lot consolidation potential can be based on ownership patterns (single, limited, or multiple owners), history of lot consolidation in the area, and specific knowledge of owner interest in lot consolidation. Where lot consolidation potential is likely, the time and cost associated with development is reduced and thus the likelihood of redevelopment is increased. Another concern would be if a City relied on very few sites for their entire housing allocation since if those sites didn't redevelop, units would not get built. Therefore, the likelihood of sites being accepted by HCD rely not only on the numbers but also the likelihood of units getting built within the eight-year Housing Element period.

4. *Development Density*. HCD requires an additional component of the site suitability analysis for those sites identified to meet the lower income portion of the RHNA (this includes the very low-, low-, and moderate-income RHNA). Cupertino's lower income RHNA requirement for the 2014-2022 Housing Element is 794 units. To identify the sites and establish the number of units that can accommodate the RHNA for lower-income households, the Housing Element must include an analysis that demonstrates that the sites identified have zoning regulations and densities in place that encourage and facilitate the development of housing for lower-income households.

Alternatively, Housing Element law allows local governments to utilize "default" density standards determined by HCD. Per HCD's determination, suburban cities in Santa Clara County require a minimum "realistic" density of 20 dwelling units per acre or greater to meet lower income/affordable requirements. With Cupertino's last Housing Element (2007-2014), HCD accepted a realistic yield of 85% of the maximum density allowed on the site, based on city-specific historic project approval data. This means that for a one acre site, while the maximum yield at a density of 25 dwelling units per acre is 25 units, the realistic yield for Housing Element purposes is  $(25 * 85\%) = 21$  units. In anticipation that the HCD will continue to accept this realistic yield, most sites in the Housing Element are in areas that are at or above this density.

Additionally, if properties need to be rezoned to accommodate the RHNA on the sites identified, the zoning is being proposed to be completed in conjunction with the adoption of the General Plan Amendment to avoid additional requirements that may be imposed by the HCD.

#### Other Criteria for Site Selection (*Sustainable Communities Strategy/One Bay Area Plan/Cupertino and General Plan*)

In addition to the State-wide criteria that HCD uses to determine site suitability, the Sustainable Communities Strategy/One Bay Area Plan contribute additional criteria regarding what makes a desirable housing site in the ABAG region. The One Bay Area Plan is a long-range integrated transportation and land-use/housing strategy through 2040 for the San Francisco Bay Area. The Plan was jointly approved by the Association of Bay Area Governments (ABAG) and by the Metropolitan Transportation Commission (MTC) in 2013. ABAG determined the City's and other local jurisdiction's RHNA based on the Plan.

Pursuant to SB375, the Plan includes the region's Sustainable Communities Strategy and the 2040 Regional Transportation Plan. The Plan focuses development in Priority Development



Areas (PDA). PDAs are locally designated areas within existing communities that have been identified and approved by local cities or counties for future growth. These areas are typically accessible to public transit, jobs, recreation, shopping and other services and absorb much of the growth anticipated in the region. In Cupertino, the Priority Development Areas are located along Stevens Creek Boulevard between Highway 85 and the City of Santa Clara and along De Anza Boulevard between Stevens Creek Boulevard and Highway 280.

The City's General Plan policies are generally consistent with the strategies in the One Bay Area Plan. In addition criteria consistent with the City's General Plan have also been identified in order to ensure functional and attractive development occurs on the sites selected. Key themes include:

1. Locate development along major transportation routes with access to transit or within ½ mile of a VTA Priority Development Area (PDA) (*Land Use Policy - Focus Development in Mixed-Use Special Areas with amenities including transit lines*)
2. Locate higher density housing in closer proximity to employment and activity centers (*Land Use Policy - Concentrate Urban Forms in Mixed-Use Special Areas*)
3. Require developments to provide transit amenities (*Transportation Policy - Increased public use of transit amenities*)
4. Corner lot(s) with large frontage preferred – such parcels provide the most flexibility to accommodate mixed-use developments and avoid impeding parking and connectivity between mid-block parcels (*Land Use Policy - Attractive Building and Site Design*)
5. Incentive for redevelopment – Sites with older, under-performing retail shopping centers have also been evaluated as to whether housing would be necessary to provide an incentive to bring in a mixed-use housing/retail project that can improve the quality and performance of existing retail, while also achieving the RHNA requirements. In addition, for sites have also been evaluated to see if office development can provide the necessary incentive to redevelop and provide higher-quality retail and justify the investment in demolition and infrastructure improvements. (*Land Use Policy – Incentives for Reinvestment*)

#### *Prioritized List*

While all 19 sites have been studied for potential impacts in the Draft Environmental Impact Report (EIR), since the largest property owner associated with Site 17 sent the City a letter expressing their desire to not be included in the Housing Sites Inventory (see Attachment 3), this site is not being proposed to be included in the Housing Sites Inventory. The potential list of sites for the Housing Commission to select sites from is eighteen (18).

The sites have been prioritized by how well they meet the criteria outlined above. It is assumed that if a site selected meets the criteria above, but comprises of multiple parcels and has fractured ownership, the site will be Master Planned and is expected to have a cohesive development plan. Therefore, sites that need site assembly but have a higher chance of redevelopment due to expressed owner interest within the RHNA planning period and meet the HCD and Other criteria outlined above have been ranked higher than sites that may not need site assembly but do not have expressed owner interest to develop and/or do not meet the

HCD and Other criteria. As noted earlier, the recommendation is to select sites that can support a total of 1,400 units towards the RHNA allocation.

The Commission's recommendations on the Housing Sites Inventory will be forwarded to the Planning Commission for recommendation to the City Council.

### **Consistency with General Plan**

The various General Plan components have been reviewed to evaluate consistency of the policies and programs outlined in the Housing Element. The analysis finds these are consistent with the General Plan policies in other elements (chapters) of the General Plan. The Consistency with the General Plan Section is contained within the Technical Appendix of the Housing Element (Section 6).

### **Review of Previous (2007-2014) Housing Element**

Per State law and HCD guidelines, the review of the previous Housing Element requires analysis in three areas: (1) effectiveness of the element; (2) progress in implementation; and (3) the appropriateness of continuing the goals, objectives, policies and programs

The Review of Previous Housing Element is contained within the Technical Appendix of the Housing Element (Section 7.2). This section of the Housing Element provides an evaluation of the City's progress towards achieving housing goals and objectives as set forth in the prior Housing Element, and analyzes the efficacy and appropriateness of the City's housing policies and programs. This review formed a key basis for restructuring the 2007-2014 Housing Plan for this 2014-2022 planning period to meet the housing needs of the community.

### **General Plan Amendment and Housing Element Environmental Review**

As discussed previously, in addition to the preparation of an updated Housing Element, a General Plan Amendment (GPA) is also being prepared for City Council consideration. The primary purpose of the GPA is to replenish, re-allocate, and potentially increase citywide development allocations in order to plan for anticipated future development activity, with the clear goal while maintaining the community's character, goals, and objectives. The secondary purpose of the GPA is to consider, under a comprehensive community vision, consolidated development requests from several property owners for General Plan amendments.

Pursuant to the California Environmental Quality Act (CEQA), both the Housing Element and the GPA (and other implementing ordinances such as the Density Bonus Ordinance) are considered projects that must be reviewed for potential environmental impacts. The environmental review for the General Plan Amendment and Housing Element projects is being completed concurrently. The Draft Environmental Impact Report (EIR) was made available for public review and comment for a 45-day period ending on August 1, 2014. As required by CEQA, a Response to Comments document (RTC), to respond to comments received regarding the adequacy of the Draft EIR is being prepared, which will include corrections necessary to the Draft EIR. The RTC document and the Draft EIR together comprise the Final EIR. The City

Council must certify the Final EIR prior to making any decisions on the General Plan, Housing Element or any ordinance amendments associated with the two projects. The Housing Commission need not act on the EIR in order to make its recommendation.

### **Public Comments**

Several comments were received during the public comment period for the Draft EIR. Some of the comments received during this time did not pertain to the adequacy of the Draft EIR. These comments included concerns by members of the public about sites that were studied in the EIR for potential inclusion in the Housing Sites Inventory of the Housing Element. These comments have been included in Attachment HC-6.

### **PUBLIC NOTICING & OUTREACH**

The following outreach efforts have been undertaken on this project to date.

#### **Postcards**

A postcard was delivered in February 2014 to all postal addresses in the City to announce upcoming dates on the General Plan and Housing Element projects. A second postcard was delivered in June 2014 to all postal addresses in the City to announce the availability of the Draft EIR and invite attendance at a Draft EIR comment meeting. The postcards also provided a description of the projects (the General Plan Amendment and Housing Element update) and identified the project website where interested persons may sign up for project updates, further notices, and submit comments on the Draft EIR.

#### **Website**

A website has been set up for the combined General Plan and Housing Element projects at [www.cupertino.org](http://www.cupertino.org). All technical reports, notices and other important information are available at the website. The website also has a separate tab for the Housing Element project which provides answers to Frequently Asked Questions. Interested persons may also submit comments at the website.

#### **Meetings**

##### ***Stakeholder Interviews***

Stakeholder interviews were conducted on December 11 & 12, 2013 to solicit input from stakeholders ranging from community members, property owners, housing developers, service providers, school districts, and the business community.

##### ***Joint PC/HC Workshop – January 23, 2014***

On January 23, 2014, the Planning Commission and Housing Commission hosted a joint workshop to begin the Housing Element Sites discussion. Eleven participants broke into small groups and identified potential future sites for housing and criteria for increased density in

certain areas including community benefits. Participants drew on maps and placed stickers on to identify potential housing sites.

#### ***Housing Commission Workshop – February 12, 2014***

On February 12, 2014, the Housing Commission hosted a workshop to discuss and prioritize sites for inclusion in the Housing Element. Following a project update presentation, participants broke into groups and discussed identification of new sites and prioritizing potential housing sites to meet the RHNA. The Housing Commission recommended forwarding all the sites highlighted by workshop participants as priority sites to the Planning Commission for consideration.

#### ***Planning Commission Open House and Study Session - February 19, 2014***

On February 19, 2014, the Planning Commission hosted an open house and study session to provide a public forum to continue the Housing Element Sites discussion and prioritize sites for inclusion in the Housing Element. The Planning Commission recommended criteria to focus the sites selection. Specifically, the Commission recommended removing certain sites that were viewed as not viable (successful shopping centers, sites with existing established institutional uses, and small sites with low yield or no property owner interest). In addition, the Planning Commission recommended including sites that would further the following three goals: 1) distribute housing throughout the city, 2) encourage development along the Priority Development Area designated by the One Bay Area Plan, and 3) minimize impacts to schools.

#### ***City Council Study Session - March 4, 2014***

On March 4, 2014, the City Council held a study session to discuss in depth the potential housing sites that would be analyzed in the Environmental Impact Report. A list of “High” and “Moderate” priority sites was proposed based on previous public and Commission input. The Council recommended including two sites, included in the previously adopted Housing Element, and provided direction to study in the EIR all sites presented as “High” and “Moderate.” The Council was also advised at this meeting that impact to schools may not be a goal of the site selection exercise since SB 50 preempts this issue with the adoption of School Impact Mitigation fees, which fully mitigate any school impacts from development of property.

#### ***Environmental Scoping Meeting - March 11, 2014***

The City held an Environmental Scoping Meeting on March 11, 2014 at the Cupertino Community Hall (10350 Torre Avenue, next to the library). The meeting provided an overview of the proposed project and an opportunity for public comment on the scope and EIR content.

#### ***Housing Commission Study Session - March 19, 2014***

On March 19, 2014, the Housing Commission held a study session to review the City’s accomplishments in implementing the 2007-2014 Housing Element and to discuss draft goals, policies, and implementation programs associated with the 2014-2022 Housing Element.

### ***Joint Planning Commission and City Council Study Session - April 1, 2014***

The City Council and Planning Commission held a joint study session on April 1, 2014, to discuss draft General Plan Amendment and Housing Element policies, and hear public comments and questions. At the conclusion of the meeting, City Council confirmed the Housing Element sites and goals, policies, and implementation programs to be studied in the EIR.

### ***Environmental Impact Report (EIR) Comment Meeting - June 24, 2014***

The City held a public meeting on June 24, 2014, at Cupertino Community Hall to present the recently published Draft EIR. The Draft EIR analyzes the potential environmental impacts related to the draft General Plan Amendment and Housing Element Update. This meeting provided an opportunity for the community to learn about the Draft EIR and submit comments.

### ***Housing Commission - August 28, 2014***

The following table summarizes the noticing for this meeting:

Notice	Agenda
<ul style="list-style-type: none"> <li>▪ Email sent to all interested parties signed up through the project website (<i>at least 10 days prior to hearing</i>)</li> <li>▪ Legal Ad (<i>at least 10 days prior to hearing</i>)</li> <li>▪ Newspaper Ad (<i>5 days prior to hearing</i>)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Posted on the City's official notice bulletin board (<i>one week prior to the hearing</i>)</li> <li>▪ Posted on the City of Cupertino's website (<i>one week prior to the hearing</i>)</li> <li>▪ Posted on the project website (<i>one week prior to hearing</i>)</li> </ul>

### **CONCLUSION AND NEXT STEPS**

The Housing Commission's recommendation on the Draft Density Bonus Ordinance and the Housing Element will be forwarded to the Planning Commission for its review in October 2014. After which, the Planning Commission's recommendation on the Draft Ordinances, Draft 2014-2022 Housing Element and the Draft General Plan will be forwarded to the City Council for its review and decision in November 2014. The Housing Element will then be transmitted to HCD for review. It is anticipated that HCD review will be completed by January 2015.

The final Housing Element, which will reflect any changes required by HCD, will be presented to the Housing Commission, Planning Commission and the City Council for final adoption in March /April 2015, which will comply with the May 2015 deadline for the adoption of the Housing Element per State Law.

At that time, in addition to the final Housing Element, staff will present an updated Residential Mitigation linkage fee and Below-Market-Rate Mitigation Manual which will reflect changes required due to amendments to the Housing Element.

Prepared by: Piu Ghosh, AICP, Senior Planner  
Christopher "C.J." Valenzuela, Senior Housing Planner

Reviewed by:

/s/ Gary Chao

Gary Chao

Assistant Director of Community Development

Approved by:

/s/ Aarti Shrivastava

Aarti Shrivastava

Assistant City Manager

**Attachments:**

1. Housing Commission Resolution re:
  - A. Ordinance Amendments;
  - B. Housing Element (Chapter 3 of General Plan) & Housing Element Technical Report Update 2014 – 2022 (Appendix B); and
  - C. Criteria and Prioritized list of Housing Sites
2. 2007 – 2014 Housing Element, adopted 2010
3. Letter/Email from Valley Church dated March 6, 2014
4. Comment letters that pertain to Housing Element content:
  - A. Ruby Elbogen - dated June 18, 2014
  - B. Catherine Alexander – dated June 24, 2014
  - C. Concerned Citizens of Cupertino - dated June 25, 2014
  - D. Gary Jones – dated July 4, 2014
  - E. Phyllis Dickstein - dated July 10, 2014
  - F. Patricia McAfee – dated July 10, 2014
  - G. Josh Tsai – dated July 28, 2014
  - H. Concerned Citizens of Cupertino - dated July 31, 2014
  - I. Apple - dated July 31, 2014
  - J. Youichi Y. – dated July 31, 2014
  - K. Huanying Cheng and Qing Li - dated August 1, 2014