



**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**

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**PLANNING COMMISSION-HOUSING COMMISSION**

**STAFF REPORT**

Meeting: June 28, 2022

**Subject**

The fifth meeting on the Housing Element update focusing on the establishment of a housing sites selection inventory. The previous four meetings were solely with the Planning Commission.

**Recommended Action**

That the Planning Commission and Housing Commission receive the report and presentation, provide input on the proposed housing inventory sites, and make a recommendation stating which sites on the Sites Inventory Table (Attachment A) be included on the housing sites inventory.

**Discussion**

***Background: Housing Element Update/RHNA***

The City is currently preparing its 6<sup>th</sup> Cycle Housing Element update, which covers the planning period of 2023 to 2031. The Housing Element is part of Cupertino's General Plan and identifies policies and programs intended to meet the housing needs of the City's current and future residents, at all levels of income. State law requires that every city and county in California adopt a Housing Element every eight years to reflect the Regional Housing Needs Allocation (RHNA) established for each jurisdiction. The City's RHNA is 4,588 units for the 2023-2031 planning period. Based on income levels, Cupertino's RHNA of 4,588 breaks down as follows: 1,193 Very-Low income units; 687 Low income units; 755 Moderate income units; 1,953 Above-Moderate, or market rate, units.

Once a jurisdiction's RHNA has been determined cities must demonstrate that they have adequate housing sites to accommodate their RHNA. There are specific requirements on site selection, ensuring that the City has policies in place to support the development of housing for persons at all income levels, as specified by State law. Based on Planning Commission input at meetings held on January 25, February 22, April 26, and May 24, 2022, staff has refined the City's inventory of potential Housing Element sites. Site

selection remains the focus of this fifth meeting, which jointly includes the Housing Commission. Following the Planning and Housing Commission's review and recommendation, a meeting discussing the Housing Element update's status and the sites selection inventory will be scheduled before the City Council, most likely in early August 2022.

On September 21, 2021, the City Council awarded a consultant agreement to prepare the 6<sup>th</sup> Cycle Housing Element update to EMC Planning Group (EMC). Since that time EMC and City staff have held two City Council study sessions, on September 28 and November 16, 2021, focusing on the overall Housing Element update process and State requirements that have greatly expanded the role and extent of public outreach required for the 6<sup>th</sup> Cycle. Additionally, a daytime Housing Commission study session and evening community workshop were held on December 9, 2021.

In early March, the City Council held meetings focusing on the community engagement component of the Housing Element and also established the ad hoc Community Engagement Plan-Strategic Advisory Committee to guide the planning of the City's future community engagement and compliance with State Affirmatively Furthering Fair Housing (AFFH) requirements.

#### ***Previous Planning Commission Study Sessions***

At the January and February Planning Commission study sessions, staff and EMC provided overviews of the housing sites selection process and identified nearly 400 properties citywide that could potentially be placed on the City's housing sites inventory. The majority of these properties fell within the property size range, 0.5-10 acres, recommended by the California Department of Housing and Community Development (HCD), the State agency that oversees the Housing Element update process and ultimately certifies all city and county Housing Elements. During the January and February study sessions, Planning Commissioners provided staff with principles and objectives to guide which sites should be included, specifically: 1) that housing sites should be dispersed throughout the City and strive for a balance between the City's eastern and western areas; 2) new housing sites should avoid or minimize displacement of existing uses, particularly existing residential uses that would necessitate relocation of residents; 3) the Housing Element should avoid "up-zoning" sites to the extent feasible; 4) the Housing Element should include new housing sites that could support the City's existing schools and help counteract declining enrollment trends that are occurring city and county wide (Attachment B, "Housing Affordability and Declining School Enrollment").

Based on this input, staff and EMC presented a reduced list of potential housing sites at the April 26 Planning Commission meeting and grouped the potential sites by neighborhood and special area to better illustrate the location of the properties. Considerable public comment was provided at the April 26 meeting. The Planning Commission reiterated its previously-stated principles and goals for housing site

selection, also directing staff to focus on, including several “key” sites along South DeAnza and Stevens Creek Boulevards.

**Analysis**

***Pipeline Projects and RHNA***

Attachment A (Sites Inventory Table) of this staff report is the current list of properties recommended for inclusion on the housing sites inventory. At the top of Attachment A are the City’s nine residential “pipeline projects.” Pipeline projects are those that have received development entitlements but have not yet been constructed or received building permits or certificates of occupancy for any of the approved residential units. Given that pipeline projects have the necessary approvals in place to proceed to the development stage, these projects have a high degree of certainty that they will be constructed within the 2023-2031 planning cycle, more so than sites that only have the appropriate zoning designation to allow for residential development. Cupertino has a significant amount of pipeline units, 3,536, with pipeline units making up 77% of the City’s overall RHNA of 4,588. Additionally, the City can take credit for ADU production that is anticipated to occur in the next planning cycle. This large amount of pipeline units and ADU units appears to leave the City only 908 units short of its RHNA. However, since the RHNA is broken down into the Very-Low, Low, Moderate and Above-Moderate income categories, those categories must be taken into consideration during the site selection process.

**TABLE 1**

	<b>Very-Low Income</b>	<b>Low Income</b>	<b>Moderate Income</b>	<b>Above- Moderate</b>	<b>Total Units</b>
RHNA	1,193	687	755	1,953	4,588
Pipeline Projects (9 projects)	300	988	40	2,208	3,536
ADUs ( <i>based on past prod.</i> )	43	43	43	15	144
<b>Balance*</b>	<b>820</b>	<b>0</b>	<b>677</b>	<b>0</b>	<b>1,497</b>

\*Amount of units needed per RHNA for income category. Limited to 0 since a credit cannot be applied due to overproduction in this income category.

As Shown in Table 1, above, due the significant amount of pipeline and ADU units, the City is exceeding its RHNA in the Low and Above-Moderate income categories for the 2023-2031 planning period. However, the City is not meeting its Very-Low and Moderate RHNA requirements through pipeline projects, resulting in a need (shown as “Balance” in Table 1) of 1,497 Very-Low and Moderate income units beyond those provided by pipeline projects. Additionally, HCD recommends a “buffer” of between 15-30% of additional units be included in the sites inventory for each of the below market-rate income categories (i.e., Very-Low, Low and Moderate incomes), in accordance with the

State's No Net Loss Law. Buffer and the No Net Loss Law are discussed in more detail, below.

### ***Priority Housing Sites***

Listed below the pipeline projects on the Sites Inventory Table (Attachment A) are the properties recommended for inclusion on the housing sites inventory. There are two Tiers of properties shown, Tier 1 and Tier 2. Tier 1 properties are recommended, Tier 2 sites are included as alternative sites for reasons discussed, below. There are 59 individual Tier 1 properties that, if developed at the minimum densities specified in the Table, would result in 1,871 new housing units.

Staff recommends these properties for the sites inventory based primarily on the guidance given by the Planning Commission during the four preceding study sessions, specifically:

1. The properties are not clustered in the Heart of the City/Stevens Creek Boulevard corridor;
2. They are dispersed throughout the City, including the west side; and
3. They minimize or avoid potential displacement of existing residents through future redevelopment of the sites.

Generally, there are three major change areas in the City with over 1,360 or 73%, of the recommended units. They are:

- Stelling Gateway/Homestead (467 units) in the northwestern portion of the City;
- South De Anza (268 units) in the southwestern portion of the City; and
- North Vallco Park/Vallco Shopping District (625 units) in the northeastern portion of the City.

### ***Buffer/No Net Loss Law***

Even though only 1,497 units are needed to meet the City's RHNA by income category, once pipeline projects are accounted for, HCD recommends a "buffer" of 15-30% additional units be included in the sites inventory. The purpose of the buffer is to comply with the State's No Net Loss Law (SB 166), which requires that sufficient adequate sites are available at all times throughout the 2023-2031 RHNA planning period, for each income category. For instance, if the City were to approve a project or a series of projects at lower densities or different income levels than what is designated in the Housing Element, it could result in the City dropping below the required number of units for one or more income level categories. To prevent this from happening, HCD recommends a RHNA buffer of 15-30% but does not mandate any particular number within that range.

Some jurisdictions include buffers greater than 30%, while others have included less than 15% in their Housing Elements.

Ostensibly, a buffer at the higher end of the range will provide more assurance that sites will be consistently available at all income categories during the planning period than a lower percentage buffer. This means once pipeline projects are considered, Cupertino's remaining RHNA plus buffer would require the City to zone more than the balance of 1,497 units indicated in Table 1. The City can zone 1,871 units, which equates to a buffer of over 25%, still at the upper end of HCD's recommended range. These numbers also assume an estimated 144 additional accessory dwelling units (ADU), based at a rate of 18 per year, will be added to the City's housing stock during the 2023-2031 planning period.

Thus, when reviewing the Sites Inventory Table, the objective should be to maintain the approximate number of units that would result from the recommended Tier 1 sites at the densities specified, depending on the size of the buffer desired. The Housing Commission/Planning Commission can recommend a different buffer percentage for the Council's consideration, if it so chooses. The Commissions should keep in mind that a smaller buffer increases the risk that the City will be required to revise the Housing Element to comply with No Net Loss requirements during the 6<sup>th</sup> Cycle production period. If there are additional sites proposed to be added to the Table, such as Tier 2 sites that include properties in the Heart of the City area located near Cupertino High School, this could allow decisionmakers the ability to remove some of the Tier 1 sites or reduce minimum required site densities.

### *Density Considerations*

The density at which sites develop, or are anticipated to develop, is important for the City to produce the required number of units. The City could adopt a strategy to require Priority Housing sites to develop at the density indicated in the Housing Element to ensure that the City achieves its goals rather than allowing them to develop at a lower density.

It is also possible that the City consider an Affordable Housing Overlay (AHO) for certain (or all) Priority Housing sites or establish a City density bonus that could be applied in addition to State density bonus law. This could allow an increase to the density of projects, if they were primarily affordable to households at lower income levels or, specifically, at income levels where the City needs to have units develop in the 2023-2031 Housing Element cycle. For Cupertino, since there needs to be an increased production of Very-Low income and Moderate income level housing, the City could consider increased density (e.g., an increase of 50%) for projects that provide a greater number of units of these income levels.

## Next Steps

Once the Planning and Housing Commissions have made their recommendations on housing sites selection, the next step in the Housing Element update process will be a meeting before the City Council, tentatively scheduled for late July or early August 2022.

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Attachment A – Sites Inventory Table

Attachment B – Housing Affordability and Declining School Enrollment

Attachment C – EMC Memorandum

Attachment D - EMC Memo Attachment A: Sites Narrative

Attachment E - EMC Memo Attachment B: Site Map

Attachment F - Draft Resolution