

Planning Commission Meeting

April 29, 2024

Presentations

Item 2

6th Cycle Housing Element
and Associated General
Plan Amendments

6th Cycle Housing Element Update Adoption

Planning Commission

April 29, 2024



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Agenda

- Housing Element Overview
- Outreach Summary
- RHNA/Priority Sites
- Policies and Strategies
- HCD Review and Comments
- Environmental Review
- Associated GP amendments
- Timeline and next steps



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Housing Element Overview



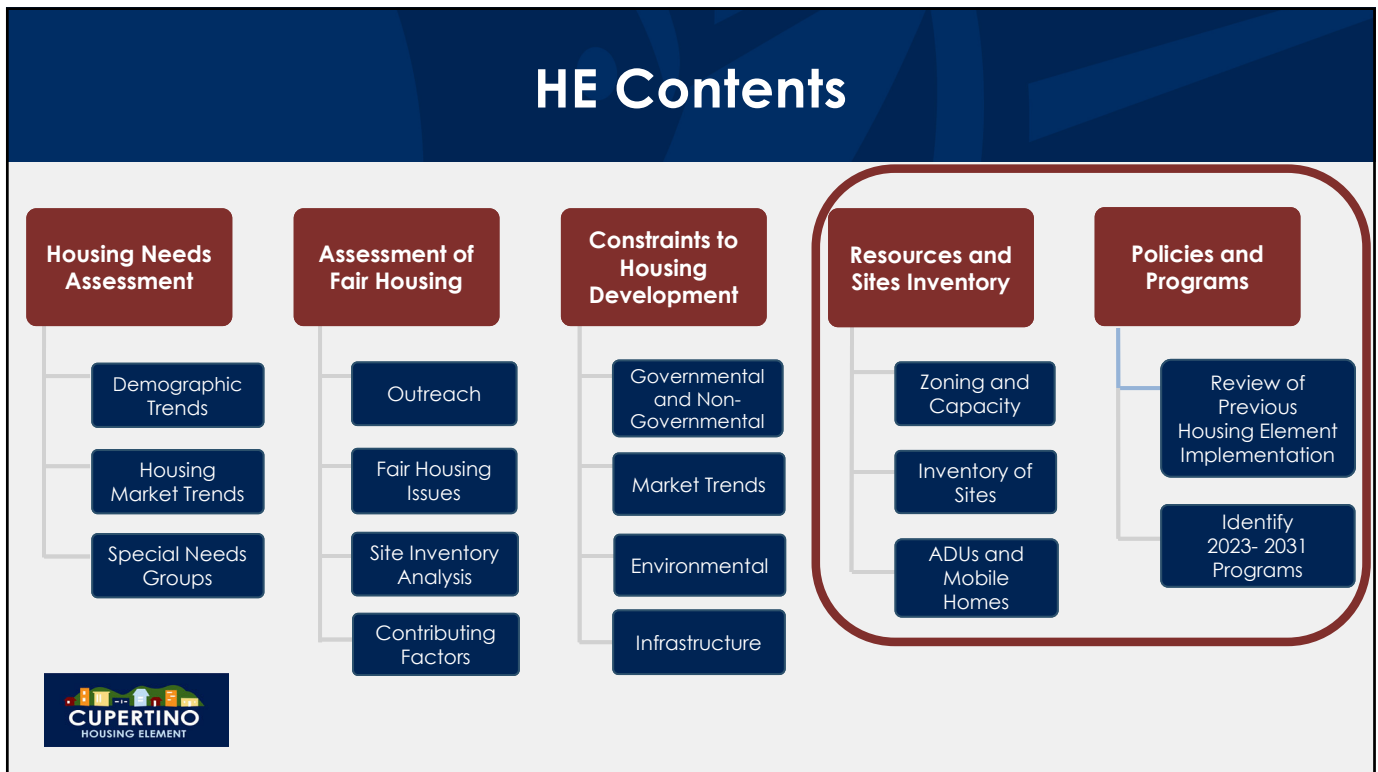
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What is a Housing Element? Why Update it?

- **What** is a Housing Element?
 - State-mandated Element of City's General Plan
- **Why** update it now?
 - Required to be updated every 8 years by law
- Update by **when**?
 - By Jan. 31, 2023 (**deadline passed**)
- Update it? **How**?
 - Study and plan for housing needs in community between 2023-2031, across all income levels
- **Who** certifies compliance?
 - CA Dept of Housing and Community Development (HCD)



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Other updates

- Conforming General Plan changes:
 - Land Use and appendices – Internal consistency
 - Mobility and appendices – address environmental assessment/mitigations
- **Conforming Rezoning** – Specific plan, map and text
- State law requirements - Health and Safety Element
- Other – necessary to implement HE programs (e.g. Objective design standards for housing developments)

CUPERTINO HOUSING ELEMENT

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6th Cycle vs. 5th Cycle

- RHNA 4x higher in Cupertino--4,588 vs. 1,064
- Few remaining undeveloped sites, reliance on redevelopment to meet RHNA
- 62 properties, 36 development sites
- 70% of properties 50 units/acre or more
- New legislation adds requirements in:
 - Developing policies/programs
 - Greater accountability to produce housing
 - Site selection
 - Less discretion approving housing developments
 - Affirmatively Furthering Fair Housing (AFFH)
 - More outreach and inclusion



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Noncompliance

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



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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



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Affirmatively Furthering Fair Housing (AFFH) - Cupertino

- City is designated High or Highest Resource regarding Access to Opportunities
- Housing anywhere in City would regionally Affirmatively Further Fair Housing
- City must look to accommodate persons who currently do not reside here
- Meeting RHNA alone does not equate to satisfying AFFH (Missing Middle Strategy)



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Outreach Summary



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Outreach Summary

Jan – Jun
2022



- PC mtgs (Jan, Feb, Apr, May, June)
- CC mtgs (Mar)
- HC mtg (Jun)
- CEP-SAC mtgs (Mar, Apr, May, Jun)
- Comm. Mtg (May)

Jan – Jun
2023



- CC Mtg (Jan)
- 1st Draft to HCD (2/3)
- Comments from HCD (5/4)

Jan –Mar
2024



- 3rd Draft to HCD (2/26)
- Revised 3rd Draft to HCD (3/28)
- **Conditional Certification letter from HCD (4/10)**

2021

- Jt. Study Sessions (Apr & May)
- Comm. Mtgs (Aug & Dec)
- CC Mtg (Sept)
- HC Mtg (Dec)



Jul – Dec
2022

- CC Mtgs (Aug, Nov)
- PC (July)
- CEP-SAC mtgs (Jul, Sep, Oct)
- Comm. Mtg (Jul, Sep)



Jul – Dec
2023

- CC Mtg (Jul)
- Comm. Mtgs (Aug, Sep)
- 2nd Draft to HCD (10/16)
- Revised 2nd Draft to HCD (11/30)
- Comments from HCD (12/15)



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RHNA/Sites Inventory



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ABAG RHNA

- State-wide Housing Needs Determination made by HCD for each region within State
 - Cupertino in 9 County ABAG region
 - City's RHNA ~1% of ABAG region's RHNA and ~3.5% of county RHNA

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



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City's 6th Cycle RHNA

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

Affordable
Units =
2,635

Buffer ~ 25 - 35% particularly for lower income levels recommended to ensure city does not have to update sites inventory before next HE update for "no net loss" purposes. RHNA + Buffer accommodates over 6,200 units.

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Pipeline

- State law allows credit for approved projects, referred to as pipeline
- Cupertino allowed ~2,450 units as pipeline
 - Lower income: 633
 - Moderate income: 49
 - Above moderate income: 1,770
- Identify sites to accommodate balance of RHNA plus 25-35% buffer



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Pre-HE Submittal Inventory

- Robust discussions in 2022 at Housing and Planning Commissions and City Council
- Started with all potential sites throughout the City which:
 - Met HCD size criteria: 0.5 – 10 acres
 - Properties outside of fire hazard and geologic hazard zones – *more environmental impacts*
 - Owner interest a factor



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Direction Pre-HE submittal

- More interest in accommodating housing west of De Anza Blvd and south of Highway 85
- Less interest in accommodating housing east of De Anza Blvd due to recent approvals
- Locate housing sites to counteract declining school enrollment
- Avoid displacement of existing residents through redevelopment of residential properties



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Policy Framework

- State laws: link land use and transportation (AB 32 and SB 375)
- Regional plans (Plan Bay Area 2050 and Regional Transportation Plan) align with state law
- AB 2011 (*eff. 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 transportation corridor
 - Identifies min. development standards
 - Ministerial, exempt from CEQA



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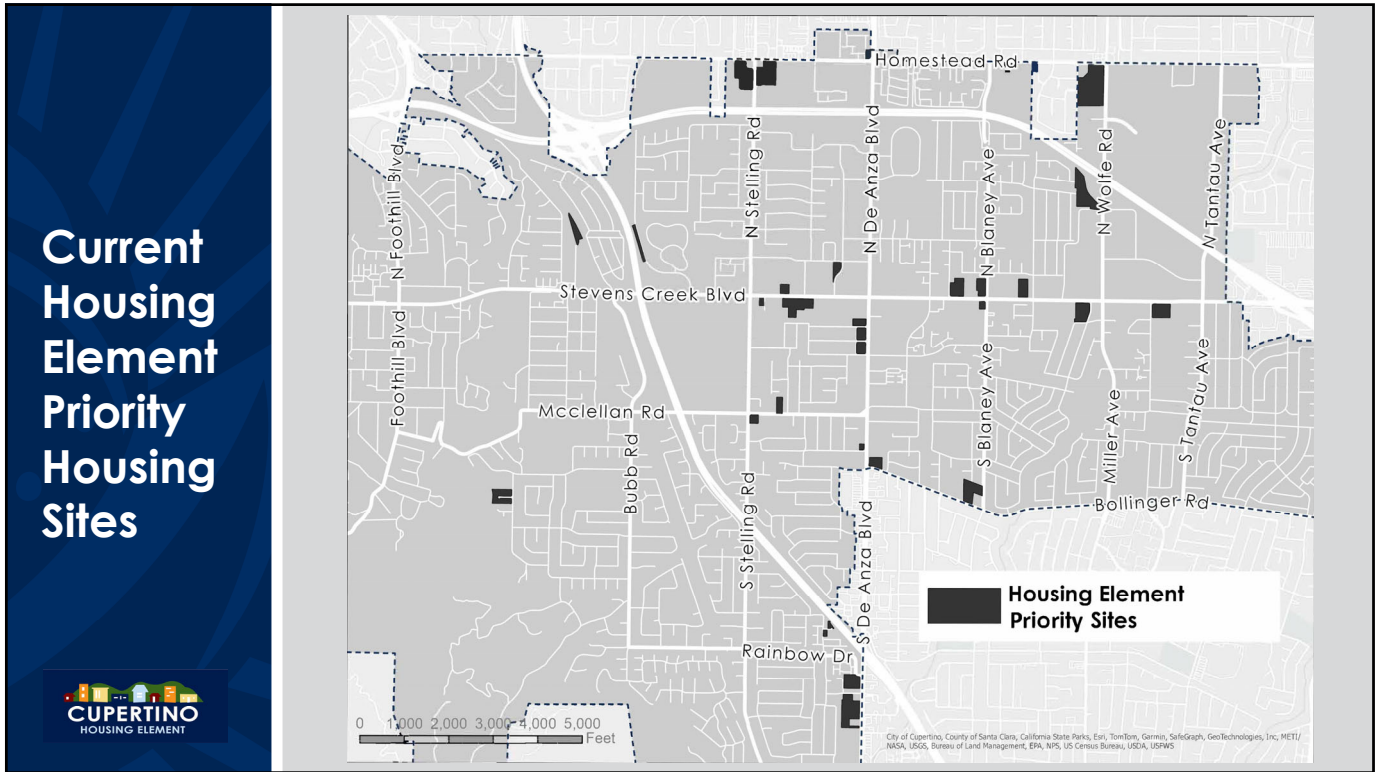
Current Site selection strategy

With Council direction in July 2023, site selection strategy adjusted based on:

- New State law realities – AB 2011/SB6
- Proximity to transportation – AB32/SB375
- Aligning with regional plans – PBA2050 & RTP
- City's existing policies – LU-1.1 & CAP
- 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.)



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A0

Capacity compared to RHNA

RHNA Category	2023-2031 RHNA	Pipeline Capacity	Residential Site Capacity with Rezone	Mixed Use Site Capacity with Rezone	Projected ADUs	Total Capacity	Surplus
Very Low	1,193	633	833	596	116	2,178	298
Low	687						
Moderate	755	49	360	436	57	909	154
Above Moderate	1,953	1,770	662	695	19	3,166	1,213
Total	4,588	2,452	1,855	1,727	192	6,226	1,638

Programs and Policies



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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, Improve and Expand Housing Stock**
- Programs to **Affirmatively Further Fair Housing**
- Programs to **Preserve "at risk" Units**
- Programs for **ADUs/Second Units**



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Housing Policy Areas

- Programs to **provide Adequate Housing Sites:**
 - Identify sites to accommodate RHNA
 - Create new land use designations to ensure RHNA can be accommodated
- Programs to **Assist Lower-Income Housing Development:**
 - Support Grant applications;
 - Provide technical support;
 - Issue NOFA for BMR Affordable Housing Funds



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Housing Policy Areas (cont.)

- Programs to Address Housing **Constraints:**
 - Adopt Objective standards,
 - Continue fee waivers for affordable units and/or 100% affordable projects;
 - Evaluate Parking standards
- Programs to **Conserve, Improve and Expand City Housing Stock:**
 - Create new R4 Zoning District;
 - Promote options for multi-generational households & house sharing;
 - Disallow conversion of multi-family to Single Family residences;
 - Use CDBG funds for conservation/ improvements



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Housing Policy Areas (cont.)

- Programs to **Affirmatively Further Fair Housing:**
 - Upzone sites adequately to allow accommodation of RHNA;
 - Support teacher housing and ELI projects;
 - Continue to support the development of ADUs and adopt "missing middle" housing policies, which offer opportunities with modest increases in density (**HE Strategy-1.3.6**)



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Housing Policy Areas (cont.)

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



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HCD Review and Comments



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Process with HCD

- **February 3, 2023:** 1st submittal to HCD
 - **May 4, 2023:** **16 page** letter #1 received
- **October 16, 2023:** 2nd submittal to HCD
 - Informal meeting with HCD resulted in Revised 2nd draft submitted to HCD on Nov. 30, 2023
 - **December 15, 2023:** **5 page** letter #2 received
- **February 26, 2024:** 3rd submittal to HCD
 - Informal meeting with HCD staff resulted in Revised 3rd draft submitted to HCD on March 28, 2023
 - **April 10, 2024: CONDITIONAL COMPLIANCE LETTER RECEIVED FROM HCD**



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Revisions to address HCD comments

- **Second draft (Oct/Nov)** – substantial rewrite of first draft based on HCD comments from May
 - All analysis (review of prior housing element, fair housing, needs and constraints analysis) revised
 - Sites inventory updated based on Council direction and consultant advice
 - Existing policies and strategies revised
 - New policies and strategies added in first draft revised or replaced/added to address state law, HCD comments, AFFH
- **Third draft (Feb/Mar)** – targeted edits to second draft based on HCD comments
 - Related to sites and sites inventory
 - Refinements to missing middle strategy



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Environmental Assessment



CUPERTINO
HOUSING ELEMENT

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Settlement/Environmental Assessment

- **February 2023:** California Housing Defense Fund/YIMBY Law sue City for noncompliant HE by adoption deadline
- **January 2024:** Stipulated Judgment entered into
 - Established schedule to complete HE update in compliance with State law
- **Gov't Code Sec. 65759(a)**
 - CEQA does not apply to actions to bring HE into compliance with Court Order.



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Environmental Issues Analyzed

- The following topics were evaluated in environmental assessment:
 - Aesthetics
 - Air Quality
 - Biological Resources
 - Cultural and Tribal Cultural Resources
 - Energy
 - Geology and Soils
 - GHG Emissions
 - Hazards and Hazardous Materials
 - Hydrology and Water Quality
 - Land Use and Planning
 - Noise
 - Population and Housing
 - Public Services, Parks, and Recreation
 - Transportation
 - Utilities and System Services
 - Wildfire
- Any significant environmental impacts are avoided, minimized, rectified, reduced or eliminated, and/or compensated.
- The General Plan incorporates policies and strategies to protect, preserve, and/or enhance environmental resources.

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Environmental Assessment Conclusions

- 2015 General Plan EIR
 - Identified Mitigation Measures for air quality, biological resources, hazardous materials, transportation, and utilities and services systems.
- Cupertino Municipal Code Chapter 17.04, Standard Environmental Protection Requirements
 - Since certification of the 2015 General Plan EIR, Cupertino Municipal Code amended to require those mitigation measures as environmental protection requirements for all construction projects.
- 2024 General Plan Policies and Strategies
 - Updated policies and strategies reflecting current best management practices to ensure that potential future development will continue to reduce impacts from construction and operation phases (e.g. Mobility Element)

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Environmental Assessment Conclusions

- Program-level significant and unavoidable impacts for **air quality, greenhouse gas emissions, and transportation** (vehicle miles traveled).
- Identification of program-level impacts does not preclude finding of less-than-significant impacts for subsequent projects that meet project-level thresholds.
- Due to programmatic nature of impacts, no additional mitigation measures are available at this phase of project approval (i.e. adoption of HE and associated amendments)

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Associated General Plan Amendments



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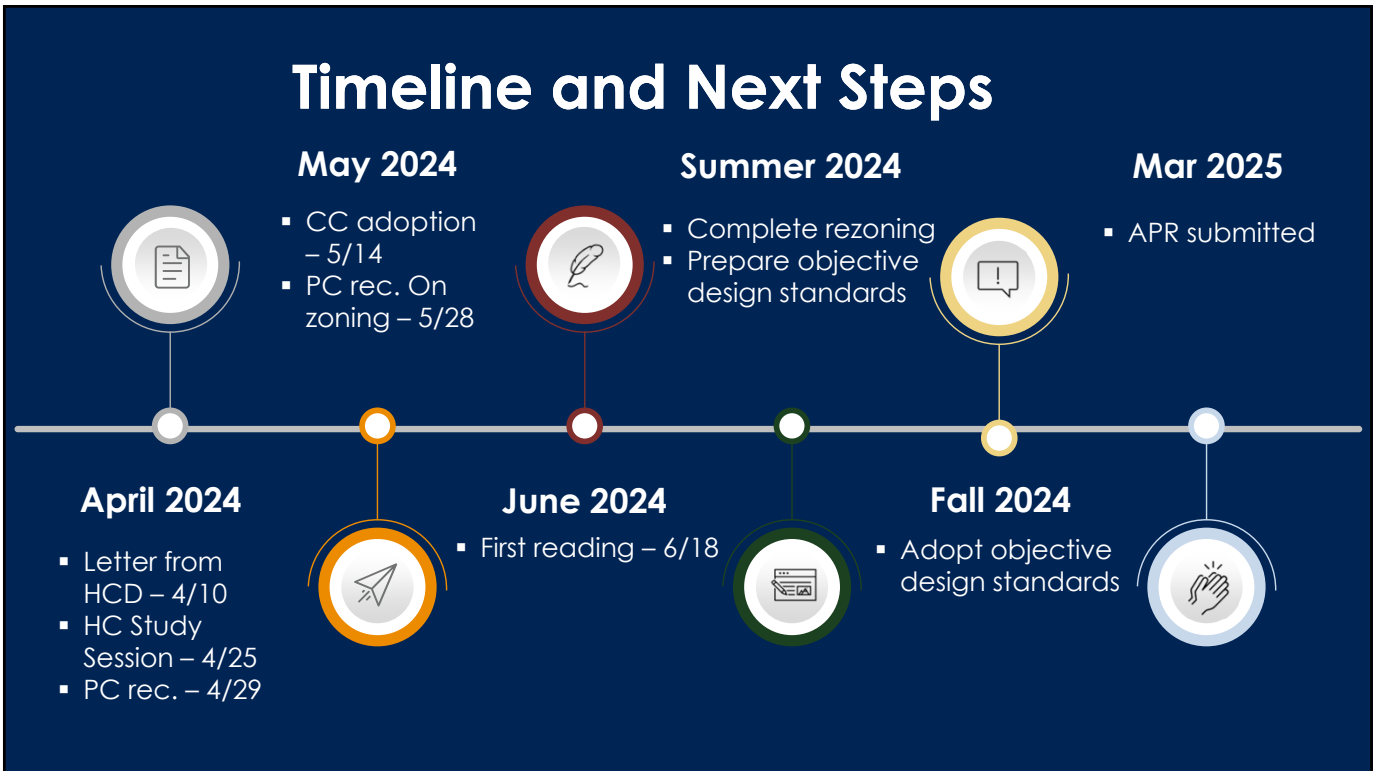
Other General Plan Amendments

- Chapter 3, Land Use and Community Design Element and Appendix A, Land Use Designations:
 - Text changes to address state law requirements & Housing Element requirements
 - Figure changes – reflect density and heights reqd. for developing Priority Housing Sites
- Chapter 5: Text changes to minimize environmental impacts resulting from development
- General Plan Land Use Map – conforming changes

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