

CC 05-14-2024

#1

Desk Items

Supplemental Report

RESOLUTION NO. _____

A RESOLUTION OF THE CUPERTINO CITY COUNCIL
APPROVING AMENDMENTS TO THE GENERAL PLAN, INCLUDING
ADOPTION OF THE 2023-2031 HOUSING ELEMENT,
CHANGES TO THE GENERAL PLAN LAND USE MAP, AND OTHER
AMENDMENTS TO ALLOW IMPLEMENTATION OF THE HOUSING
ELEMENT AND MEET THE REQUIREMENTS OF STATE LAW

SECTION I: PROJECT DESCRIPTION

Application No: GPA-2022-001
Applicant: City of Cupertino
Location: Citywide/Various locations

SECTION II: RECITALS

WHEREAS, state law requires the City to prepare and adopt an updated Housing Element every eight years to accommodate its fair share of housing and identify housing needs, resources and opportunities;

WHEREAS, the City has been notified in December 2022 that the Regional Housing Needs Allocation ("RHNA") for Cupertino is 4,588 units; and

WHEREAS, Chapter 4, Appendix A, and Appendix B have been prepared to address adoption of 6th Cycle (2023 – 2031) Housing Element; and

WHEREAS, Chapters 3, 5 and the General Plan Land Use Map have been amended to address implementation of the Housing Element; and

WHEREAS, the City entered into a Stipulated Judgement dated January 8, 2024 pursuant to a lawsuit related to adoption of the Housing Element which included requirements for coming into compliance with state housing element law and exempted the City from the California Environmental Quality Act ("CEQA") pursuant to Government Code section 65759; and

WHEREAS, pursuant to Government Code 65759, the General Plan Amendment to adopt the Housing Element and associated amendments to the General Plan zoning is fully described and analyzed in the Environmental Assessment, which is incorporated into the General Plan as Appendix G; and

WHEREAS, the existing uses on the sites identified in the site inventory to accommodate the lower income RHNA are likely to be discontinued during the planning period, and therefore do not constitute an impediment to additional residential development during the period covered by the housing element based on a variety of factors as described more fully in the Housing Element, including but not limited to property owner interest in redeveloping the site, age and condition of the structures on the property, vacant store

fronts and/or, land to improvement values of the properties, apparent investments in the property.

WHEREAS, on April 29, 2024, the Planning Commission recommended on a 3-2 vote (No: Madhhipatla and Scharf) that the City Council adopt the General Plan Amendment (GPA-2022-001), in substantially similar form to the Resolution presented (Resolution No. 2024-005) with an amendment to eliminate APN: 359 08 029; and

WHEREAS, all necessary public notices having been given as required by the City of Cupertino Municipal Code and the Government Code, on May 14, 2024, the City Council held a public hearing to consider the General Plan Amendment; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution.

SECTION III: RESOLUTIONS

NOW, THEREFORE, BE IT RESOLVED:

After careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, and based on the preceding findings, the City Council hereby:

1. Directs staff to make modifications to the draft Housing Element after adoption, but before final submittal to HCD, to eliminate APN: 359 08 029 and all references to it from Draft Appendix B-4 since the site is not counted toward the ~~Regional Housing Needs Allocation (RHNA)~~ and eliminate APNs: 326 07 022, 326 07 0303, 326 07 031 and 326 07 036 and all references to them from Draft Appendix B-4; and
2. Adopts amendments to the General Plan (Application No. GPA-2022-001), including amendments to Chapter 3 (Land Use and Community Character), Chapter 4 (Housing), and Chapter 5 (Mobility) and Appendices A (Land Use Definitions), and B (Housing Element Technical Report), and adoption of a new Appendix G (General Plan 2040 and Zoning Code Amendments Environmental Assessment) as shown in Exhibits GPA-1 – GPA-6, and as modified by #1 above, which is incorporated herein by reference as part of this resolution; and
3. Adopts changes to the Land Use Map as shown in Exhibit GPA-7, which is incorporated herein by reference as part of this resolution, to reflect the changes to the general plan land use designation, residential density - required minimum and maximum allowable, and allowable maximum heights of the parcels in the table on the following page, necessary to implement the Housing Element and to ensure internal consistency; and
4. Authorizes the staff to make any grammatical, typographical, numbering, and formatting changes in the amended Chapters, and any updates to figures in Chapter 2 (Planning Areas) to ensure internal consistency with the Land Use and Community Character Element, the General Plan Land Use Map, and the Housing Element, necessary to assist in production of the final published General Plan.

APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
316 23 027	0.64	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
369 03 005	0.47	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
326 34 047	1.09	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
359 07 006	0.32	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
375 06 006	1.71	Commercial/Office/Residential	25	45	Residential - Very High Density	65.01	80	70
375 06 007	0.96	Commercial/Office/Residential	25	45	Residential - Very High Density	65.01	80	70
316 21 031	1.81	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
316 23 026	1.78	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
326 32 050	0.83	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
326 27 053	0.75	Transportation	0	0	Residential - High/Very High Density	50.01	65	70
323 36 018	0.42	Commercial / Residential	35	30	Residential - High/Very High Density	50.01	65	70
316 04 064	0.44	Res Low 1-5	5	30	Residential - Medium Density	10.01	20	No change
326-07-022	1.64	Commercial	15	30	Residential - Very High Density	65.01	80	70
326-07-030	0.92	Commercial	15	30	Residential - Very High Density	65.01	80	70
326-07-031	0.24	Commercial	15	30	Residential - Very High Density	65.01	80	70
326-07-036	1.74	Commercial	15	30	Residential - Very High Density	65.01	80	70
369 37 022	0.39	Medium (10-20 DU/Ac)	20	30	Residential - Very High Density	50.01	65	70
369 37 023	0.22	Medium (10-20 DU/Ac)	20	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes - 30

APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
369 37 024	0.17	Medium (10-20 DU/Ac)	20	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes - 30
369 34 053	0.54	Commercial / Residential	15	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes - 30
359 18 044	0.26	Commercial / Residential	25	30	Residential - High/Very High Density	50.01	65	70
366 10 121	1.34	Commercial / Residential	15	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes – 30
366 10 137	0.92	Commercial / Residential	15	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes – 30
366 19 047	2.33	Commercial / Residential	15	30	Residential - High/Very High Density	50.01	65	70
366 19 078	0.08	Commercial / Residential	15	30	Residential - High/Very High Density	50.01	65	70
359 09 017	1.00	Commercial / Residential	25	30	Residential - High/Very High Density	50.01	65	70
316 20 088	5.16	Reg Shopping	0	60	Residential – High/Very High Density	50.01	65	70
359 13 019	0.99	Res Low 1-5	5	30	Residential - Medium Density	10.01	20	No change
356 06 001	0.73	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
356 06 002	0.69	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
356 06 003	0.25	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
356 06 004	0.87	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
N/A (Evulich Ct)	0.43	Transportation	0	30	Residential – Medium/ High Density	20.01	35	No change
362 31 001	0.25	Res Medium 10-20	20	30	Residential – Medium/ High Density	20.01	35	No change
362 31 030	0.23	Res Medium 10-20	20	30	Residential – Medium/ High Density	20.01	35	No change
326 20 034	1.34	Res Low 1-5	5	30	Residential – Low/ Medium	5.01	10	No change
316 23 093	1.35	Commercial/Office/ Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
316 23 036	0.24	Commercial/Office/ Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70

APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
369 06 002	0.9	Commercial/Office/Residential	25	45	Commercial/Residential – Very High	65.01	80	70
369 06 003	0.53	Commercial/Office/Residential	25	45	Commercial/Residential – Very High	65.01	80	70
369 06 004	1.29	Commercial/Office/Residential	25	45	Commercial/Residential – Very High	65.01	80	70
359 10 015	1.18	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
359 10 060	0.98	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
359 10 044	0.18	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
359 08 025	0.83	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
359 08 026	0.45	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
359 08 027	0.87	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
359 08 028 ¹	0.85	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
326 09 052	0.74	Commercial	35	45	Commercial/Residential – Very High	65.01	80	70
326 09 060	2.75	Commercial	35	45	Commercial/Residential – Very High	65.01	80	70
326 09 061	1.12	Commercial	35	45	Commercial/Residential – Very High	65.01	80	70
369 34 052	2.70	Commercial / Residential	15	30	Commercial/Residential – High/Very High	50.01	65	70
369 37 028	0.56	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
366 19 055	0.40	Commercial / Residential	15	30	Commercial/Residential – Medium/High	20.01	35	Multi-family – 60 Townhomes – 30
366 19 053	0.56	Commercial / Residential	15	30	Commercial/Residential – Medium/High	20.01	35	Multi-family – 60 Townhomes – 30

APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
366 19 054	1.75	Commercial / Residential	15	30	Commercial/Residential – Medium/High	20.01	35	Multi-family – 60 Townhomes – 30
316 05 050	1.02	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 051	0.62	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 052	0.73	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 053	0.92	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 056	6.94	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 072	0.54	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
359 20 028 ²	0.75	Quasi-Public	0	30	Commercial/Residential – Medium/High	20.01	35	No change

¹ Land Use designation and residential density changed only for a 178 feet by 208 feet portion of this site on the western portion closest to Stevens Creek Boulevard as shown in Santa Clara County Assessor's Office's records Book 359 Page 8 (Revised 2022-2023).

² Land Use designation and residential density changed only for a 180.75 feet by 180.75 feet portion of the northwest corner of the site is rezoned as shown in Santa Clara County Assessor's Office's records Book 359 Page 20 (Revised 2022-2023). rezoned as shown in Santa Clara County Assessor's Office's records Book 359 Page 20 (Revised 2022-2023).

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The foregoing recitals are true and correct and are included herein by reference as findings.

PASSED AND ADOPTED this 14th day of May 2024, at a Special Meeting of the City Council of the City of Cupertino, State of California, by the following vote:

Members of the City Council

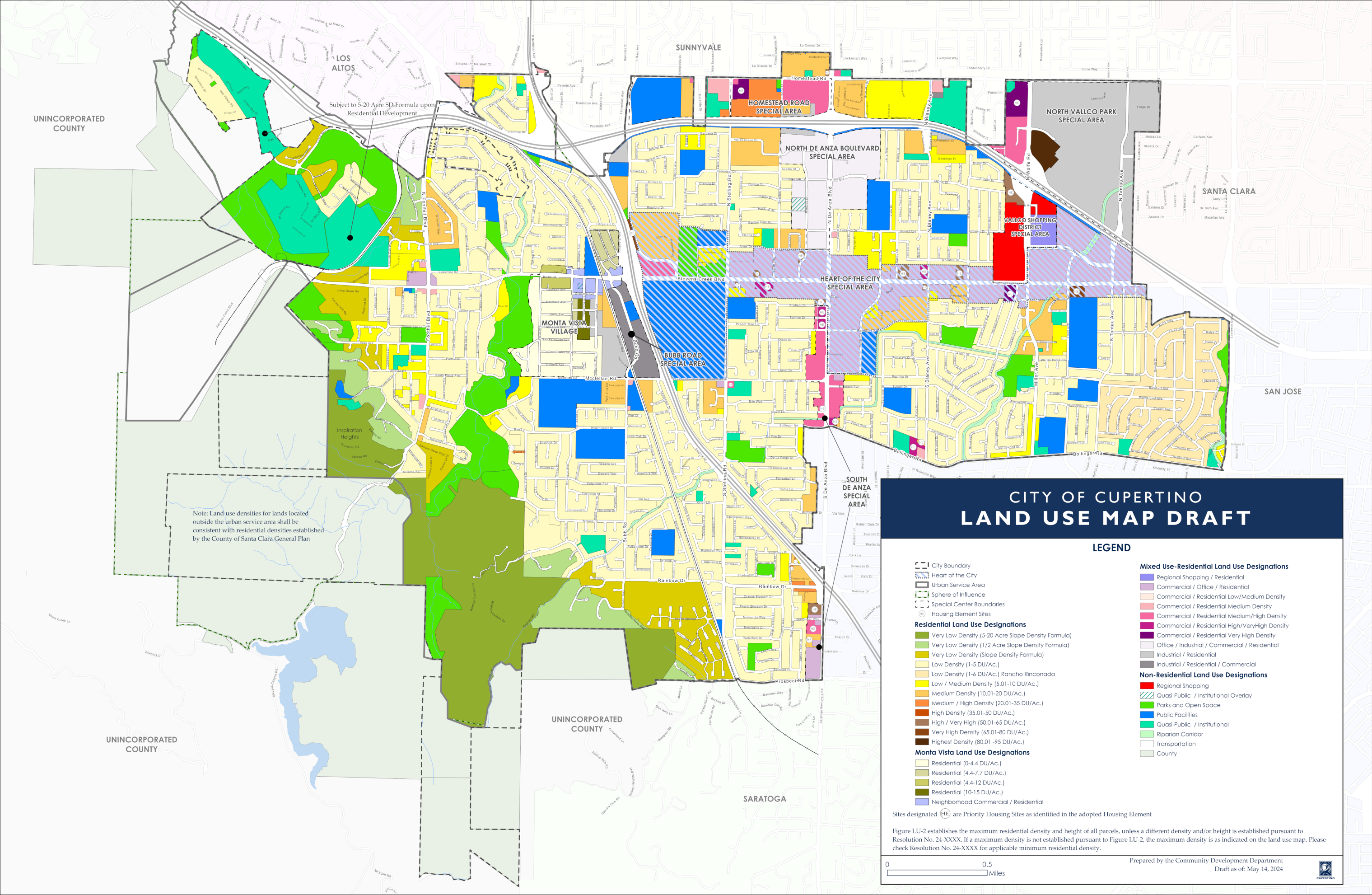
AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>Sheila Mohan, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Kirsten Squarcia City Clerk</p>	<p>_____</p> <p>Date</p>



CC 05-14-2024

#1

Housing Element

Supplemental Report



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
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CITY COUNCIL STAFF REPORT SUPPLEMENTAL 1

Meeting: May 14, 2024

Agenda Item

Agenda Item #1

Subject

6th Cycle Housing Element and Associated General Plan Amendments.

Recommended Action

That the City Council adopt Resolution No. 24-039 (Attachment 1) adopting proposed General Plan Amendments, including but not limited to, the Chapter 3 (Land Use and Community Character Element), Chapter 4 (Housing Element), Chapter 5 (Mobility Element), Appendix A (Land Use Definitions, Appendix B (Housing Element Technical Appendix), and Appendix G (Community Vision 2040 General Plan and Zoning Amendments Environmental Assessment).

Background:

Valley Church Properties

On May 9, 2024, the City received a letter (Attachment A) from Matt McLaughlin, Director of Administration and Finance for Valley Church, located at 10885 North Stelling Road, requesting that four parcels of land owned by the church not be included as priority housing sites in the City's Housing Element. The four parcels total just over 4.5 acres and are developed with tennis courts, a sand volleyball court and parking; there are no church facilities on the parcels. Beginning in late 2021, staff and its Housing Element update consultant at the time reached out to property owners to determine if there was owner interest in having their sites be considered priority housing sites for the 6th Cycle Housing Element update. It was believed that the church expressed interest in having the four parcels designated as priority housing sites some time in 2022, though this cannot be confirmed.

The four church parcels have consistently been included in staff presentations since 2022 as recommended priority housing sites due to being relatively undeveloped and having a location that would support higher density housing development. If the four church parcels were not rezoned to accommodate higher density housing this would result in a

loss of approximately 345 dwelling units based on the realistic development capacity shown for the parcels in Housing Element Appendix B4. The priority housing sites in draft Housing Element currently has a build-out potential of over 6,200 units, or a buffer of 35% over its Regional Housing Needs Allocation (RHNA) of 4,588. Not including the potential 345 units would reduce the buffer to 28%, still an adequate buffer per the Housing and Community Development (HCD) Department's guidance, though the loss of the units would affect the Low and Moderate income housing categories which have a much smaller surplus of units than does the Above Moderate (market rate) housing category. Staff has met with church representatives who confirmed what was said in the May 9 letter, they are not interested in having the four parcels rezoned to allow for higher-density housing. Given their position and the fact that a housing buffer still exists it is recommended that the parcels not be rezoned from their current designations.

Staff's responses to questions received from Councilmembers

Staff received a significant amount of questions (Attachment B) via email on May 13 regarding the Housing Element update and the related General Plan changes associated with it. The high-level responses in the following paragraphs address the general issues that were raised in these emails.

Questions related to RHNA/density

The draft Housing Element identifies 62 individual properties as priority housing sites, 70% of which have proposed densities between 50 to 80 dwelling units per acre. In order to accommodate the higher residential densities for these sites new zoning and land use designations, such as an R4 zoning district, are being proposed. Building heights of up to five stories would be allowed in this district in order to achieve the densities identified in the draft Housing Element. Priority housing sites will be required to develop at the minimum density but may exceed the maximum density through State density bonus law.

Questions related to the Environmental Assessment/CEQA

The City did not have its Housing Element certified by the January 31, 2023 deadline and was sued in February 2023 since its Housing Element was out of compliance with State housing law. This lawsuit was settled in January 2024 and a stipulated judgment was entered requiring the City to bring its Housing Element into compliance. Government Code Section 65759 provides that the California Environmental Quality Act (CEQA) does not apply to any action, including rezonings and land use amendments, necessary to bring a city's Housing Element into compliance with a court order or judgment. Therefore, the City has prepared an environmental assessment in the format of a draft EIR as part of the Housing Element update. This environmental assessment will become part of the City's General Plan upon its adoption, but it is not a CEQA document even though its format is similar to a draft EIR and it includes a discussion of resource areas typically included in an EIR.

Questions related to Missing Middle Housing and ADUs

The Housing Element includes Strategy HE-1.3.6 focusing on missing middle housing,

which includes duplexes, triplexes and ADUs. This Strategy is included in the draft Housing Element to address fair housing issues, specifically trying to provide opportunities to develop more modest housing types that are affordable by design and can be integrated into the City's R1/single-family neighborhoods. The Strategy would allow certain R1-zoned lots (corner lots and certain lots adjacent to commercially-zoned and used properties on major transportation corridors) to develop/redevelop using R2 (duplex) zoning district standards without needing to rezone. No R1 properties will be rezoned as part of the Housing Element update.

Attachments Provided with Original Staff Report:

- A. *Attachment A: May 9 Letter from Valley Church to the City*
- B. *Attachment B: Councilmember Questions*



May 9, 2024

Piu Ghosh, Planning Manager
Community Development Department
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

**RE: VALLEY CHURCH PARCELS – REMOVE FROM PRIORITY HOUSING SITES IN THE
HOUSING ELEMENT UPDATE
(APNs 326-07-022, 326-07-030, 326-07-031, and 326-07-036)**

Dear Ms. Ghosh, City of Cupertino Planning Staff, and City Council Members:

I am writing this letter to clarify that the Valley Church objects to the City of Cupertino listing four of the Church land parcels (APNs 326-07-022, 326-07-030, 326-07-031, and 326-07-036) as future “Housing Priority Sites” in the City’s 6th Cycle Housing Element Update.

It is our understanding that the Housing Element Update is coming before the City Council on May 14, 2024 for approval. According to the materials available, the City is planning to include the four Valley Church parcels identified above as Priority Housing Sites” in the Housing Element update, and the City is planning to change the underlying General Plan designation on this parcels to *Very High Density Residential*. The public notice for this upcoming hearing is the first communication that the Valley Church management has received about these Housing Element hearings. We were not made aware of the Planning Commission meeting in April and have not been included in discussions about these housing priority sites.

We want to go on record that the Valley Church has not indicated to staff a willingness to consider housing on the Church property. To our knowledge, nobody currently affiliated with Valley Church management has spoken with City Staff about including our property in the City’s inventory of future housing sites; the Church has not agreed to these parcels being listed as priority opportunity sites and has not agreed to any land use designation changes. We believe the attached page from the Housing Element Technical Report is incorrect; we do not believe the Church has indicated an interest in redeveloping these four parcels.

The Valley Church has been located on this site near the southwest corner of North Stelling Road and Homestead Road since 1960 and has no plans to sell off or vacant any of the

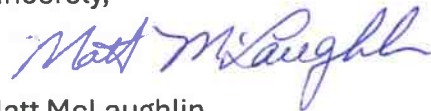
existing property. As you know, the Church's tennis courts, which are located on one of the parcels in question, currently provide the residents of Cupertino with public recreational opportunities. Valley Church intends to continue operating the church uses and to continue providing this public amenity. Valley Church does not wish to operate on this site as a "legal, non-conforming" use.

In light of the above statements, we do not believe it is appropriate to include the Valley Church parcels identified above as priority housing sites in the City's Housing Element Update, and we do not anticipate that the State Housing and Community Development Department could certify this Housing Element update with these parcels erroneously included.

We respectfully and explicitly request that these parcels be removed from the City's Housing Element site inventory, and that the City leaves the current General Plan and zoning designations in place on all Valley Church parcels.

Please contact me if you have questions or want to discuss this letter. Thank you for your prompt attention to this matter.

Sincerely,



Matt McLaughlin
Director of Administration & Finance

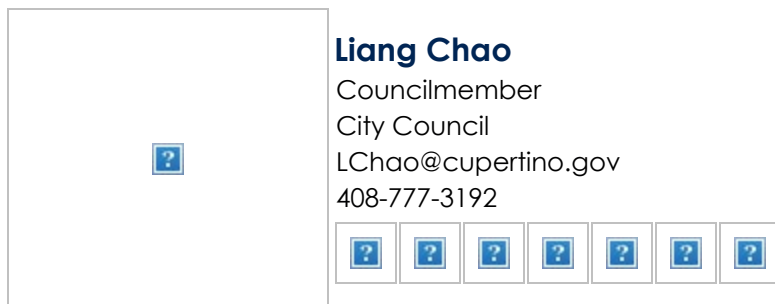
cc: Sheila Mohan, Mayor
J.R. Fruen, Vice Mayor
Liang Chao, City Council Member
Kitty Moore, City Council Member
Hung Wei, City Council Member
Melinda Coy, California Department of Housing and Community Development
Valley Church Board of Elders
John Schwarz, JHS Consulting

From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Fw: Questions on HE
Date: Monday, May 13, 2024 3:19:57 AM

Please provide answers for these questions from the community on HE for the 5/14 Council meeting.

These questions were submitted for the 5/7 study session on HE, but I was told by staff at the time that "since there isn't a staff report prepared for the Housing Element study session, we will address your questions below during the presentation tomorrow."

Thanks.



From: Liang Chao <LChao@cupertino.gov>
Sent: Monday, April 15, 2024 9:58 AM
To: Pamela Wu <PamelaW@cupertino.gov>
Cc: Luke Connolly <LukeC@cupertino.gov>; Benjamin Fu <BenjaminF@cupertino.gov>; Matt Morley <MattM@cupertino.gov>
Subject: Questions on HE

I have sent in a few questions on Wednesday after the prep session.
Please include the answers to those in the supplemental reports too. Thank you.

QQ1: Please provide a timeline of what's upcoming up to and after the HE is adopted by the Council? In 6 months, what additional policies need to be adopted by the Council or staff? In one year, what other policies need to be adopted by the Council or staff.

QQ1A: When will the Council have a study session on Zoning Ordinance before final adoption?

QQ2: The 2015-2023 Housing Element had only 5 HE sites with about 1000 units. Since there

are over 6200 units and 36 sites (on 63 parcels) in this 2023-2031 Housing Element, please provide a spreadsheet in order to understand how the over 6,200 units are calculated. (I meant I hope to get the tables in Appendix 4 in excel format, for example.)

QQ3: I see that we have projected 91 units from ADUs over the next 8 years. Did the projection take into account of new laws which would allow up to 3 ADUs for each R1 site?

QQ4: Some of the sites are eligible under AB 2011, which would automatically get upzoned (my understanding). For those which are not designated as Priority HE sites, did we project units on those sites and add them to our total capacity? Please remind us what AB2011 does and where they apply in Cupertino.

QQ5: The draft HE states "Pursuant to California Government Code Section 65583.2(c), a nonvacant site identified in the previous planning period and a vacant site identified in two or more previous consecutive planning periods cannot be used to accommodate the lower-income RHNA unless the site is subject to an action in the Housing Element that requires rezoning within three years of the beginning of the planning period that will allow residential use by right for housing developments with at least 20 percent units affordable to lower-income households."

So, every Priority HE site identified in this 6th HE cycle cannot be used to count towards the capacity for the 7th HE cycle, starting in 2031. Does this mean If more Priority HE site identified than necessary in this 6th HE cycle, we will have less sites we could use for the next (7th HE cycle)?

QQ6: For residential sites, the draft HE stated that Table B4-3 shows project examples in Cupertino from 2016 to 2023. Overall, projects show a very high realistic capacity, ranging from 80 to more than 100 percent of the site. ... To ensure capacity is not over projected, the city assumed a 95 percent realistic capacity on all residentially zoned sites. "

For mixed use sites, the draft HE Appendix 4 states "Table B4-4 summarizes three approved mixed-use developments, Marina Plaza, Westport, and Vallco. These projects range in realistic capacity from 83 to 344 percent, with most coming in around 113 percent. This suggests that mixed-use projects in Cupertino develop at greater than 100 percent of the permitted density. ... , while the trends over the past decade indicates development on most large sites at close to or over 100 percent of the

maximum allowable

density, the City conservatively estimates a 75 percent realistic capacity for sites with mixed- use zoning

in the sites inventory." For residential sites, the past project examples show capacity between 80-100% and we estimate 95% realistic capacity. That makes sense. For mixed use sites, the past project examples show capacity between 83 to 344% with most at 113%, why do we estimate the realistic capacity to be only 75%? Lower than even the lowest from past examples?

QQ9: There are some sites without owner interest, can we remove them from the list so that we might designate those sites in the next HE cycle?

QQ10: Given that the HE sites selected has not been on the Council agenda since August 2022, can we still make minor changes to the HE sites selected and their density as long as we deliver about the same amount?

QQ11: Many community members care about the building heights, but they don't understand how units/acre correlate to building heights. Could you give some estimate on what's the potential max height means when a site is zoned 50-65 units/acre and what about the sites zoned 65-80 units/acre? What's unit size used in the estimation of height?

QQ12: Many community members care about traffic congestion and safety. Please summarize what's the traffic impact was from the Environment Assessment. What mitigation measures are identified to address those issues?

QQ13: Many community members care about the parking requirements since there is little transit coverage in Cupertino. Will this be discussed in the zoning ordinance discussion? What parking requirements are allowed?

QQ14: The HE sites have designated minimum density and also maximum density. Can they still propose projects at a density lower than the minimum density?

QQ15: The Density Bonus Law still applies to these HE sites, right? That means they can develop up to 35% of the current maximum density. Thus, a site zoned 60-85 units could develop up to 108 units/acre, right?



City Council
LChao@cupertino.gov
408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Barbara Pollek](#)
Subject: Fw: Questions on Housing Element
Date: Monday, May 13, 2024 3:25:36 AM

Please provide answers for these questions for the 5/14 Council meeting.
A few community members have asked similar questions from time to time. Written answers would be very helpful.

Please also include the follow-up questions in the enclosed email.

Thanks.



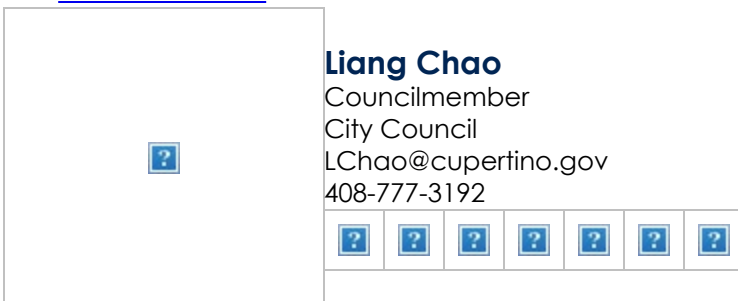
From: Liang Chao <LChao@cupertino.gov>
Sent: Thursday, April 11, 2024 6:23 PM
To: Pamela Wu <PamelaW@cupertino.gov>; Luke Connolly <LukeC@cupertino.gov>
Cc: Benjamin Fu <BenjaminF@cupertino.gov>; Matt Morley <MattM@cupertino.gov>
Subject: Re: Questions on Housing Element

If I could get a confirmation that my understanding is accurate or not, it would be great.

A few residents have asked about this and they are concerned.
I hope to relieve their concerns with what I know now, but I need to ensure that my understanding is accurate first.

Thanks for your help!

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From: Pamela Wu <PamelaW@cupertino.gov>
Sent: Thursday, April 11, 2024 8:56 AM
To: Liang Chao <LChao@cupertino.gov>; Luke Connolly <LukeC@cupertino.gov>
Cc: Benjamin Fu <BenjaminF@cupertino.gov>; Matt Morley <MattM@cupertino.gov>
Subject: RE: Questions on Housing Element

Thank you for your analysis.

Pamela



From: Liang Chao <LChao@cupertino.gov>
Sent: Wednesday, April 10, 2024 7:07 PM
To: Luke Connolly <LukeC@cupertino.gov>; Pamela Wu <PamelaW@cupertino.gov>
Cc: Benjamin Fu <BenjaminF@cupertino.gov>; Matt Morley <MattM@cupertino.gov>
Subject: Re: Questions on Housing Element

Follow-up to Q1: Regarding "[Property owners on the R1 lots to which Housing Element Strategy HE-1-3-6 applies would have the option to use R2 standards to develop duplexes, triplexes or similar living units on their properties. Up to four total units.](#)"

With the current Q1 standard and ADU ordinance, every R1 site can already develop one primary house and 3 ADUs - 4 total units. Using R2 standards on R1 site would still allow a total of 4 units, which could be duplex plus 2 ADUs or triplex plus one ADU. Right?

With the current R1 standard, R1 site could have up to 3 ADUs: one detached, two attached?, at most 800 sqft for streamlined approval, or subjecti to discretionary approval, while complying with existing R1 standards on height, setback, lot coverage and FAR. Right?

So, this policy tor the corner lots would not add more units, in fact. But it would allow more smaller homes (duplex or triplex) on R1 site.

I thought this policy is a good idea and would be willing to consider more sites that might

qualify for this policy, for example, sites larger than certain size or other reasonable standards.

Liang



Liang Chao

Councilmember
City Council

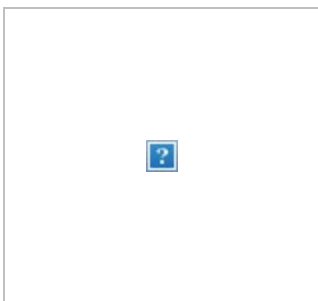
LChao@cupertino.gov
[408-777-3192](tel:408-777-3192)



From: Luke Connolly <LukeC@cupertino.gov>
Sent: Wednesday, April 10, 2024 12:04 PM
To: Liang Chao <LChao@cupertino.gov>; Pamela Wu <PamelaW@cupertino.gov>
Cc: Benjamin Fu <BenjaminF@cupertino.gov>; Matt Morley <MattM@cupertino.gov>
Subject: RE: Questions on Housing Element

Councilmember Chao,

Brief responses are below in [blue](#). Hope this clarifies things.



Luke Connolly

Assistant Director of Community Development
Community Development

LukeC@cupertino.gov
[\(408\)777-1275](tel:(408)777-1275)



From: Liang Chao <LChao@cupertino.gov>
Sent: Wednesday, April 10, 2024 10:18 AM
To: Pamela Wu <PamelaW@cupertino.gov>
Cc: Luke Connolly <LukeC@cupertino.gov>; Benjamin Fu <BenjaminF@cupertino.gov>; Matt Morley <MattM@cupertino.gov>
Subject: Questions on Housing Element

Thank you for a very informative pre session this morning.

Thank you for your patience since I feel I kept asking questions I might have asked

earlier.

I guess I am not an auditory learner. What I hear... I tend to forget... So, I hope to get some written answers.

Q1: For the corner lots, what exactly will be changed? I understand that they won't be rezoned. They would still be zoned R1, but it can be developed with R3 standards. What exactly does that mean?

(Sorry for asking this a hundredth time.) [Property owners on the R1 lots to which Housing Element Strategy HE-1-3-6 applies would have the option to use R2 standards to develop duplexes, triplexes or similar living units on their properties. Up to four total units.](#)

Q2: I understand that the Housing Element won't be considered certified without adopting the zoning ordinance. Is that right?

When the zoning ordinance has to be adopted? On the same day of the Housing Element adoption or soon after? [Rezoning of Priority Housing sites \(those identified in Appendix B4 to meet the City's RHNA\) needs to occur for HCD to consider the Housing Element in compliance with State law. Zoning has to be adopted within 120 days of certification but should be done as soon as possible in order for the City to have local control over land use and prevent things like builder's remedy projects.](#)

Q3: What exactly will be in the Housing Element, versus zoning ordinance versus the general plan?

My understanding is that the minimum density, such as 50 units/acre, for a site would be in the Housing Element.

But the range of density allowed, such as max density of 65 units/acre would be in the zoning ordinance.

Other development standards, such as height, setback, the minimum percentage for retail on mixed use sites, average unit size, etc. would be in the zoning ordinance, right?

The would be in the general plan? Like the designation of which sites are R3 or R4 or R1-allowing R3 standards? [At a general level, the Housing Element is part of the City's](#)

[General Plan and identifies Priority Housing sites to meet the RHNA and provides wide range of policies related to housing development, affordability and fair housing issues.](#)

[The General Plan Land Use Element provides density ranges \(housing units per acre\) and land use designations \(i.e., Low Density Residential, High Density Residential\) for sites that allow residential development. The Zoning Ordinance establishes districts \(i.e., R1, R2, R3, proposed R4\) and development standards \(building height, setbacks\) for those districts. Properties' zoning and General Plan Land Use designations need to be consistent per State law.](#)

Thank you for your help.

Liang



Liang Chao

Councilmember

City Council

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[408-777-3192](tel:408-777-3192)



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Questions on HE - Mobility Element
Date: Monday, May 13, 2024 4:49:54 AM

Please provide answers for these questions for the 5/14 Council meeting.

The GPA for Chapter 5 Mobility Element added this section on VMT Reduction:

Q1: "Policy M-1.2.2: Citywide VMT Reduction" is added to the draft Chapter 5 Mobility Element. But the HE draft only mentioned potential flexibility in parking requirements as incentives for development. Please point out where the earlier draft HE suggested a citywide change in parking requirements?

M-1.2.2: Citywide VMT Reduction

Establish a framework for reducing VMT at the citywide scale. These measures may include, but are not limited to:

- Working with Valley Transit Authority to increase bus frequency and speed throughout Cupertino.
- Unbundling parking costs from property costs.
- Developing a fair-share cost program for Silicon Valley Hopper or car share initiatives for development projects.
- Implementing market pricing for parking spaces throughout the city.
- Limiting parking supply.
- Discouraging single occupancy vehicle travel.
- Implementing a citywide bikeshare program.

Q2: "Policy M-1.2.2: Citywide VMT Reduction" of the draft Chapter 5 Mobility Element proposes "Limiting parking supply" and "Discouraging single occupancy vehicle travel". For the majority area of Cupertino where there is no bus coverage now or in any near future, the reduction of accessibility to parking or vehicle travel would mean hardship for seniors, people with disability and families with young children. Please provide any previous meetings public inputs were sought on such policy proposal as a citywide policy.

Q3: "Discouraging single occupancy vehicle travel" is proposed in "Policy M-1.2.2: Citywide VMT Reduction" of the draft Chapter 5 Mobility Element. Cupertino is a small city where we don't operate any highway with "car pool lanes" where single-occupancy vehicles are not allowed. To "Discourage single occupancy vehicle travel", does that mean the city proposed to forbid "single occupancy vehicle travel" on some local city

streets?

- If yes, this would have big city-wide impact. What public inputs have been sought on such policy proposal as a citywide policy?
- If no, what does this policy is meant to do?

Q4: "Unbundling parking costs from property costs" is proposed in "Policy M-1.2.2: Citywide VMT Reduction" of the draft Chapter 5 Mobility Element. What does that mean?

Q5: "Requiring a Behavioral Intervention Program to..." is proposed in M-1.2.3: Project-Level VMT Reduction of the draft Chapter 5 Mobility Element. Would does this mean as an "Intervention"? Would there be enforcement for non-compliance?

Q6: "M-1.2.4: VMT Mitigation Banking Fee Program" is proposed for the draft Chapter 5 Mobility Element. What does that mean? Is this related to the Development Impact Fee program?

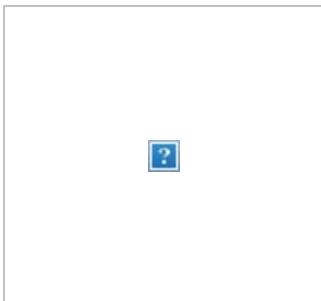
Q6A: M-1.2.4 states "This program shall fund the construction of facilities throughout Cupertino that support the reduction of VMT per service population". What kind of facilities would support the reduction of VMT? Such as parking lots near highway entrance or shopping areas for car share program?

M-1.2.4: VMT Mitigation Banking Fee Program

Establish a VMT Mitigation Banking Fee Program. This program shall fund the construction of facilities throughout Cupertino that support the reduction of VMT per service population impacts from new development and redevelopment projects.

Thanks,

Liang



Liang Chao

Councilmember

City Council

LChao@cupertino.gov

408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Re: Questions on HE - Mobility Element
Date: Monday, May 13, 2024 4:57:41 AM

Q7: "POLICY M-6.3: UNBUNDLED PARKING" is added to the draft Chapter 5 Mobility Element.

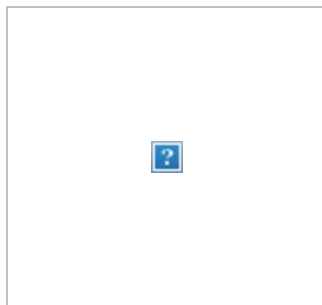
What is unbundled parking? What state law requirements are there for "unbundled parking"?

- For a mixed-use project, does that mean there won't be designated spaces for retail use?

POLICY M-6.3: UNBUNDLED PARKING

Where required by State law, require residential, commercial, and office uses to unbundle parking. Encourage commercial and office uses to unbundle parking.

Thanks.



Liang Chao

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City Council
LChao@cupertino.gov
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From: Liang Chao <LChao@cupertino.gov>
Sent: Monday, May 13, 2024 4:49 AM
To: Pamela Wu <PamelaW@cupertino.gov>
Cc: Luke Connolly <LukeC@cupertino.gov>; Benjamin Fu <BenjaminF@cupertino.gov>
Subject: Questions on HE - Mobility Element

Please provide answers for these questions for the 5/14 Council meeting.

The GPA for Chapter 5 Mobility Element added this section on VMT Reduction:

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M-1.2.2: Citywide VMT Reduction

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- Unbundling parking costs from property costs.
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- Implementing market pricing for parking spaces throughout the city.
- Limiting parking supply.
- Discouraging single occupancy vehicle travel.
- Implementing a citywide bikeshare program.

Q2: "Policy M-1.2.2: Citywide VMT Reduction" of the draft Chapter 5 Mobility Element proposes "Limiting parking supply" and "Discouraging single occupancy vehicle travel". For the majority area of Cupertino where there is no bus coverage now or in any near future, the reduction of accessibility to parking or vehicle travel would mean hardship for seniors, people with disability and families with young children. Please provide any previous meetings public inputs were sought on such policy proposal as a citywide policy.

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- If yes, this would have big city-wide impact. What public inputs have been sought on such policy proposal as a citywide policy?
- If no, what does this policy is meant to do?

Q4: "Unbundling parking costs from property costs" is proposed in "Policy M-1.2.2: Citywide VMT Reduction" of the draft Chapter 5 Mobility Element. What does that mean?

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Q6: "M-1.2.4: VMT Mitigation Banking Fee Program" is proposed for the draft Chapter 5

Mobility Element. What does that mean? Is this related to the Development Impact Fee program?

Q6A: M-1.2.4 states "This program shall fund the construction of facilities throughout Cupertino that support the reduction of VMT per service population". What kind of facilities would support the reduction of VMT? Such as parking lots near highway entrance or shopping areas for car share program?

M-1.2.4: VMT Mitigation Banking Fee Program

Establish a VMT Mitigation Banking Fee Program. This program shall fund the construction of facilities throughout Cupertino that support the reduction of VMT per service population impacts from new development and redevelopment projects.

Thanks,

Liang



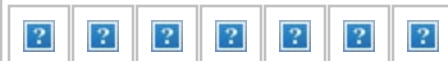
Liang Chao

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LChao@cupertino.gov

408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Questions on HE - RE: GPA for Chapter 3 Housing Element
Date: Monday, May 13, 2024 6:02:25 AM
Attachments: [image.png](#)

Q1: This policy on compatibility with surrounding areas is REMOVED from Chapter 3 Housing Element: "Strategy LU-3.3.4: Compatibility. Ensure that the floor area ratios of multi-family

residential developments are compatible with buildings in the surrounding area. Include a mix of unit types and avoid excessively large units."

Q1A: Why is this citywide policy removed?

Q1B: Is this sweeping waving of compatibility policy required by the HE or any state law?

Q1C: Could we adjust the policy to ensure compatibility with surrounding areas as a citywide policy, while allowing some high density HE sites to take exception to the policy, but not all HE sites?

- For example, the policy could be retained with an exception like "Certain sites may be allowed to be incompatible to apply the maximum density as identified in Resolution 24-XXXX."

Q2: Figure LU-2 added a phrase so NO setback rules apply to ANY of the priority sites:

"Building Planes (does not apply to housing development projects on sites listed in Resolution 24-XXXX)". Most of the HE sites are zoned low to medium density which could still allow the current setback/slope line to be applies.

Q2A: Why is this policy removed for ALL HE sites? Is this required by the HE or any state law?

Q2B: Could we adjust the policy to still apply the current setback rules, while allowing some exception for high density HE sites, not but for all HE sites.

Building Planes (does not apply to housing development projects on sites listed in Resolution 24-XXXX):

- Maintain the building below a 1:1 slope line drawn from the arterial/boulevard curb line or lines except for the Crossroads Area.
- For the Crossroads area, see the Crossroads Streetscape Plan.
- For projects outside of the Vallco Shopping District Special Area that are adjacent to residential areas: Where slope lines or other applicable height and setback limits for projects adjacent to residential areas are not established in a specific

plan, conceptual zoning plan or land use plan and in any adopted design guidelines, project review shall be required.

Q3: Figure LU-2 has maximum density, maximum height for most mixed-use sites, except for some sites in the Heart of the City (light green area). See the areas pointed with orange arrows. Some HE sites are there. And these are all sites eligible for AB 2011.

Q3A: What are the maximum density, maximum height for the sites not specified in Figure LU-2?

Q3B: If the standards (max density/height) are specified in a specific plan, but not in the general plan, would any state law consider that there is no standard in the general plan and concludes that there is no density/height limit on these sites?



Thanks.



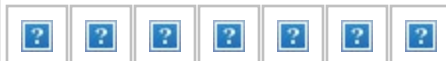
Liang Chao

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408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Questions on HE (EA): Aesthetic Impact - Pretty significant from high rise buildings 65-80 units/acre
Date: Monday, May 13, 2024 7:36:32 AM

The Environment Assessment concludes "Less than significant" impact for all five of the Aesthetic impacts: AES-1, to AES-5.

AES-Q1: The Proposed Modified project (2023-21 Housing Element) would rezone multiple sites to 65-80 units/acre and other sites 35-50 units/acre when the maximum density was only 35 units/acre in the 2040 General Plan or the No project (including pipeline projects). Thus, the building height of new developments would likely be double the current maximum height.

How is the assessment done to conclude that there is no significant impact for scenic views when the scenic views of many areas of the City would be affected by high rise? Please provide the methodology used and areas analyzed.

For reference:

AES-1 Implementation of the proposed Modified Project would not have a substantial adverse effect on a scenic vista.

Significance without Mitigation: Less than significant.

"In summary, potential future development under the proposed Modified Project would not further obstruct public views of scenic vistas from within the city. Similar views would continue to be visible between projects and over lower-density areas."

AES-Q2: The policy to "ensure compatibility with surrounding areas" is REMOVED from the proposed general plan amendment. Plus, the Proposed Modified project (2023-21 Housing Element) would rezone multiple sites to 65-80 units/acre and other sites 35-50 units/acre when the maximum density was only 35 units/acre in the 2040 General Plan or the No project (including pipeline projects). Thus, the building height of new developments would likely be double the current maximum height.

How is the assessment done to conclude that there is no "negatively impact the visual character of the city or the surrounding communities"?

Please provide the methodology used and areas analyzed.

For reference:

AES-5 Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to aesthetic resources.

Significance without Mitigation: Less than significant.

"... future development under the proposed Modified Project, in combination with other new development, would not negatively impact the visual character of the city or the surrounding communities."

Thanks.

Liang



Liang Chao

Councilmember

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408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Questions on HE (EA) - Fire Protection and emergency medical facilities
Date: Monday, May 13, 2024 8:16:17 AM

For reference:

PS-Q1: The proposed Modified Project would increase the total housing units from 24,351 (including about 3,000 units in pipeline projects) to 29,132 units within the 8-year Housing Element cycle. The population would increase from the current 60,000 people to a projected 81,037. Thus, there is an increase of over 35% in population from the 2023-31 Housing Element.

PS-Q1A: How is the assessment done to conclude that there is "less than significant impact" on fire protection and medical facilities with over 35% increase in population?

PS-Q1B: The policies listed do not seem to result in an increase of over 35% in the capacity of fire and medical services. What methodologies are used to determine that the capacity would increase ?

PS-Q1B: Would new facilities be necessary to support over 35% increase in population? If so, what would be the cost and how would it be covered?

For reference:

PS-1 Implementation of the proposed Modified Project would not result in the need for new or physically altered fire protection and emergency medical facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives.

Significance without Mitigation: Less than significant

"Similar to the Approved Project, the proposed Modified Project would increase demand on fire protection services, but growth would most likely occur incrementally over the lifetime of both the Approved and proposed Modified Projects. It would be unlikely that the magnitude of increased demands as a result of the full buildout potential of the proposed Modified Project would be placed on facilities immediately ..."

"Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in need for new or physically altered

fire protection and emergency medical facilities beyond what was evaluated in the General Plan EIR."

PS-Q2: The 2014 EIR was done for a project of 4421 units over 20 years period. Thus, the reasoning given for "less than significant impact" was "growth would most likely occur incrementally over the lifetime" of the project. But at the time, the increase was about 22% over a 20-year period (from 58,302 in 2013 to 71,300 in 2040). However, for the 2023-21 Housing Element, the growth of over 25% will happen in 8 years.

How is the assessment done to show that the fire protection and medical facilities would be able to grow "incrementally" when the growth rate is triple of the incremental growth envisioned in the 2014 EIR?

PS-Q3: With an increase of over 36% in population from the 2023-21 Housing Element in 8 years, none of the state laws or the general plan policies anticipated such a growth rate in a short period of time, which is about 3 times of the normal growth as anticipated in the 2015-40 general plan. The reason given for "less than significant impact" is that "Compliance with State and local laws, such as the General Plan 2040 policies listed in Impact Discussion PS-1., would ensure that fire protection services are adequate as future development is proposed.

How is the assessment done to determine that the policies in the current state law or the general plan would accommodate the growth rate proposed in the 2023-21 Housing Element in 8 years, which is three times of the normal growth rate.

For reference:

PS-2 Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to fire protection services.

Significance without Mitigation: Less than significant.

"... would not create an immediate need for new or physically altered facilities for SCCFD to provide fire protection services to its service area.

Compliance with State

and local laws, such as the General Plan 2040 policies listed in Impact Discussion PS-1, would ensure that

fire protection services are adequate as future development is proposed as a result of implementation of the proposed Modified Project."

Thank you.



Liang Chao

Councilmember

City Council

LChao@cupertino.gov

408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Re: Questions on HE (EA) - Fire Protection and emergency medical facilities
Date: Monday, May 13, 2024 8:22:01 AM

PS-Q4: For PS-3 and PS4 for police protection services, the reasons given for "less than significant" are also that "Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations". How is the assessment done to determine that the policies in the current state law or the general plan for police protection services would accommodate the growth rate proposed in the 2023-21 Housing Element in 8 years, which is three times of the normal growth rate anticipated by the general plan.

For reference:

PS-3 Implementation of the proposed Modified Project would not result in the need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives.

"As with the development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in need for new or physically altered police protection facilities beyond what was evaluated in the General Plan EIR."

PS-4 Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to police services.
Significance without Mitigation: Less than significant.

"As described, the proposed Modified Project would not create a need for new or physically altered facilities for police services. Compliance with State and local laws, such as General Plan 2040 policies and the strategy listed previously, would ensure that police protection services are

adequate as future
development is proposed"



Liang Chao

Councilmember
City Council
LChao@cupertino.gov
408-777-3192



From: Liang Chao <LChao@cupertino.gov>
Sent: Monday, May 13, 2024 8:16 AM
To: Pamela Wu <PamelaW@cupertino.gov>
Cc: Luke Connolly <LukeC@cupertino.gov>; Benjamin Fu <BenjaminF@cupertino.gov>
Subject: Questions on HE (EA) - Fire Protection and emergency medical facilities

For reference:

PS-Q1: The proposed Modified Project would increase the total housing units from 24,351 (including about 3,000 units in pipeline projects) to 29,132 units within the 8-year Housing Element cycle. The population would increase from the current 60,000 people to a projected 81,037. Thus, there is an increase of over 35% in population from the 2023-31 Housing Element.

PS-Q1A: How is the assessment done to conclude that there is "less than significant impact" on fire protection and medical facilities with over 35% increase in population?

PS-Q1B: The policies listed do not seem to result in an increase of over 35% in the capacity of fire and medical services. What methodologies are used to determine that the capacity would increase ?

PS-Q1B: Would new facilities be necessary to support over 35% increase in population? If so, what would be the cost and how would it be covered?

For reference:

PS-1 Implementation of the proposed Modified Project would not result in the need for new or physically altered fire protection and emergency medical facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives.

Significance without Mitigation: Less than significant

"Similar to the Approved Project, the proposed Modified Project would increase demand on fire protection services, but growth would most likely occur incrementally over the lifetime of both the Approved and proposed Modified Projects. It would be unlikely that the magnitude of increased demands as a result of the full buildout potential of the proposed Modified Project would be placed on facilities immediately ..."

"Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in need for new or physically altered fire protection and emergency medical facilities beyond what was evaluated in the General Plan EIR."

PS-Q2: The 2014 EIR was done for a project of 4421 units over 20 years period. Thus, the reasoning given for "less than significant impact" was "growth would most likely occur incrementally over the lifetime" of the project. But at the time, the increase was about 22% over a 20-year period (from 58,302 in 2013 to 71,300 in 2040). However, for the 2023-21 Housing Element, the growth of over 25% will happen in 8 years. How is the assessment done to show that the fire protection and medical facilities would be able to grow "incrementally" when the growth rate is triple of the incremental growth envisioned in the 2014 EIR?

PS-Q3: With an increase of over 36% in population from the 2023-21 Housing Element in 8 years, none of the state laws or the general plan policies anticipated such a growth rate in a short period of time, which is about 3 times of the normal growth as anticipated in the 2015-40 general plan. The reason given for "less than significant impact" is that "Compliance with State and local laws, such as the General Plan 2040 policies listed in Impact Discussion PS-1., would ensure that fire protection services are adequate as future development is proposed.

How is the assessment done to determine that the policies in the current state law or the general plan would accommodate the growth rate proposed in the 2023-21 Housing Element in 8 years, which is three times of the normal growth rate.

For reference:

PS-2 Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to fire protection

services.

Significance without Mitigation: Less than significant.

"... would not create an immediate need for new or physically altered facilities for SCCFD to provide fire protection services to its service area.

Compliance with State

and local laws, such as the General Plan 2040 policies listed in Impact Discussion PS-1, would ensure that

fire protection services are adequate as future development is proposed as a result of implementation of

the proposed Modified Project."

Thank you.



Liang Chao

Councilmember

City Council

LChao@cupertino.gov

408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Questions on HE (EA) - Parks and Rec resources
Date: Monday, May 13, 2024 8:42:26 AM

PS-Q5: PS-Q4: For PS-9 and PS-10 for parks and recreation facilities and services, the reasons given for "less than significant" are that "the General Plan policies in place and future development having to comply with the CMC regulations would help the City meet its target of three acres per 1,000 residents," per the Qimby Act.

With the 2014 EIR, the same reason was given to acquire about 39 acres when the growth of 25% in population happens over 20 years. With the 2023-2031 Housing Element, the growth of over 35% would happen over 8 years, at three times the rate. How is the assessment done to determine that the policies in the current state law or the general plan would be sufficient to accommodate higher growth rate in a shorter period of time?

PS-Q6: Are there new state laws or proposed Muni Code that would circumvent the existing Muni Code to ensure adequate parks and recreation services?

For reference:

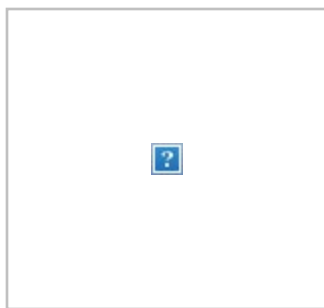
PS-9 Implementation of the proposed Modified Project would not result in the need for new or physically altered park facilities or other recreational facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives.
Significance without Mitigation: Less than significant.

"the General Plan policies in place and future development having to comply with the CMC regulations would help the City meet its target of three acres per 1,000 residents.
Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts from new or physically altered park facilities or other recreational facilities beyond what was evaluated in the General Plan EIR."

PS-10 Implementation of the proposed Modified Project would not increase the

use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur, or be accelerated.

"the General Plan policies in place and future development having to comply with the CMC regulations would help the City update and improve park and recreation facilities. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts from use of existing neighborhood and regional parks or other recreational facilities beyond what was evaluated in the General Plan EIR."



Liang Chao

Councilmember

City Council

LChao@cupertino.gov

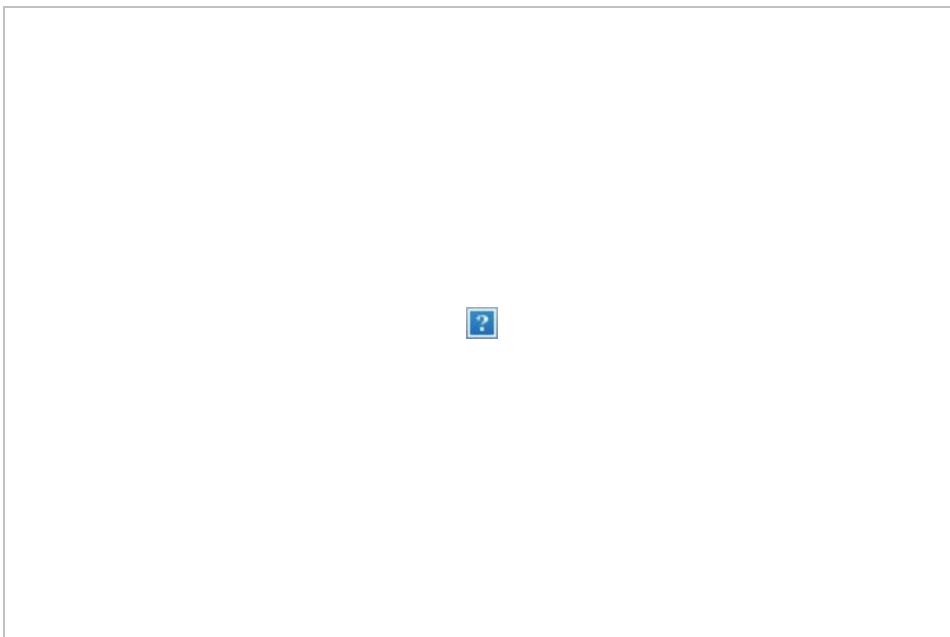
408-777-3192



From: [Liang Chao](#)
To: [Pamela Wu](#)
Cc: [Luke Connolly](#); [Benjamin Fu](#)
Subject: Questions on HE: Sites with no owner interest - Valley Church - Cupertino Housing Element Update - May 14, 2024 Public Hearing
Date: Monday, May 13, 2024 9:59:44 AM
Attachments: [image.png](#)
[Valley Church - Housing Element Update Ltr 5-9-2024.pdf](#)

HQ1: Besides Valley Church, there were a few other sites that have no owner interest, specifically sites 44, 45, 46, 47, 48.

Can do we remove them from the HE, especially when our total is 6,226 units, over 35% buffer over the required 4,599 units?



HQ2: There are 1,500 units from two approved projects, which are not counted towards the 6,226 units in the 2023-31. 900 units from Vallco and 600 units from Hampton.

- HQ2A: What are the reasons for not counting 900 units from Vallco (the Rise) as the city has recently approved their revision and they have proposed a timeline for construction?
- HQ2B: What are the reasons for not counting the 600 units from Hampton? Not allowed? Is there any letter from the applicant that they have no intention to develop? When will their DA expire?

HQ3: According to the current state law, for any HE site identified in the 2023-2031 Housing Element. If no project is proposed or approved by 2031, they can only be counted in the next HE if the city upzone the site AGAIN, right?

HQ4: Given that rule, a site can only be counted in the next cycle only if it is upzoned AGAIN, it seems it is not good to upzone one site too much in one HE cycle, for example from maximum 25 units/acre to 50-65 units/acre. It is best to upzone gradually. For example, upzone from min 25 units/acre to 24-35 units/acre this cycle and then add 10 units/acre in the next cycle. This is a better long-term planning method. Please explain why the city seems to upzone most sites to the maximum possible in this HE cycle?

HQ5: What is the total BMR funding the city has received during the 2015-2023 HE cycle? How many BMR units were developed? How many units were developed without any city/state/federal BMR funding? How many units were developed with city/state/federal funding? What's the land cost and construction cost per BMR unit?

HQ6: What is the projected total BMR funding required for the full implementation of the BMR units in the 2023-2031 Housing Element, even the land and construction cost of BMR units in Cupertino?

HQ7: It is common knowledge among developers that it is not economically feasible to develop high rise in the current economic environment. As a result, the proposed projects are mostly low to medium density. With the 2023-2031 Housing Element, we are applying MINIMUM density on every HE site, which is higher than even the MAXIMUM density in most sites in Cupertino. How realistic that these sites are developed at the MINIMUM density within the next couple of years?

HQ8: The City needs to meet 50% of the RHNA in 4 years from the start of the 2023-2031 HE cycle. How realistic that we could meet the 50% requirement? How we can achieve it?

Liang



From: Matt McLaughlin <MattVC@sixmacs.net>
Sent: Thursday, May 9, 2024 1:29 PM

To: Piu Ghosh (she/her) <piug@cupertino.org>; City Council <citycouncil@cupertino.gov>

Cc: John Schwarz <John@jhsconsult.com>; Jaime Burnett <jaime@valleychurch.org>

Subject: Valley Church - Cupertino Housing Element Update - May 14, 2024 Public Hearing

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Valley Church recently discovered that the City of Cupertino has included four parcels of land owned and used by Valley Church in the current Housing Element Update that is to be reviewed at a public hearing on May 14th, 2024.

The attached letter is Valley Church's request to have our parcels removed from the Housing Element Update as we have never been consulted in any way about our intended use of our land.

Sincerely,

Matt McLaughlin
Valley Church
Director of Administration & Finance
Office Hours: Monday 8 - 4
Wednesday 8 - 4
Thursday 8 - 12

CC 05-14-2024

#3

Investment Policy

Supplemental Report



ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL
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TELEPHONE: (408) 777-3220 • FAX: (408) 777-3109
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

SUPPLEMENTAL 1

Meeting: May 14, 2024

Agenda Item #3

Subject

Consider the City's Investment Policy

Recommended Action

Adopt Resolution No. 24-XXX accepting the City's Investment Policy

Background:

Staff's responses to questions received from councilmembers are shown in italics.

Q1: Given the fact that other cities are able to operate with about \$2M in cash/checking account or about 2% of total portfolio and the fact that Cupertino was able to operate with about 2% in Checking account before 2016. What has prevented us from maximizing investment revenue by keeping a low, but sufficient amount in Checking account?
(Councilmember Chao)

Staff Response: Staff recognizes the practices of other municipalities but notes that each city faces unique circumstances. Since 2016, Cupertino has experienced staffing changes, shifts in workload considerations, and fluctuations in the financial landscape. Factors such as market instability during COVID-19 and CDTFA audit have influenced our approach to cash management and investments. Staff will continue to prioritize safety and liquidity while considering investment opportunities to ensure prudent financial stewardship, as dictated by the investment policy.

Q2: What we need to improve our current asset management practices to maximize our investment revenue, while providing flexibility for liquidity? **(Councilmember Chao)**

Staff Response: As stated above, staff will prioritize safety and liquidity above returns; however, when staff is able to focus more of their time on day-to-day work versus other issues outside of that scope, staff will develop a robust cash flow model to refine the City's cash management.

Q3: The cap for LAIF was \$65M and it was recently increased to \$75M. It seems the city has kept about \$20-30M in LAIF in recent years, which is far from the cap of \$65M. What's preventing the city from putting more in LAIF? (**Councilmember Chao**)

Staff Response: Apart from LAIF's \$75 million cap, there are no restrictions limiting the City from investing more or less.

Q4: I have examined all the annual updates to the Investment Policy since 2012. I did not find significant changes. The size of the total portfolio does increase from \$50M in 2013 to \$239M in 2023. The City Manager's Feb. 27 responses (enclosed at the bottom of this email thread) pointed out "City's Investment Policy restricts funds invested in a money market or a CD account to be less than 20% (money market) or 30% (CD) of City's total investment."

Since the policy uses percentage of the portfolio as the limit for the amount allowed to be invested in CD or money market, why would that be a barrier for more efficient asset management? Maybe I am missing something. (**Councilmember Chao**)

Staff Response: Assets held by Chandler Asset Management are held to term. However, some investments may be callable. That means they call the investment before it reaches its term. When this happens, those dollars are automatically placed in a money market account by Chandler until they can be reinvested. Since the City may not be immediately made aware when an investment is called, and assuming the portfolio was close to its max, the City could be in violation of our investment policy.

Q5: If the current policy is a barrier for more efficient asset management, could we identify barriers, if any, and propose adjustments? (**Councilmember Chao**)

Staff Response: The investment policy is very restrictive as set forth in the California Government Code, [Sections 53600 et seq.](#)

Q6: LAIF is commonly used by governments, but its interest rate is not high. Other cities do consider other alternatives with higher yield and specified as such in their Investment Policy. For example, last year Chandler Asset Management suggested to City of Brea to use Treasury Bills as a LAIF Alternative. Have we considered this or other alternatives? (**Councilmember Chao**)

Staff Response: Chandler has provided City staff with some options for our short-term cash needs. City staff are evaluating those options against the investment policies guidelines of safety, liquidity, and yield. Additionally, as stated above, the City is actively keeping funds liquid due to the CDTFA audit.

Q7: I am not sure of the roles and responsibilities between the City Manager, City Treasurer and advisors like Chandler in terms of asset management. How do they communicate or how frequent in order to maximize our investment revenue, while providing flexibility for liquidity? (**Councilmember Chao**)

Staff Response: Staff meets with Chandler Asset Management at least quarterly, or more should there be a change in City finances that would impact the City's investments. The Treasurer communicates with the City Manager any major changes in the City's Investment strategy and/or policy. All investments made by Chandler are provided to City Council monthly through the Treasurer Investment Reports and a more detailed report is provided quarterly through the Treasurer Quarterly Investment report.

Q8: Investment authority appears to need to be granted annually, the City Council has not done this since 2014, why have we stopped? **(Councilmember Chao & Moore)**

Staff Response: Investment Authority is granted annually with the adoption of the investment policy.

Q9: Why are Treasurer Reports, Treasurer Investment Reports, Treasurer Bond Reports not signed off by the Treasurer who would presumably be assigned to review them? **(Councilmember Chao & Moore)**

Staff Response: The Treasurer signs off on all reports prepared by City staff. Including the quarterly investment and monthly treasurer reports.

Q10: City Council expressly retained the authority to appoint the Treasurer, the City Resolution to appoint Zach Korach as Deputy references this authority by Resolution which was also reiterated in the 1980s as shown in the Treasurer Files. What is the significance of not delegating the authority? Are we as Councilmembers liable for the review of our investors without the Council having fixed income security background and certification from an organization like CMTA? **(Councilmember Chao & Moore)**

Staff Response: Government Code section 34856 authorizes the City Council to vest power to appoint the Treasurer in the City Manager by ordinance. Under the Municipal Code, the Director of Administrative Services serves ex officio as the Treasurer. (CMC 2.48.020(A)(3).) The procedure for appointing the Treasurer is outside the scope of this agenda item.

Q11: The Investment Policy does not address a Cash Management section; can this be added? **(Councilmember Moore)**

Staff Response: Staff will conduct a comprehensive review of cash management language utilized in the investment policies of other agencies. This review will lead to incorporating a dedicated section within the City's policy that aligns seamlessly with our strategic investment plan. While considering various sources, including the State's policy, we will prioritize resource-efficient approaches in developing the City's cash management plan. Should a revised version of the investment policy be necessary, it will be presented to the City Council during a September meeting for consideration and approval.

Q12: How were the investment category limits established, and can the money market limit increase? **(Councilmember Moore)**

Staff Response: Staff will collaborate closely with Chandler Asset Management to gain insights into the establishment of investment limits, assessing whether these are dictated by state code or industry best practices. If feasible, staff aims to maximize the money market limit and maintain safety and liquidity.

Attachments Provided with Original Staff Report:

- A – Cupertino Investment Policy (clean)*
- B – Cupertino Investment Policy (redline)*
- C – Cupertino Investment Policy Statement Review Memo*
- D – Draft Resolution*