



To: Joint Planning Commission & Housing Commission
From: Ande Flower, EMC Planning Group; David Masenten, ELS Architecture and Urban Design
Date: June 22, 2022
Re: Sites Inventory Recommendation

SUMMARY

This memorandum furthers the Sites Inventory process and introduces the second Balancing Act map with associated website survey pages.

ACTION REQUEST

A request for recommendation to Council for further development of a final sites list necessary for environmental review and Housing Element update draft for HCD review.

BACKGROUND

The purpose of the Housing Element's site inventory is to identify and analyze specific land (sites) that is available and suitable for residential development in order to determine the jurisdiction's capacity to accommodate residential development and reconcile that capacity with the jurisdiction's Regional Housing Needs Allocation (RHNA). Sites are suitable for residential development if the City's regulations (zoning and general plan) allow enough residential development to accommodate its RHNA during the Housing Element Cycle 6 planning period (2023-2031). If there are not existing sites to accommodate the RHNA for each income category, the City must identify additional sites until there are enough sites.

The total RHNA for Cupertino's existing and future housing need is 4,588 housing units, at varying levels of affordability. Cupertino's Housing Element update is expected to accommodate 1,193 very low-income units, 687 low-income units, 755 moderate-income units, and 1,953 above moderate-income units.

The sites inventory analysis is the first step in the update process because it will help us understand what kind of environmental review may be necessary. Our process must enable enough time for a potential Environmental Impact Report (EIR), and all the technical reports that accompany that effort, to be prepared and certified.

The Planning Commission initially met on January 25, 2022 to discuss the layering concepts of the following maps:

- Interested property owners for housing element sites
- Qualifying properties based upon lot size
- Potential housing opportunity sites

- Corridor idea sites for future housing consideration
- Cupertino housing simulator maps, tables, and comments

The Planning Commission met for three additional study sessions on February 22, 2022, April 26, 2022, and May 24, 2022 (without EMC consultation) to further discuss a refined number of sites related to the following criteria:

- Interested property owners for housing element sites
- Deeper analysis for qualifying properties according to Planning Commission goals to balance east-west distribution of sites, minimize displacement, reduce up-zoning, and support declining school enrollment.

DISCUSSION

A revised table of sites is included as an attachment to this memorandum to be used as further discussion and as resources to use in tandem with the Cupertino Housing Simulator 2.0 release. Review and consideration of this list of sites by Planning Commissioners will guide staff's approach to presenting this information for Council review.

TIERS FOR SITES

Tier 1 is the default for all sites within the current Sites List, except for the Pipeline Projects and the Tier 2 sites. Through analysis, City Staff review, and Planning Commission guidance, the initial Sites list has transformed from nearly 400 sites to this refined list of 16 Pipeline Project parcels (those with entitlements), 58 Tier 1 parcels, and 23 Tier 2 parcels, for a total of 98 parcels (including Pipeline sites) for consideration with the Sites Inventory List. Tier 2 sites may be added back to the primary list or remain as secondary options for Council consideration.

BUFFER

A buffer to the initial RHNA (Regional Housing Needs Allocation) number is recommended by HCD:

To ensure that sufficient capacity exists in the housing element to accommodate the RHNA throughout the planning period, it is recommended the jurisdiction create a buffer in the housing element inventory of at least 15 to 30 percent more capacity than required, especially for capacity to accommodate the lower income RHNA. https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf

We are presenting options within the Balancing Act map, to enable the user to select either buffers that relate to the full RHNA of 4,588 units; or to instead select a buffer absent the Pipeline Projects, which projects with entitlements, and only in need of building permits to move forward with construction. HCD is requiring demonstrable evidence that sites are reasonably expected to be built within the eight-year Housing Element cycle. We have yet to secure letters from all Pipeline Project property owners stating their intention to build their projects by 2031, but are in the process of doing so and expect to have responses from the property owners confirming their intent to proceed with their respective projects.

The lower income RHNA is the specific need that is addressed through the No Net Loss program. We have initiated our analysis for addressing affordability as it relates to sites. Certainly, programs and policies will

be essential in Cupertino for low and very-low-income units to successfully be built. The general strategy is for affordable units to be distributed throughout the city.

DENSITY

Changes to density for sites may need to exceed the number shown with the attached tables and maps. This is because HCD will not accept a maximum density allowance as a proxy for reasonable anticipated development of the site. The revised table of sites shows minimum densities for each site and bases development of the site on the acreage and minimum density shown.

NO NET LOSS

The buffer is intended to assist Cities into the future, establishing a “bench” of potential additional housing sites that may be eligible to meet affordable housing criteria. It enables staff to report out such flexibility to HCD and can avoid the potential for urgent re-zoning during the mid-cycle of the planning period. The following is HCD guidance:

To comply with the No Net Loss Law, as jurisdictions make decisions regarding zoning and land use, or development occurs, jurisdictions must assess their ability to accommodate new housing in each income category on the remaining sites in their housing element site inventories. A jurisdiction must add additional sites to its inventory if land use decisions or development results in a shortfall of sufficient sites to accommodate its remaining housing need for each income category. In particular, a jurisdiction may be required to identify additional sites according to the No Net Loss Law if a jurisdiction rezones a site or if the jurisdiction approves a project at a different income level than shown in the sites inventory. Lower density means fewer units than the capacity assumed in the site inventory. https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf

If the approval of a development at a lower residential density results in the remaining sites capacity becoming inadequate to accommodate the RHNA by income category, a jurisdiction has up to 180 days from the approval to identify, or rezone, “sufficient additional, adequate, and available sites” to accommodate the remaining RHNA for each income category. <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-166-final.pdf>

CONSIDERATIONS FOR NEXT STEPS

Owners of sites that are not located in geohazard zones and meet the generalized size qualification, between 0.5 acre – 10 acres, were sent a letter that invites them to consider whether they might like to become a potential Housing Element site. Property owners of any size interested in constructing additional housing units on their site, can sign-up to have their property included in this Sites List at <https://rb.gy/2mz5eq>. This list will continue to impact the draft update throughout the life of this process. Property owner participation is invaluable for demonstrating the reasonableness that a site may be developed by 2031.

GENERAL TIMELINE

Following compilation of a Council-approved Sites Inventory List, the CEQA process will be initiated.

We will then provide a full early draft document for HCD review, with a 30-day public review period. The sooner we can bring a rough draft to HCD's attention, the better guidance our team will have in keeping our process on track to meet certification deadlines.

PUBLIC ENGAGEMENT OPPORTUNITIES

Website surveys and a refreshed Balancing Act are available on the Housing Element website for public comments. On the Engage Cupertino website, individual area pages have more information about each site and an opportunity to provide feedback. Comments are welcomed before July 12, 2022 at these locations:

Balancing Act Mapping (Housing Simulator):

<https://city-of-cupertino.abalancingact.com/cupertino-housing-element-part-ii?preview=35e1474dd85aa08e9f1f533ee06bf4c5>

Engage Cupertino Housing Website Surveys:

<https://engagecupertino.org/hub-page/housing-element>

Information will be collated after two weeks, with the initial capture of public comments ending on Tuesday July 12, 2022, so that it may be incorporated with a City Council agenda packet. All comments will then be collated and shared with decision-makers. These channels for comments will remain open beyond that date, and all comments will be incorporated into the public record for this Housing Element update.

ATTACHMENTS:

Attachment A: Sites Narrative

Attachment B: Sites List

Attachment C: Sites Map