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PLANNING DIVISION**

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CITY COUNCIL STAFF REPORT

Meeting: November 15, 2022

Subject

Status update on the 6th Cycle Housing Element update.

Recommended Action

Receive the report and direct staff to 1) publish the draft Housing Element and to solicit public feedback for 30-days and, 2) incorporate comments received in the draft Housing Element and submit the document to the State Housing and Community Development Department (HCD) for review.

Discussion

Following the Council's approval of the Sites Inventory on August 30, 2022, staff remained committed in completing a certified Housing Element and worked closely with the consultant in commencing the EIR for the required CEQA review. On October 11, 2022, the City received an administrative draft Housing Element document. With that, staff recommends the City Council publish the draft document to solicit the public's feedback for 30-days and to submit the draft document to HCD for review.

At present, a Sites Inventory has been approved and extensive community outreach has been completed. These are key early steps in the Housing Element update process. The upcoming steps necessary to complete and certify the Housing Element are as follows (see Figure 1, below, for a graphic representation):

- 1) Make the Draft Housing Element available for public comment for a period of 30 days, as required by state law (Government Code, section 65585(b)(1) and respond to all comments received. The Draft could be made available as soon as November 16, 2022;
- 2) Submit the Draft Housing Element to HCD for their review and comment. This could be done as soon as mid-January 2023;
- 3) HCD's review period is 90 days. During the latter part of this review period (60-70 days into the 90-day period), prior to receiving HCD's comment letter, we anticipate that City staff and the City's consultant will meet with HCD to discuss their main issues and the changes that will be

necessary to make the Draft Housing Element a certifiable document. It is estimated that HCD's review be completed by mid-April 2023;

4) Once HCD's formal comment letter is received, staff and its consultant will make any necessary changes to the Draft Housing Element. The time involved to revised the Draft is variable, depending on the extent of the changes, but is estimated at 30-60 days;

5) The revised Draft Housing Element will then be presented to the City's Housing Commission, Planning Commission and City Council for their review and comment. Additional review of the revised Draft Housing Element by HCD may be necessary (this would take up to 60 days). It is estimated that the review of the revised Draft by the Housing Commission, Planning Commission and City Council will take two to four months and could occur between June and October 2023;

6) The City Council is the local legislative body that adopts the Housing Element. The Housing Element must then be certified by HCD and found compliant with state law. The City expects to adopt its Housing Element by December 2023.

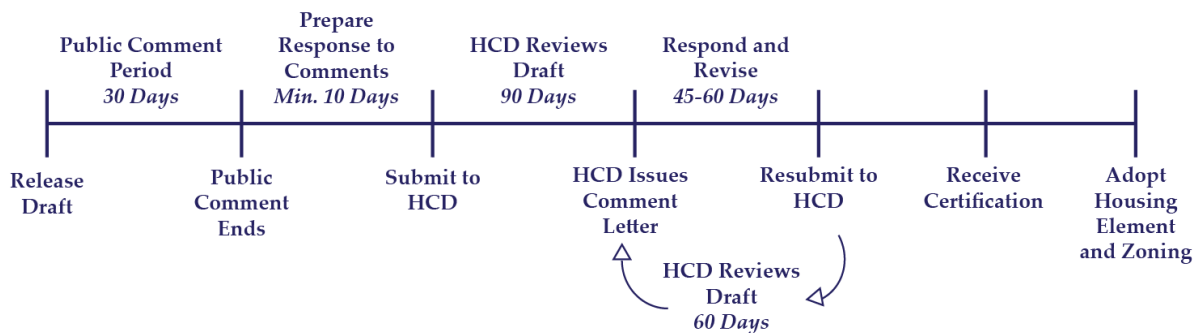


Figure 1: Upcoming Steps Roadmap

Analysis

Alternatives to Draft Submittal to HCD

State housing element law requires that any draft housing element be submitted to HCD at least 90 days prior to its adoption. (Gov. Code, § 65585(b)(1).) In practice, the Housing Element certification process is iterative, often requiring multiple rounds of HCD review and comment before HCD finds that a housing element is in substantial compliance with state law.

Given the iterative nature of the review process, it would be advisable to provide a Draft Housing Element to HCD as soon in the update process as is feasible. However, prior to submitting a Draft Housing Element to HCD, the City is required to make the Draft available for public comment for a period of 30 days, and if any comments are received on the Draft then a response to comments period of at least 10 days is also required. Following this, the Draft Housing Element can be submitted to HCD for their review and comment. As described above, it typically takes 90 days for cities to receive a response from HCD in the form of a detailed comment letter.

If the City wishes at this time to accelerate the Housing Element update process and submit a Draft to HCD by the certification deadline of January 31, 2023, then a Draft Housing Element

would need to be made available for public review by early December at the latest.¹ Given that the current Draft is an administrative draft, staff anticipates substantial comments will be provided by the public during the 30-day public review period.

Alternatively, the City could allow a new consultant time to review and modify the current administrative Draft Housing Element prior to submission to HCD. This approach would likely result in an improved draft that would generate fewer comments from HCD staff, but would add time to the process. It is estimated that the soonest a revised draft could be prepared by a qualified consulting firm would be late-February 2023. Factoring in the required public comment and response to comments period this would mean that the soonest the City could submit the revised Draft to HCD would be April 2023.

Based on the additional time involved to revise the current Draft Housing Element, staff recommends that the current draft be made available now for public comment and response in preparation for submittal to HCD in order to expedite the review and certification processes. This accelerated approach, if taken, would be a different direction than what was previously discussed. Previously, the direction has been to present the Draft Housing Element to the Housing and Planning Commissions for their review and then to City Council, prior to submittal of the Draft to HCD. The sole reason for this change in direction is to save time and receive feedback from HCD sooner in the process. Once comments have been received from HCD and a revised draft prepared the revised draft can then be presented to the Housing and Planning Commissions for their review and, ultimately, to the City Council for review and adoption.

Background: 6th Cycle Housing Element Update/RHNA

The City is currently preparing its 6th Cycle Housing Element update, which covers the planning period 2023 to 2031. The Housing Element is part of Cupertino's General Plan and identifies policies and programs intended to meet the housing needs of the City's current and future residents, at all levels of income.

State law requires that every city and county in California adopt a Housing Element every eight years to reflect the Regional Housing Needs Allocation (RHNA) established for each jurisdiction. The table below indicates the City's RHNA for the 2023-2031 planning period.

Income Levels	RHNA (units)
Very Low Income (<50% of AMI)	1,193
Low Income (50-80% of AMI)	687
Moderate Income (80-120% of AMI)	755
Above-Moderate Income (>120% of AMI)	1,953
Total	4,588

Once a city's RHNA has been determined that city must demonstrate that it has adequate housing sites to accommodate its RHNA. There are specific requirements on site selection to ensure that the City has sites, with appropriate zoning and development standards in place, to support the development of housing for persons at all income levels, as specified by State law.

The California Housing and Community Development (HCD) Department is the oversight agency that certifies housing elements throughout the state. For all Bay Area jurisdictions, including Cupertino, housing elements are required to be certified by HCD by January 31, 2023. At present, only one Bay Area city has a certified 6th Cycle Housing Element with a little over two months remaining to the certification deadline.

On September 21, 2021, the City Council awarded a consultant agreement to prepare the 6th Cycle Housing Element update to EMC Planning Group (EMC). Since that time City staff and EMC held over 20 public meetings related to the Housing Element update, beginning with two City Council study sessions, on September 28 and November 16, 2021, which focused on the overall Housing Element update process and state requirements that have greatly expanded the role and extent of public outreach required for the 6th Cycle update. On December 9, 2021, staff and EMC held both a daytime study session with the Housing Commission and an evening community workshop. Like the previous Council meetings, the meetings on December 9 focused on the overall Housing Element update process and new state requirements.

In early March 2022, the City Council held meetings focusing on the community engagement component of the Housing Element and considered establishing a Stakeholders Group to provide input on community engagement. The Council instead established an ad hoc Community Engagement Plan-Strategic Advisory Committee (Advisory Committee) comprised of elected and appointed officials for this task. The Advisory Committee has since met eight times, most recently on October 26, 2022.

Housing Sites Inventory Process

During the 2022 calendar year, the primary focus of the Housing Element update has been the establishment of a housing Sites Inventory that would enable the City to meet its 6th Cycle housing needs, or RHNA. The Sites Inventory, which was approved by Council on August 29 and 30, 2022, is the list of City Council-approved properties that identifies where housing is likely to be developed during the 2023-2031 planning period.

Approval of the Sites Inventory was crucial to commencing the environmental review process and defining the scope of the Housing Element update as a project subject to the California Environmental Quality Act (CEQA). Given the scope of the Housing Element update, and the rezoning and land use changes necessary to implement it, an environmental impact report (EIR) will be prepared.

The Planning Commission held six study sessions/meetings between January 25 and July 5, 2022, focusing on selecting properties for the Sites Inventory. The last two meetings (June 28 and July 5) were held jointly with the Housing Commission. The meetings progressed from a more general, citywide discussion of potential housing sites, based on state Housing and Community Development (HCD) eligibility guidelines, to a more specific discussion focused on selecting sites at specified densities within specific areas of the City. During the series of meeting and study sessions, the Commissioners provided staff with principles and objectives to guide which sites should be included, specifically that: 1) housing sites should be dispersed throughout the City and strive for a balance between the City's eastern and western areas; 2) new housing sites should avoid or minimize displacement of existing uses, particularly existing residential uses that would

necessitate the relocation of residents; 3) the Housing Element should avoid significantly “up-zoning” sites to the extent feasible; and 4) the Housing Element should include new housing sites that could support the City’s public schools and help counteract declining enrollment trends that are occurring citywide.

Based on this input, staff and EMC prepared a focused list of potential housing sites to better illustrate the locations of the properties. Extensive public comment was provided throughout the April 26 Planning Commission meeting, where the Commission reiterated its previously-stated principles and goals for housing site selection and also directed staff to focus on the potential inclusion of several “key” sites along South DeAnza and Stevens Creek Boulevards.

On June 28 and July 5, 2022, the Planning and Housing Commissions held a special joint meeting to finalize their housing sites inventory recommendation to Council. The Commissions’ sites inventory recommendation largely aligned with staff’s recommendations, but key changes included increasing housing densities to areas on the City’s west side, particularly in the South DeAnza Boulevard and Bubb Road special areas and the North and South Monta Vista neighborhoods. The Commissions also recommended that development standards be established that allow for more intensive development along the street frontage portions of the DeAnza and Stevens Creek Boulevard corridors, with development on the portions of these properties that abut single-family neighborhoods limited in scale to preserve the existing neighborhood character.

On August 29 and 30, 2022, the City Council held meetings to consider the joint Planning and Housing Commissions sites inventory recommendations and to take action on the sites inventory so that the CEQA process could commence. During these two meetings the Council reviewed the prospective housing sites by neighborhood and special area, making decisions whether the recommended sites should be included on the inventory, considered a Tier 1 or Tier 2 site (Tier 1 sites are part of the sites inventory; Tier 2 sites are not, but may be included at a later time, if additional housing sites are needed based on HCD’s review of the Housing Element), and at what minimum density the sites should be developed. Overall, the Council’s decision on the sites and densities were aligned with the Commissions’ recommendations, with notable changes being the elimination of several sites along Stevens Creek Boulevard to the east of De Anza Boulevard and inclusion of several sites not previously recommended, in the Bubb Road Special Area, as Tier 2 sites. The Council’s selected sites would result in the potential of 5,720 new housing units, thus meeting the City’s RHNA with an approximate 25% buffer.

Next Steps

If the City Council accepts staff’s recommendation to submit the current Draft Housing Element to HCD for their review and comment, staff will make Draft available for public comment on November 16, 2022 in order to have the Draft submitted to HCD prior to January 31, 2023.

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