



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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CITY COUNCIL STAFF REPORT

Meeting: August 29, 2022

Subject

Meeting on the Housing Element update focusing on the establishment of a housing sites selection inventory.

Recommended Action

That the City Council receive the report and presentation, provide input on the proposed housing inventory sites, and consider approval of the sites on the “Recommended Sites Inventory Table” (Attachment D) as the 6th Cycle Housing Element sites inventory.

Discussion

The Planning and Housing Commissions held joint meetings focused on the Housing Element update Sites Inventory on June 28 and July 5, 2022. During these meetings, the Planning and Housing Commissions made recommendations to the City Council regarding which sites should be included on the Inventory. The Commissions’ recommendations are listed in the Recommended Sites Inventory (Attachment D). On August 16, the City Council met for the first time to consider the Housing Element Sites Inventory. After an initial staff presentation, public comment, and discussion by Councilmembers, the item was continued to a special meeting on August 29, 2022. The August 16 staff report, discussing the Housing Element update and Sites Inventory process is included as Attachment D of this staff report. All attachments to the August 16 report are also included.

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Reviewed by: Piu Ghosh, Planning Manager

Christopher Jensen, City Attorney

Michael Woo, Assistant City Attorney

Approved by: Benjamin Fu, Director of Community Development

Attachment A – August 29 Memorandum from EMC Planning

Attachment B – Survey Responses from EMC Planning

Attachment C – Summary of Sites Inventory Changes

Attachment D – Recommended Sites Inventory Table (Attachment A from August 16 staff report)

Attachment E – Cupertino Sites Overview (Attachment B from August 16 staff report)

Attachment F – Pipeline, Tier 1 and Tier 2 Projects Map (Attachment C from August 16 staff report)

Attachment G – Neighborhood Map Series (Attachment D from August 16 staff report)



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That the City Council receive the report and presentation, provide input on the proposed housing inventory sites, and consider approval of the sites on the “Recommended Sites Inventory Table” (Attachment A) as the 6th Cycle Housing Element sites inventory.

Discussion

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 income levels. State law requires that every city and county in California adopt a Housing Element every eight years to reflect the Regional Housing Needs Allocation (RHNA) established for each jurisdiction. The City’s RHNA is 4,588 units for the 2023-2031 planning period. Based on income levels, Cupertino’s RHNA of 4,588 breaks down as follows: 1,193 Very-Low income units; 687 Low income units; 755 Moderate income units; 1,953 Above-Moderate, or market rate, units. Once a city’s RHNA has been determined that city must demonstrate that they have adequate housing sites to accommodate their RHNA. There are specific requirements on site selection, ensuring that the City has policies in place to support the development of housing for persons at all income levels, as specified by State law.

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 EMC and City staff have held numerous 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, EMC held both a daytime study session with the Housing Commission and an evening community workshop. Like the previous Council meetings these studies sessions 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 established the ad hoc Community Engagement Plan-Strategic Advisory Committee (Advisory Committee) to guide the planning of the City's future community engagement and compliance with State Affirmatively Furthering Fair Housing (AFFH) requirements. The Advisory Committee has met five times between March 30 and July 25 and will next meet on September 16, 2022.

Planning and Housing Commission Sites Inventory Meetings

During the 2022 calendar year, a primary focus of the Housing Element update has been the establishment of a housing sites inventory that would allow the City to meet its 6th Cycle housing needs, or RHNA. The sites inventory is the list of City Council-approved properties that identifies where housing will be developed during the 2023-2031 planning period. Approval of the sites inventory is 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 scale of the Housing Element update, an environmental impact report (EIR) will be prepared. The Environmental Review Committee will consider the scope of the environmental analysis before the EIR is presented to the Planning Commission and City Council.

The Planning Commission held meetings focused specifically on the Housing Element sites selection on January 25, February 22, April 26, and May 24, 2022, with each meeting progressing from a more general, citywide discussion of potential housing sites and locations to a more specific discussion focused on selecting sites at specified densities.

At the January and February Planning Commission study sessions, staff and EMC provided overviews of the housing sites selection process and identified nearly 400 properties citywide that could potentially be placed on the City's housing sites inventory. The majority of these properties fell within the property size range, 0.5-10 acres, recommended by the California Department of Housing and Community Development (HCD), the State agency that oversees the Housing Element update process and ultimately certifies all city and county Housing Elements. During the January and February study sessions, Planning Commissioners provided staff with principles and objectives to guide which sites should be included, specifically 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 city and county wide.

Based on this input, staff and EMC presented a reduced, more focused list of potential housing sites at the April 26 Planning Commission meeting, grouping the potential sites by neighborhood and special area to better illustrate the locations of the properties. Extensive public comment was provided at the April 26 meeting, where the Planning 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 (the meeting was continued from June 28 to July 5) to finalize their housing sites inventory recommendation to Council. The Commissions' sites inventory recommendation (Attachment A) largely coincides with staff's June 28 recommendation to the Planning and Housing Commissions, but it also includes key changes, notably increasing housing densities to areas on the City's west side, such as the South DeAnza Boulevard and Bubba Road special areas, as well as 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 but that development of the properties along these corridors adjacent to single-family neighborhoods be limited in scale to preserve the existing neighborhood character. The sites listed on Attachment A, excluding properties designated as "Tier 2," are the Commissions' recommended sites. The Commissions' discussion and recommendations are discussed further in the Analysis section, below. Attachments B and C, respectively, "Cupertino Sites Overview" and "Pipeline, Tier 1, and Tier 2 Projects Map," provide additional information on the housing sites and their locations throughout the City.

Analysis

Pipeline Projects and RHNA

The Recommended Sites Inventory Table (Attachment A) included with this staff report is the list of properties recommended by the Planning and Housing Commissions to the Council for inclusion on the housing sites inventory. At the top of Attachment A are the City's nine residential "pipeline projects." Pipeline projects are those that have received development entitlements but have not yet been constructed or received building permits or certificates of occupancy for any of the approved residential units. The Rise (the former Vallco Shopping Center site) and the nearby The Hamptons Apartment Homes are the most significant of these pipeline projects in terms of the number of units, with over 3,000 new dwellings entitled between them. Given that pipeline projects have all the necessary

approvals in place to proceed to the development stage, these projects have a high degree of certainty that they will be constructed within the 2023-2031 planning cycle. In total, Cupertino has 3,545 pipeline units, a significant amount, making up 77% of the City's overall RHNA of 4,588. In addition to pipeline units, the City can take credit for accessory dwelling unit (ADU) production that is anticipated to occur in the next planning cycle; it is estimated, based on the City's ADU production over the last three years, that Cupertino will add 25 ADUs per year. The amount of pipeline units plus estimated ADU units appears to leave the City only 843 units short of its RHNA. However, since the RHNA is broken down into the Very-Low, Low, Moderate and Above-Moderate income categories, those categories must be taken into consideration during the site selection process, altering the total number of units needed to comply with the RHNA.

TABLE 1

	Very-Low Income	Low Income	Moderate Income	Above- Moderate	Total Units
RHNA	1,193	687	755	1,953	4,588
Pipeline Projects (9 projects)	300	988	40	2,217	3,545
ADUs (<i>based on past prod.</i>)	60	60	60	20	200
Balance*	833	0	655	0	1,488

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

As Shown in Table 1, above, due the significant amount of pipeline and units, the City is already exceeding its RHNA in the Low and Above-Moderate income categories for the 2023-2031 planning period. The City, however, cannot meet its Very-Low and Moderate income RHNA requirements through the pipeline projects, resulting in a need (shown as "Balance" in Table 1) of 1,488 Very-Low and Moderate income units beyond those provided by pipeline projects. Additionally, HCD recommends a "buffer" of between 15-30% of additional units be included in the sites inventory for each of the below market-rate income categories (i.e., Very-Low, Low and Moderate incomes), in accordance with the State's No Net Loss Law. The concept of buffer and the No Net Loss Law are discussed in more detail, below.

Recommended Housing Sites

Listed below the pipeline projects on the Recommended Sites Inventory Table (Attachment A) are the properties recommended for inclusion on the housing sites inventory. There are two "tiers" of properties shown, Tier 1 and Tier 2. Tier 1 properties are the recommended sites, and Tier 2 properties (indicated in the second column of Attachment A) are included as alternative sites for reasons discussed, below. There are 56 individual Tier 1 properties that, if developed at the minimum densities specified in the Table, would result in 2,090 new housing units. When staff made its sites inventory recommendation to the Planning and Housing Commissions on June 28 the total Tier 1

units was estimated at 1,871; based primarily on increasing the density to the sites recommended by staff, particularly along the South DeAnza Boulevard corridor, the Planning and Housing Commissions added over 200 additional units through their June 28 and July 5 review.

The primary reasons staff recommended these properties to the Planning and Housing Commissions for inclusion on the sites inventory was based on the guidance given by the Planning Commission during the four January-May Planning Commission study sessions, specifically:

1. The properties are not clustered in the Heart of the City/Stevens Creek Boulevard corridor. The four Stevens Creek Boulevard properties on the recommended inventory are all located east of DeAnza Boulevard;
2. The properties are generally dispersed throughout the City (Attachment C), including significant development potential on the City's west side. For instance, excluding the large number of pipeline units, 1,423 of the units are located between DeAnza Boulevard and the City's western boundary, whereas only 676 non-pipeline units are located on properties east of DeAnza Boulevard;
3. The recommended sites minimize or avoid potential displacement of existing residents through future redevelopment of the sites for housing.

Generally, the Recommended Sites Inventory (Attachment A) has three major areas of concentration for new housing in the City. These three areas have 1,482, or 71%, of the 2,090 recommended units. They are:

- Stelling Gateway/Homestead (440 units) in the northwestern portion of the City;
- South De Anza (462 units) in the southwestern portion of the City; and
- North Vallco Park/Vallco Shopping District (580 units) in the northeastern portion of the City.

The remaining 608 Tier 1 units are spread throughout the City's neighborhoods and special areas. As noted, above, if the pipeline units are not factored in, there are more potential units (1,414) located west of DeAnza Boulevard than east of DeAnza Boulevard (676), consistent with the Planning Commission's general direction stated during the study sessions held earlier this year. Going into the June 28 joint Planning and Housing Commission meeting, staff had initially recommended more of an even east-west split (896 units west of DeAnza; 948 east of DeAnza) for new housing units. The Commissions' recommendation to Council further emphasizes increasing the minimum density of the recommended properties on the west side relative to the eastern portion of the City.

Buffer/No Net Loss Law

Even though only 1,488 units are needed (Table 1, p. 4) to meet the City's RHNA by income category, once pipeline projects are accounted for, HCD recommends a "buffer" of 15-30% additional units be included in the sites inventory. The purpose of the buffer is

to comply with the State's No Net Loss Law (SB 166), which requires that sufficient adequate sites are available at all times throughout the 2023-2031 RHNA planning period, for each income category. For instance, if the City were to approve a project, or a series of projects, at lower densities or different income levels than what is designated in the Housing Element, it could result in the City dropping below the required number of units for one or more income level categories. To prevent this from happening, HCD recommends a RHNA buffer of 15-30%. However, HCD does not mandate any particular number. Given the lack of a mandate, some jurisdictions have included buffers greater than 30%, while others have included less than 15% in their Housing Elements.

Ostensibly, a buffer at the higher end of the range will provide more assurance that sites will be consistently available at all income categories during the planning period than would a lower percentage buffer. Since pipeline projects are already entitled and therefore have a high degree of certainty in terms of knowing the total number of units, as well as the number of units within each RHNA income category, there is less of a need for a buffer for these project sites. In addition to the pipeline projects the Recommended Sites Inventory has 2,090 Tier 1, units, and an additional 200 ADUs, for a total of 2,290 units. Combined with the pipeline projects 3,545 units this brings the total to 5,844 units, 1,256 units more than the City's RHNA, for a buffer of 27%, in the upper end of HCD's recommended 15-30% range.

Thus, when reviewing the Sites Inventory Table, staff recommends maintaining the approximate number of units that would result from the recommended Tier 1 sites at the densities specified, plus the number of buffer units desired. The City Council has discretion to select a buffer of any size. However, Council should keep in mind that a smaller buffer increases the risk that the City could be required to revise the Housing Element during the 2023-2031 planning period to comply with No Net Loss requirements. If there are additional sites proposed to be added to the Table, such as Tier 2 sites that include properties in the Heart of the City area, this could enable Council to remove some of the Tier 1 sites or reduce minimum required site densities below those shown on the Recommended Sites Inventory.

Density/Affordability Considerations

One of the primary reasons the Recommended Sites Inventory indicates the minimum density for all of the housing sites is that HCD bases the site's development potential on the minimum density shown. Even though a property may actually be developed over the minimum density, for instance, a property designated as 30 units/acre developing at 40 or 50 units per acre, HCD is focused on what is considered the realistic development potential of the sites, which HCD typically considers the minimum density. However, when approving the sites inventory, Council has the flexibility to determine a density range, establishing minimums and maximums, similar to that used in land use regulations such as the General Plan Land Use Element or specific plans. Two concerns

to keep in mind if the minimum density is lowered are the reduction of the RHNA buffer and the difficulty of lower density sites being able to provide affordable housing, which is one of HCD's primary objectives. In terms of affordability HCD has strongly recommended that sites have a minimum density of 30 units/acre. Below that level of density affordability becomes more difficult to achieve, and HCD would require documentation that affordable housing would be feasible at the lower density. Presently, the Recommended Sites Inventory has 56 individual properties listed, 20 of which have a minimum density of 30 units/acre and 24 with a minimum density of 50 units/acre. Only twelve of the properties listed have minimum densities below 30 units/acre. Therefore, nearly 80% of the properties listed meet HCD's affordability criteria of 30 units/acre. The density at which sites develop, or are anticipated to develop, is important for the City to produce the required number of units. The City could therefore adopt a strategy to require "Priority Housing" sites to develop at the minimum density indicated in the Housing Element to ensure that the City achieves its goals rather than allowing them to develop at a lower density. Other sites could have greater flexibility.

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

Next Steps

Once the City Council approves the housing sites inventory, the CEQA/environmental review process for the Housing Element update will commence. It is anticipated that the CEQA process will take approximately nine months to complete. During this time EMC and staff will be preparing the draft Housing Element to submit to HCD for its initial review and will be completing the community engagement process.

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Attachment A – Recommended Sites Inventory Table

Attachment B – Cupertino Sites Overview

Attachment C—Pipeline, Tier 1 and Tier 2 Projects Map
Attachment D—Neighborhood Map Series