



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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CITY COUNCIL STAFF REPORT

Meeting Date: August 21, 2018

Subject

Response to the June 2018 Santa Clara Civil Grand Jury Report on “Affordable Housing Crisis: *Density is our Destiny*.”

Recommended Action

Review and authorize the City Manager to send the City’s response to the Grand Jury Report on “Affordable Housing Crisis: *Density is our Destiny*” (see Attachment A.)

Discussion

Background

In June 2018, the City received a letter from Peter L. Hertan, Foreperson of the 2017-2018 Civil Grand Jury transmitting its final report, Affordable Housing Crisis: *Density is our Destiny* (See Attachment B). The Santa Clara County Civil Grand Jury issued the report on June 21, 2018 pursuant to its investigation into challenges faced by the County of Santa Clara and its 15 cities, and non-profit agencies such as the Housing Authority of Santa Clara County, Valley Transportation Authority (VTA) and Santa Clara Valley Water District (SCVWD,) in the production of below market rate (BMR) housing (see Attachment C). The Grand Jury Report states that it tackled the issue of affordable, or below market rate (BMR) housing since the need for affordable housing is critical, California’s report card gives Santa Clara County an F grade and the need for more housing has challenged the County for more than a decade.

The Grand Jury researched Housing Elements, Regional Housing Needs Allocation (RHNA,) and actual production of units, for both the current RHNA cycle (2015-2023) and the prior cycle (2007-2014.) The Grand Jury’s review focused on the following topics:

1. RHNA
2. NIMBY vs YIMBY
3. Inclusionary Housing ordinances
4. Transit-Oriented Development
5. Jobs-Housing Ratios

6. Linkage and Impact Fees
7. Employer Contributions
8. Accessory Dwelling Units
9. Governmental Entities other than Cities

The Civil Grand Jury Report directed individual cities to respond to specific findings and recommendations by September 20, 2018.

The Housing Commission reviewed the response proposed by staff to the Civil Grand Jury Report on August 9, 2018, and voted 3-0 (Bose and Zhao absent) to recommend that the City Council approve the response. Four members of the public spoke about this item and commented that:

- This is an odd choice of topics for the Civil Grand Jury to tackle
- The report does not identify the Grand Jury members
- The use of the phrase “NIMBY” is undesirable
- Cost of labor has gone up significantly more since there is a supply and demand problem for labor
- There is no infrastructure to generate the needed amount of housing
- Housing has to be built ahead of demand
- Cities should not react to a problem (affordable housing) when it is at its peak.

Analysis

The City of Cupertino is included in the Santa Clara County Civil Grand Jury Report because it is a permitting authority for building permits and land use authority within the County of Santa Clara. As a result of its inclusion in the report, the City is required to respond by letter or electronic transmission to the Civil Grand Jury’s Findings and Recommendations within 90 days, pursuant to California Penal Code 933.05. The City may respond to the report’s Findings in one of the following ways:

- | | |
|-------------------|----------------------|
| ▪ Agree | ▪ Partially Disagree |
| ▪ Partially Agree | ▪ Disagree |

The City may respond to the Recommendations in one of the following ways:

- | | |
|-------------------------------------------------------------------|-----------------------------|
| ▪ Has been implemented | ▪ Requires further analysis |
| ▪ Has not been implemented, but will be implemented in the future | ▪ Will not be implemented |

The Civil Grand Jury Report on “Affordable Housing Crisis: *Density is our Destiny*” included 20 Findings and 19 associated Recommendations. Cupertino is required to respond to ten findings and nine recommendations. Attachment 1 contains the City’s draft response to the Findings and Recommendations.

In summary, the response states that the City agrees with seven findings and partially agrees with three findings. In addition, responses to all nine recommendations to which the City must respond to have also been included. If it requires future implementation, a specific timeframe has been given.

As a result of the Grand Jury Report's recommendation, the City will begin to publish the number of BMR units constructed on the City's website starting April 2019.

In addition, as a result of the Grand Jury Report's recommendations there are three action items that would require further analysis by the City:

- 1) Consideration and formation of a RHNA subregion for Santa Clara County, which the Grand Jury recommends as being beneficial to share allocation and resources between high-cost and low-cost cities.
- 2) Collaborating on two County-led task forces, if and when formed:
 - a) A task force which communicates the value and importance of each city meetings its RHNA objectives for BMR housing and
 - b) A task force to establish housing impact fees for employers to subsidize BMR housing. The City's response states that the task force should only identify how such an impact fee might be established, but allow cities the flexibility to set rates tailored to each jurisdiction.¹

Next Steps

Once approved, the responses will be finalized and transmitted to the Santa Clara County Civil Grand Jury by the deadline of September 20, 2018.

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Reviewed by: Aarti Shrivastava, Assistant City Manager

Approved by: Amy Chan, City Manager

Attachments:

- A. City's Response to Civil Grand Jury Report: *Density is our Destiny*

¹ It should be noted that Cupertino already has one of the highest housing mitigation fees for residential development (applicable only to projects with less than seven units, all other projects are required to produce BMR units) and commercial/industrial/office linkage fees for non-residential development, in the County. As a part of the Council's 2018-2019 Work Program, staff is in the process of preparing recommendations on whether to increase the current (15%) inclusionary requirement and/or increase the mitigation fees. It is expected that this will be presented for Council consideration later in 2018.

- B. Letter from Mr. Peter L. Hertan, Foreman, 2017-2018 Civil Grand Jury
- C. Santa Clara County Civil Grand Jury Report: *Density is our Destiny*