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CITY COUNCIL STAFF REPORT

Meeting: March 4, 2014

SUBJECT:

Study Session to review Housing Element requirements and sites to achieve the Regional Housing Needs Allocation (RHNA) for the upcoming 2014-2022 Housing Element

RECOMMENDATION:

Staff recommends that the City Council:

1. Review the report on potential Housing Element sites to be studied in the joint General Plan Amendment and Housing Element Environmental Impact Report (EIR); and
2. Prioritize the housing sites in order of preference, if desired.

BACKGROUND:

Project Description

Application No.: GPA-2013-02
Applicant: City of Cupertino
Location/APN: Citywide

Housing Element Overview

In accordance with State law, California cities must have an adopted General Plan, which must contain a Housing Element. Housing Element law requires that all jurisdictions facilitate housing development by creating policies and adopting land use plans and regulatory schemes that provide opportunities for housing development, including units that could accommodate households with very low, low, moderate and higher incomes. For information on Housing Element content, please see Attachment CC-1 (Housing Commission Staff Report).

State law requires that each city and county update its Housing Element on a pre-determined cycle. For the current cycle, the updated Housing Element must be adopted by January 31, 2015 (plus a 120-day grace period). If this adoption deadline is met, the planning period for this cycle extends from adoption to January 31, 2023 (or eight years). Otherwise, the City must update the Housing Element again in 2019 (every four years). The City Council approved the project scope of work and authorized the budget for the project on November 4, 2013.

Regional Housing Needs Allocation (RHNA)

The RHNA is an estimate of projected needed housing units throughout the State and is based on Department of Finance population projections and regional population forecasts.

The RHNA identifies Cupertino's regional housing needs by income levels:

Income Group	RHNA
Very Low (\leq 50% of Area Median Income(AMI))	356
Low(51 – 80% of AMI)	207
Moderate(81 - 120% of AMI)	231
Above Moderate(> 120% of AMI)	270
Total	1,064

The City is not obligated to construct the housing units identified by the RHNA. Rather, the City's responsibility is to demonstrate adequate capacity, by identifying specific sites, to satisfy the RHNA under existing zoning and land use policy. HCD generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the City could realistically accommodate the RHNA allocations.

General Plan Amendment

In addition to the Housing Element, the City is also preparing a General Plan Amendment (GPA) for City Council consideration, as directed by the City Council in August 2012. The primary purpose of the GPA is to replenish, re-allocate, and increase citywide development allocations in order to plan for anticipated future development activity while keeping with the community's character, goals, and objectives. The secondary purpose of the GPA is to consolidate development requests by several property owners for amendments to the General Plan, under a comprehensive community vision.

DISCUSSION:

Housing Element Sites Criteria

HCD Criteria

HCD reviews each Housing Element's sites inventory to determine if adequate sites have been identified to meet the RHNA. Preparation of a "site suitability analysis" is an important step in addressing the adequate sites requirement. For additional details on HCD's site suitability requirements and criteria, please see Attachment CC-1. A key point to note in HCD's criteria is that sites with a net density lower than 20 dwelling units per acre do not qualify for meeting affordable housing requirements. With Cupertino's last Housing Element (2007-2014), HCD accepted a realistic yield of 85% of the maximum density allowed on the site, based on city-specific historic project approval data. This means that for a one acre site, while the maximum yield at a density of 25 dwelling units per acre is 25 units, the realistic yield for Housing Element purposes is $(25 * 85\%) = 21$ units. Therefore, most sites discussed later in this report are in areas that are at or above this density.

Affordability Criteria

HCD requires an additional component of the site suitability analysis for those sites identified to meet the lower income portion of the RHNA (this includes the very low-, low-, and moderate-income RHNA). Cupertino's lower income RHNA requirement for the 2014-2022 Housing Element is 794 units. To identify the sites and establish the number of units that can accommodate the RHNA for lower-income households, the Housing Element must include an analysis that demonstrates that the sites identified have zoning regulations and densities in place that encourage and facilitate the development of housing for lower-income households.

Alternatively, Housing Element law allows local governments to utilize "default" density standards determined by HCD. Per HCD's determination, suburban cities in Santa Clara County require a minimum "realistic" density of 20 dwelling units per acre or greater to meet lower income requirements.

Additionally, if properties need to be rezoned to accommodate the RHNA on the sites identified, the zoning should be done in conjunction with the adoption of the Housing Element to avoid additional requirements that may be imposed by the HCD. The City intends to complete the necessary rezoning in conjunction with the Housing Element.

Other Secondary Criteria (Sustainable Communities Strategy/One Bay Area Plan and Cupertino General Plan)

In addition to the State-wide criteria that HCD uses to determine site suitability, the Sustainable Communities Strategy/One Bay Area Plan contribute additional criteria regarding what makes a desirable housing site in the ABAG region. The region's Sustainable Communities Strategy and the One Bay Area Plan focuses development in Priority Development Areas (PDA). Cupertino's PDA has been identified with a yellow outline on Attachment CC-3. The City's General Plan policies are generally consistent with the strategies in the One Bay Area Plan. For additional details on the other secondary criteria, please see Attachment CC-1.

Potential Housing Element Sites

The City has solicited public input on the selection of sites for inclusion in the Housing Element. Through community workshops and study sessions with the Housing Commission and Planning Commission, conversations with property owners and stakeholders, and review of the previous Housing Element, multiple sites have been identified.

Sites in four categories have been identified on the map:

- *Existing Housing Element sites* – Seven sites identified in the 2007-2014 Housing Element are currently available. The others have either been redeveloped or do not meet the criteria.
- *Sites Proposed By Property Owners* – Ten property owners have indicated an interest in being included in the Sites Inventory. Most of the developers have indicated a density range higher than that currently allowed by the General Plan and zoning for their site.

- ***Sites Proposed By Workshop Participants*** – Workshop participants at the January 23, 2014 and February 12, 2014 workshops identified 28 sites which could potentially be included in the Sites Inventory.
- ***Lot Consolidation Potential*** – A few parcels indicated on the map are adjacent to existing Housing Element sites or proposed sites—these “lot consolidation potential” sites could be considered for addition with the adjacent site to facilitate a more cohesive development.

The cumulative total of the realistic yield of all the sites proposed to date exceeds the City’s RHNA. While several sites are discussed in the report, the City is only obligated to pick sites enough to cumulatively add up to 1,064 units (with some additional surplus to meet HCD’s realistic capacity and Affordability criteria requirements). A map has been prepared (see Attachment CC-2) that identifies all the sites proposed to date. An accompanying table (Attachment CC-3) provides additional information about each site. Sites are listed in alphabetical order by category except lot consolidation potential sites which are listed immediately adjacent to the site for which potential has been identified.

The attachments include direction and preference as indicated by the Housing Commission as well as the Planning Commission (see discussion below). Sites that do not meet criteria or were suggested by the Planning Commission for removal have been indicated with a strikeout.

The consultant has reviewed and categorized sites for their potential to meet HCD as well as the secondary criteria and listed them as Low, Moderate and High priority. It is recommended that the sites that have been categorized “low” be removed from the list of sites to ensure a manageable list of sites for study in the Environmental Impact Report.

Summary of February 19, 2014 Planning Commission Open House and Study Session

On February 19, 2014, the Planning Commission held an Open House and Study Session on the Housing Element, with a focus on reviewing and commenting on potential Housing Element sites identified to date. This meeting also addressed the concurrent General Plan Amendment process. (See Attachment CC-4 – Planning Commission Staff Report) During the open house, residents and stakeholders were invited to review posters to understand “What is a Housing Element” and a map indicating potential Housing Element sites identified to date. Posters showing the General Plan alternatives were also available. Staff and consultants answered questions at the Open House from several residents and stakeholders.

Staff and consultants provided a presentation on the GPA and Housing Element during the Study Session and the Planning Commission received public testimony and provided comments on the priority of on Housing Sites. The following is a summary of comments from the Planning Commission and the public. Where applicable, staff comments are noted in *italics*.

Comments from the Public

The following is a summary of the key points made at the meeting:

- Building heights should reflect the character of the City and neighborhoods in which they are located
- New housing should be distributed throughout Cupertino
- Impacts of new housing on schools and traffic need to be carefully considered in the siting of housing (*see comments on school impacts later in this staff report*)
- There is a need for more affordable housing, especially rental housing
- Smaller units are preferable over larger units

Planning Commission Discussion

The Planning Commission recommended that in addition to retaining existing Housing Element sites that the balance of the sites be prioritized. They also recommended that the list of potential Housing Element sites be shortened with the following criteria in mind:

- Successful Shopping Centers - The Planning Commission noted that the existing uses on sites should be reviewed carefully to purge the list of sites that should not be considered housing element sites. Particularly, the Commission discussed that sites that are developed with currently successful commercial centers should not be priority housing sites. Specifically, the Commission discussed not considering Cupertino Village and Marketplace as good candidates for the Housing Element sites list.
- Institutional Sites - The Planning Commission agreed that sites that are owned by utility companies or by the State or Federal Government should not be considered as good candidates for the Housing Element sites list since the likelihood of these properties being redeveloped in the current Housing Element cycle is minimal.
- Small Sites with low yield or no Property Owner interest - The Planning Commission recommended that smaller sites that yield limited or marginal housing or where property owners have not indicated interest in redevelopment as a housing site be removed from the list.
- Distribute Housing - The Planning Commission recommended that the Hamptons site and the Vallco site be reviewed as high priority Housing Element sites. In addition to these, the Planning Commission indicated their preference to include sites along Foothill Boulevard and South De Anza Boulevard to distribute potential housing development throughout the City.
- Encourage Development along Priority Development Area (PDA) - The Planning Commission suggested that the City Council review densities along major mixed-use corridors and possibly amend existing densities along the City's PDA to be consistent with existing densities along Homestead Road and Wolfe Road. This is consistent with the secondary criteria developed for the housing sites.
- Minimize Impacts to Schools - Some Commissioners stated that the preference be that housing sites be selected based on where the school impacts might be low. *The City cannot*

consider impacts on schools as a result of new housing developments. SB 50 (State Government Code sections 65995-65998 and Education Code sections 17620-17621) preempts CEQA consideration and mitigation of impacts on school facilities (such as the need for new or expanded schools due to additional enrollment caused by new development). If new development pays standard school impact fees, there is no further role for CEQA with regard to impacts on schools nor may such projects be denied based on schools impacts (See Attachment CC-5 – Memo on Application of SB 50 to Consideration of Development Applications). In addition, State law prohibits the City from using its planning and zoning powers to deny residency to, make housing unavailable to, or discriminate against, families with children. However, for large projects, there is the potential for negotiated Development Agreements to result in additional benefits such as contributions towards schools, pocket parks, and traffic improvement.

The following table indicates the sites, in addition to the existing Housing Element sites, that the Planning Commission recommended as priority sites for study:

Site No.	Site Name and Location	Land Use Designation	Current Zoning	Size (Acres)	Density (DU/A)	Realistic Capacity
Lot Consolidation Sites (adjacent to existing Housing Element sites)						
L7	East of E. Estates 19541 Richwood Dr.	Commercial/ Office/ Residential	P(CG, Res)	2.16*	25	45
	East of E. Estates 19550 Stevens Creek Blvd	Commercial/ Office/ Residential	P(CG, Res)		25	
	East of E. Estates 10055 Miller Ave	Commercial/ Office/ Residential	P(CG, Res)		25	
Property Owner Development Interest Sites (Density requested indicated)						
P1	Bateh Brothers 22690 Stevens Creek Blvd	Commercial/ Residential	P(CG)	0.67	20 - 35	11 – 19
P3	Foothill Market (@McClellan) 10625 S Foothill Blvd	Commercial/ Residential	P(CG)	1.3	20 - 25	22 – 27
P6	The Hamptons 19500 Pruneridge Ave	High Density Residential (20-35)	P(Res)	12.44	65 - 110	686 – 1162
P7	Vallco Mall 10123 N Wolfe Rd	Commercial/ Residential	P(Regional Shopping)	32.9	35	600 – 800
P8	Summerwinds & Granite Rock 1471, 1491 & 1505 S De Anza Blvd	Commercial/ Office/ Residential	P(CG, Res 5-15)	4.13	25 - 40	87 – 140

* Includes portion of E. Estates Drive

Environmental Review

A combined Environmental Impact Report will be prepared for the General Plan Amendment and the 2014-2022 Housing Element projects. The preparation of the EIR will commence once the City Council provides its comments on the sites to be analyzed as part of each alternative studied in the EIR.

The next step of the EIR involves a scoping meeting (scheduled for March 11, 2014), which includes a 30-day comment period, to consult with agencies, organizations or individuals on the contents of the EIR, including the range of alternatives. The final scope of the EIR, including possible additional alternatives, will be determined following completion of the scoping process.

The California Environmental Quality Act (CEQA) requires the EIR to discuss a “reasonable range of alternatives,” and should briefly discuss alternatives that are considered but rejected for further analysis during the scoping process. A proposed alternative need not be considered if it would not avoid or substantially lessen significant impacts, would not meet most of the basic project objectives, is infeasible, or is not needed to have a “reasonable range” of alternatives.

It is anticipated that preparation of the Draft EIR will take about four months, and that the Draft EIR will be released for a 45-day public review period in late Summer 2014. A community open house is planned during the public review period. Following the close of the public review period, a Final EIR and responses to comments will be prepared. The recommendation from the Environmental Review Committee, public hearing for the Planning Commission and public hearing for the Council EIR review and certification are tentatively scheduled for Fall 2014.

EIR Alternatives and Density Considerations for Sites

At this time, the only sites proposed to be eliminated from the study are those that do not meet the HCD and secondary criteria (“criteria”), and those suggested by the Planning Commission for removal.

In addition, each General Plan alternative will include sites as follows:

- **Alternative A** – All housing sites that meet criteria will be included at densities that meet the 2005 General Plan. Sites that are proposed with minimum densities exceeding the 2005 General Plan or those that require land use changes or rezoning will be eliminated except for one site located in the South De Anza Area. The density in this area is being increased to 25 dwelling units per acre.
- **Alternative B** – All housing sites that meet criteria will be included at densities that fall between Alternative A and Alternative C. This alternative will include sites that require changes to General Plan land use and rezoning but at densities lower than the maximum densities proposed by applicants. The densities will be reviewed for building height assumptions in Alternative B to ensure that the building envelopes do not exceed the

assumptions. Housing Element sites proposed by property owners along major transportation corridors will be studied at 35 dwelling units per acre.

- **Alternative C** – All housing sites that meet criteria will be included in this alternative. This alternative includes sites that range from those that meet the 2005 General Plan to those that require land use and increased densities. This alternative includes sites at the maximum density proposed by applicants.

It should be noted that a lower density on a site will increase the number of sites that need to be picked to cumulatively reach the 1,064 units RHNA obligation. Additionally, sites that do not have densities of 25 dwelling units per acre (realistic density of 20 dwelling units per acre) will not meet HCD's affordability criteria.

As noted above, the final scope of the EIR, including possible additional alternatives will be determined following completion of the scoping process. The final decision on the list of sites will be made in Fall 2014 upon certification of the EIR.

Other Housing Element Requirements

Update Housing Policies

The update of the Housing Element has been divided into two areas of review. The first area of review is the subject of this meeting - identification of adequate sites appropriately zoned in the City to accommodate the City's RHNA. The second area of review is an analysis and update of the existing policies and programs which will be presented at a later date (tentatively April 1, 2014 at a Joint Planning Commission/City Council meeting.)

Streamlined HCD Review

HCD allows for streamlined review of the Housing Element if the jurisdiction meets certain criteria. Streamlined review provides for expeditious review and limits the areas of the Housing Element on which the HCD staff can comment. HCD's standard review generally takes longer, thereby potentially delaying the adoption of the Housing Element. For details on the criteria for eligibility for streamlined review of the Housing Element, please see Attachment CC-2.

The City currently complies with almost all of the requirements to qualify for the streamlined review except for the adoption of a Density Bonus ordinance that conforms to State Law. The City has to comply with State Law with or without an updated ordinance. However, having an updated ordinance will allow the City to be eligible for streamlined review and needs to be completed prior to HCD review of the Draft Housing Element. This ordinance will be available for Planning Commission review and Council adoption at the same time as the Draft Housing Element in Fall 2014. The Draft will be forwarded to HCD as soon as it is adopted in Fall 2014. The HCD has 60 days to comment on the document, after which the City has to make any necessary revisions to the Draft and adopt the final Housing Element. The due date for adoption is January 31, 2015. An additional grace period of 120 days is also provided. If the City does not meet the deadline for adoption, the Housing Element will have to be updated

every four years instead of every eight years. In addition, the City, potentially, could be subject to litigation and automatic approval of housing on identified Housing Element sites at a minimum density of 16 dwelling units per acre.

Other Items for Council Consideration

Gross Density vs. Net Density

The Council has in the past indicated that density should not be calculated on the gross acreage (including a portion of adjacent street area) of a property as currently allowed by the City's Zoning Code. The number of units assumed for the Housing Element sites are based only on net lot area and do not include portions of adjacent streets. The related changes to the Zoning Code will be made in conjunction with the General Plan amendment.

In addition, the Heart of the City Specific Plan allows residential density to only be calculated on the acreage of a property net of the areas that service retail development. This requirement may reduce the yield and net density on a project site, which could either result in the mixed-use sites not meeting affordability criteria and/or requiring additional sites to be rezoned due to the low yield. These issues will be analyzed and discussed in the Draft Housing Element.

PUBLIC NOTICING & OUTREACH

In addition to the open house and study session at the Planning Commission meeting on February 19, 2014, the following outreach efforts have been undertaken on this project to date.

Postcards

A postcard was delivered in February 2014 to all postal addresses in the City to announce upcoming dates on the General Plan and Housing Element projects. The postcard also provides a brief description of the two projects and identifies the project website where interested person may sign up for project updates and further notices.

Website

A website has been set up for the combined General Plan and Housing Element projects at www.cupertinogpa.org. All technical reports, notices and other important information are available at the website. Interested persons may also submit comments at the website. The website also has a separate tab for the Housing Element project which provides answers to Frequently Asked Questions.

Meetings

Stakeholder Interviews

Stakeholder interviews were conducted on December 11 & 12, 2013 to solicit input from stakeholders ranging from community members, property owners, housing developers, service providers, School Districts and the business community. A summary of the key comments from this meeting is available in Attachment CC-2.

Joint PC/HC Workshop

On January 23, 2014 the Planning Commission and Housing Commission hosted a joint workshop to begin the Housing Element Sites discussion. Eleven participants broke into small groups and identified potential future sites for housing and criteria for increased density in certain areas including community benefits. Participants drew on maps and placed stickers to identify potential housing sites. A summary of the comments is available in Attachment CC-2.

February 12 Housing Commission Workshop

On February 12, the Housing Commission hosted a workshop to continue the Housing Element Sites discussion and prioritize sites for inclusion in the Housing Element. Following a project update presentation, approximately fifteen (15) participants broke into three groups and discussed identification of new sites and prioritizing potential housing sites to meet the RHNA of 1,064. A summary of the comments from the workshop is available in Attachment CC-2. The Housing Commission recommended forwarding all the sites highlighted by the workshop participants as priority sites to the Planning Commission for consideration.

Noticing for March 4, 2014 City Council meeting

The following table summarizes the noticing for this meeting.

Notice	Agenda
<ul style="list-style-type: none">▪ Email sent to all interested parties signed up through the project website▪ Letters sent to current Housing Element site property owners, interested property owners and owners of sites identified at the workshops	<ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (<i>one week prior to the hearing</i>)▪ Posted on the City of Cupertino's Web site (<i>one week prior to the hearing</i>)▪ Posted on the project Website (one week prior to hearing)

NEXT STEPS

The goal for this study session is for the City Council to review and provide comments on the Housing Element sites and densities to be studied in the EIR. City Council may choose to organize priority sites into tiers based on preference for inclusion or provide direction on removal of sites.

The policy portion of the review of the Housing Element will be presented to the Housing Commission on March 19, 2014 and the Planning Commission and City Council at the Joint meeting on April 1, 2014.

Upon completion of the Final EIR in late Summer 2014, the Draft Housing Element will be reviewed by the Planning Commission and presented to the Council in Fall 2014 for adoption. The approved Draft Housing Element will include: housing policies as well as the final list of housing sites to meet the RHNA (which may include sites that require General Plan Amendments and rezoning, depending on Council's selection of sites). In addition, in order to comply with streamlined HCD review, a Density Bonus Ordinance will be prepared for review

and adoption. After Council adoption, the Draft Housing Element will be forwarded to HCD for its review. Upon HCD's review, any necessary revisions will be made and the final Housing Element will be presented for Planning Commission review and City Council decision in January 2015.

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MIG, Consultant to the City of Cupertino

Reviewed by: Gary Chao, Assistant Director of Community Development and Aarti Shrivastava, Director of Community Development

Approved for Submission by: David Brandt, City Manager

Attachments

- CC-1. Housing Commission Staff Report dated February 12, 2014
- CC-2. Potential 2014-2022 Housing Element Sites Map, with PC and HC Priorities Indicated
- CC-3. Potential 2014-2022 Housing Element Sites Summary Table, with PC and HC Priorities Indicated
- CC-4. Planning Commission Staff Report dated February 19, 2014
- CC-5. Memo – Application of SB 50 to Consideration of Development Applications