



COMMUNITY DEVELOPMENT DEPARTMENT
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CITY COUNCIL STAFF REPORT

Meeting: May 19, 2015

SUBJECT

Item 7A: General Plan Amendment to adopt the Final 2014-2022 Housing Element.

RECOMMENDED ACTION

Recommend that the City Council conduct a public hearing and take the following action:

- Adopt Resolution No. 15-042 adopting the Final 2014-2022 Housing Element (GPA-2013-02) (Attachment A1).

DESCRIPTION

Application No.: GPA-2013-02 (EA-2013-03)
Applicant: City of Cupertino
Property Location: City-wide

BACKGROUND

In November 2013, the City initiated a State-mandated update of the Housing Element of the General Plan. The Housing Element, which is a required component of the General Plan, identifies policies and appropriate locations for future housing in Cupertino. The Housing Element Update was combined with the General Plan Amendment process (initiated in August 2013) so the City and community could fully evaluate and discuss issues in one comprehensive outreach and planning process.

Housing Element law requires that all jurisdictions facilitate housing development by creating policies and adopting land use plans and regulations that provide opportunities for housing development, including units that could accommodate households of various income categories such as very low, low, moderate, and above moderate-income.

State law requires that each city and county update its Housing Element on a regular cycle established in the Government Code. The Housing Element for the 2007-2014 planning period was adopted in 2010. For the current cycle, the deadline for adoption of the updated Housing Element and submission to the State Department of Housing and Community Development (HCD) is May 31, 2015. If this adoption deadline is met, the planning period

for this cycle extends from adoption to January 31, 2023 (eight years). Otherwise, the City must update the Housing Element again in 2019 (every four years). State law also requires that the Housing Element be reviewed by HCD prior to and after adoption to determine whether the Element substantially complies with State law.

The Housing Commission reviewed the Draft Housing Element on August 26, 2014 and the Planning Commission reviewed the item on October 14, 2014. After meetings on November 10 and December 2, on December 3, 2014, City Council authorized staff to submit the Draft 2014-2022 Housing Element with edits to comply with the City Council's direction on the Priority Housing Sites to HCD for review. Copies of the staff reports from past study sessions and public hearings are available on the project website at www.cupertino.org and at www.cupertino.org/records.

HCD reviewed the draft 2014-2022 Housing Element and directed staff to make a few edits to address some key issues as well as to respond to comments received by HCD from the Law Foundation of Silicon Valley and other housing groups regarding the Draft 2014-2022 Housing Element. These edits are discussed in detail later in this report.

Commission Review

The Housing Commission reviewed the proposed Final 2014-2022 Housing Element, after edits from HCD were incorporated, on February 26, 2015 and adopted Housing Commission Resolution 15-01 (Attachment A2) recommending that the City Council adopt the draft Housing Element on a 5-0 vote. The Housing Commissioners did not make any changes to the document presented to them. Two members of the public spoke. One expressed concerns about development on the east side of the City while another expressed concerns about development on the west side of the City.

The Planning Commission reviewed the proposed Final 2014-2022 Housing Element on April 14, 2015 and recommended adoption of the 2014-2022 Housing Element on a 5-0 vote with Resolution 6777 (Attachment A3). Four public speakers provided comments during the Planning Commission hearing. The comments are summarized below. Staff comments are provided in italics:

- Concerns about the Below Market Rate Housing Mitigation Fee being changed and the updated fees not being reflected in the Final adopted Housing Element. *The BMR Mitigation fee is an implementation item. It is not included within the body of the Housing Element. Any fees reflected in the Housing Element Technical Appendix are for purposes of analysis and represent a snapshot in time. Fees in the Housing Element are shown as of FY 2014-2015. State Law does not require an update to the Housing Element on a regular basis to reflect the most up-to-date fees.*

- Impacts to schools, traffic and traffic around schools. *The City Council certified an Environmental Impact Report (EIR) for the project on December 4, 2014 which identified impacts and mitigations to traffic and other environmental topics. Per State Law, agencies must accept the fees mandated by SB 50 (Leroy F. Greene School Facilities Act) as the exclusive means of considering and mitigating the impacts of the proposed development on school facilities.*

The Planning Commission discussed the item and provided the following comments:

- Some of the Commissioners wondered whether the total number of units proposed in the Housing Element could be reduced. However, they did not recommend amendments given HCD guidance and the deadline for adoption by May 31, 2015.
- There were some concerns that the housing element law does not require housing built on the priority sites to be affordable.
- Some of Commissioners were also concerned about the connection between office development and future RHNA allocations.

DISCUSSION

Housing Element

The Housing Element is the City's primary policy document regarding the development, rehabilitation, and preservation of housing for all economic segments of the population. State Law mandates the content of the Housing Element. For details on the content of the Housing Element, please review Attachment A4, Housing Commission Staff report dated August 28, 2014.

The proposed Housing Element was previously reviewed by the City Council on December 2, 2014. The City Council reviewed and authorized the sites indicated in Table 1 below be proposed to the HCD as priority Housing Element Sites.

TABLE 1: PRIORITY HOUSING ELEMENT SITES SUMMARY TO MEET THE RHNA

Final 2014-2022 Housing Element Sites	Realistic Capacity (units)
Site A1 (The Hamptons)	600 additional (above 342 existing units)
Site A2 (Vallco Shopping District)	389
Site A3 (The Oaks Shopping Center)	200
Site A4 (Marina Plaza)	200
Site A5 (Barry Swenson)	11
Total Units:	1,400

These Priority Housing Element Sites are described in detail in the Housing Element (Attachment A1). A summary table with more details on Priority Housing Sites, along with

maps, is included as Attachment A5. HCD has reviewed these sites and determined that these sites are consistent with State law to meet the City's Regional Housing Needs Allocation (RHNA) obligations.

HCD Review and Revisions to the Draft Housing Element

Edits made in response to HCD comments are identified in red text with underlines in Attachment A6 (Pages from the Housing Element). These include the following:

- Clarifying timelines for Strategies 8, 11, 15, and 16 in the Housing Plan.
- Providing additional information on the availability of land within the BQ zone for emergency shelters, which is substantially the same language that was included in the 2007-2014 Housing Element.

Additionally, modifications were made to the Housing Element in response to a jointly signed letter, received by HCD during the review process, from the Law Foundation of Silicon Valley, Urban Habitat, West Valley Community Services, and Neighborhood Housing Services of Silicon Valley (Attachment A7). Modifications to the Housing Element in response to the comment letter are summarized below and are also identified in red text with underlines in Attachment A6:

- Revision to Housing Plan Strategy 8 to revise completion date of the Nexus Study from 2016 to 2015, to reflect the accelerated schedule for adoption of BMR Mitigation fees.
- Revision to the Housing Element Technical Appendix to add additional information on factors that limited affordable housing production in the prior Housing Element planning period (2007-2013).
- Revision to Housing Plan Strategy 18 to address indirect economic displacement.

The changes made in response to the comment letter received are described fully in the response letter (Attachment A8) that was sent to HCD. Both the comment letter and the response are also included in the Housing Element Technical Appendix.

HCD evaluated these revisions and responses, and issued a letter on February 5, 2015 confirming that the draft Housing Element—along with these identified revisions—substantially complies with State law (Attachment A9).

Additional modifications, also highlighted in red text with underlines/strikethroughs, were made to the Draft Housing Element to:

- Remove redundant language in Strategy 7;
- Reflect that the City joined the Santa Clara County HOME Consortium in 2014;
- Make minor corrections, and
- Update park impact fees for the Fiscal Year 2014-2015.

ENVIRONMENTAL IMPACT REPORT (EIR)

Pursuant to the California Environmental Quality Act (CEQA), the Housing Element is considered a project that must be reviewed for potential environmental impacts. The environmental review for the Housing Element was completed concurrently with the comprehensive General Plan Amendment. The Draft Environmental Impact Report (EIR) for the General Plan Amendment and the Housing Element was made available for public review and comment for a 45-day period ending on August 1, 2014. As required by CEQA, a Response to Comments document (RTC) to respond to comments received regarding the adequacy of the Draft EIR was prepared, including corrections necessary to the Draft EIR.

The Final EIR comprises of the RTC document and the Draft EIR. The City Council certified the Final EIR on December 4, 2014. No further actions related to environmental review are required on the part of the City Council.

PUBLIC OUTREACH & NOTICING

The following outreach efforts have been undertaken on this project to date.

- **Postcards** were mailed to all postal addresses in the city in February and June 2014 to announce upcoming meetings and review of the EIR.
- A **website** was set up for the combined General Plan and Housing Element projects at www.cupertinoarpa.org. All technical reports, notices, and other important information are available at the website.
- **Stakeholder interviews** were conducted in December 2013 to solicit input from stakeholders ranging from community members, property owners, housing developers, service providers, school districts, and the business community.
- **Community Meetings and Workshops** were held between January and December 2014. Meetings to discuss the Housing Element included three community workshops, five study sessions with various City Commissions and the City Council, additional meetings related to environmental review of the project, and multiple hearings.
- **E-notices** were sent to all interested parties that signed up through the project website.
- **Mailed notices** were sent to property owners of sites that were being considered for Priority Housing Sites, as well as service providers such as sewer, water, school district.

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The table on the following page summarizes the noticing for this meeting:

Notice	Agenda
<ul style="list-style-type: none"> ▪ Courtesy email sent to interested parties signed up through project website ▪ Legal Ad (<i>at least 10 days prior to hearing</i>) ▪ Newspaper Display Ad (<i>at least 10 days prior to hearing</i>) 	<ul style="list-style-type: none"> ▪ City's official notice bulletin board (<i>6 days prior to the hearing</i>) ▪ City of Cupertino's website (<i>6 days prior to the hearing</i>) ▪ Project website (<i>5 days prior to hearing</i>)

PUBLIC COMMENTS

In addition to the public comments at the Housing Commission and Planning Commission hearings, public comments have been sent by members of the public. These have been compiled into Attachment A10. In particular, one of the comments asked whether the City would be required to identify additional housing sites if affordable housing is not built on the sites capable of accommodating low and very-low income housing development.

Staff Comment: The Government Code does not require the City to amend the Housing Element or rezone additional sites if lower income housing is not constructed on the Priority Housing Sites designated as being appropriate for lower income housing. Upon adoption of the Housing Element, the City is, however, required to adopt all zoning required to meet the City's RHNA within three years while ensuring that densities are not reduced below the densities required to meet the City's RHNA and implement Housing Element policies intended to assist in the development of affordable housing.

NEXT STEPS

Based on HCD's February 5 letter, it is expected that the 2014-2022 Housing Element will be found by HCD to substantially comply with State law, unless the City makes new/additional changes to the Housing Element that were not previously discussed with HCD or does not incorporate the changes that were presented to HCD. The 2014-2022 Housing Element will be forwarded to HCD after its adoption by Council. HCD has 90 days from date of submittal to review the adopted Housing Element. If HCD finds that the adopted Housing Element is in compliance with State law, the City will be eligible for certain grants, and the Element will be presumed to be in compliance with State law. The certified Housing Element will not need to be modified until January 31, 2023.

Upon adoption of the Final Housing Element, the final document text, maps and graphics will be formatted and prepared for posting online.

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Christopher "C.J." Valenzuela, Senior Housing Planner

Reviewed by: Aarti Shrivastava, Assistant City Manager

Approved for Submission by: David Brandt, City Manager

Attachments:

- A1. Draft Resolution No. 15-042 adopting the 2014-2022 Housing Element which incorporates the Housing Element Technical Report
- A2. Housing Commission Resolution No. 15-01
- A3. Planning Commission Resolution No. 6777
- A4. Housing Commission Staff Report dated August 28, 2014
- A5. Priority Housing Sites Summary Table and Maps
- A6. Pages from 2014-2022 Housing Element with redlined changes
- A7. Comment Letter to HCD, dated January 20, 2015
- A8. City's Response to Comment Letter to HCD
- A9. Letter from HCD Confirming the Draft Housing Element is in substantial compliance with State Housing Element Law, dated February 5, 2015
- A10. Comments from Public