

City Council Questions

March 8, 2022 Council Meeting

ITEM 6.1 Housing Element Update-Draft Sites Inventory and Draft Goals and Policies

1. Are there any consequences of the city not achieving its 2015-2022 RHNA (not the 2023-2031 cycle)?

Currently, the only consequence for not meeting the 2015-2022 RHNA goals related to issuing permits is that developers could enact SB 35, the bill that allows ministerial approval of housing applications.

When jurisdictions have insufficient progress toward their Very Low and Low Income RHNA, they are subjected to SB 35 where developers can invoke a **streamlined ministerial approval process for proposed developments with at least 50% affordability**. Additionally, if a jurisdiction also has insufficient progress toward their Above Moderate Income RHNA, then they are subject to the more inclusive streamlined ministerial approval process for developments with at least 10% affordability. Since Mountain View has met its Above Moderate Income RHNA targets for the 2015-2022 period, the latter will not be an issue.

2. What is the thinking behind have such a large buffer for the above moderate category when there is typically not a shortfall of above moderate housing being built?

The approach for selecting sites for the Sites Inventory is primarily structured around Pipeline Projects and Opportunity Sites that have **existing capacity for residential**. As shown in the draft Sites Inventory, the Above Moderate category is already satisfied by the Pipeline Projects.

Most of the opportunity sites which are a minimum of 30 units/acre assume 100% affordable units (lower- or moderate-income) per HCD guidance. However, some large sites assume 85% market-rate (above-moderate income) and 15% affordable, which further increases the buffer of above-moderate units. These are sites that cannot reasonably accommodate 100% affordable developments based on HCD guidance (i.e., sites larger than 10 acres cannot be used for lower income units) and staff concern about the challenge of finding replacement units under future “No Net Loss” obligations.

3. If we include the Village Center Overlay in our back-pocket category, and it is studied in the EIR, will removing the overlay still come to council for action?

CEQA documents, including EIRs, are informational rather than policy. Including sites in the EIR does not presuppose that all the sites are required to be included in the site inventory or that any future policy or standard studied in the EIR is required to be implemented by the City Council. However, it could streamline the process of including sites in the future or of enacting such policy or standard.

In other words, Council will still have the authority to decide on the final site inventory and whether to include Village Center sites in the Housing Element. If Village Center sites are included in the Housing Element site inventory, removal of the overlay process in the Precise Plan will be required.

However, staff recommends this action regardless of whether sites are included in the Housing Element or not. Due to state law, sites where the zoning is inconsistent with the General Plan are allowed to build at the intensity allowed in the General Plan. As a result, a Village Center Overlay process is not required today for development on these sites at the higher intensities allowed in the Precise Plan. Making this revision in the Precise Plan will bring it into compliance with state law and make the process clear and transparent. It should be noted that sites will still require to be compliant with other requirements in the Precise Plan including the provision of community benefits.

4. Which organization provided the definitions of goal, policy and program on page 11? Did those come from HCD?

Staff reviewed other recent Housing Elements and developed the definitions as helpful guides to present and define the components of the implementation plan. Only the first two in the hierarchy (goals and policies) are presented at this study session since programs will be more fully developed after Council provides direction on policy prioritization.

5. Which proposed policies are being relied upon to do the preliminary analysis of whether or not Mountain View would achieve a Pro-Housing Designation? Is it possible to achieve this designation without relying on the proposed policies?

Based on a preliminary analysis, it is likely the City can achieve the designation under existing policies. Depending on feedback from HCD, however, some of the other proposed policies may be needed. If that is the case, staff would need to wait until after adoption of the Housing Element Update before reapplying.

6. The interactive map is great as far as it goes, but it's very slow. A table with the list of sites is also needed.

After receiving feedback from Council on the Draft Sites Inventory, staff and our consultants will update the inventory and map and provide a downloadable Excel file.

7. On the Prohousing designation application, what do the 1, 2 and 3 signify?

On pages 7-11, the last column of the tables indicates the point value for each policy. A Pro-Housing designation requires a total score of 30 points or more across all four policy categories (Favorable Zoning and Land Use, Acceleration of Housing Production Timeframes, Reduction of Construction and Development Costs, Providing Financial Subsidies).

8. Why weren't any of the areas for R3 considered?

The vast majority of R3 sites were eliminated based on the following:

- There would be too little net new capacity for feasible development
- The existing parcel is too small for feasible development
- The development would displace CSFRA-protected units
- There are currently uses that constitute a constraint on new development, such as churches, utilities, historic buildings, etc.

The remaining small handful of sites were removed because of the uncertainty associated with future R3 development standards and policy.

The R3 zone was not included in the non-conforming density analysis because staff will be presenting future updates to the R3 zone that may change the nonconforming status of many sites.

9. What is the process for getting a site added or deleted from the list?

Council has the opportunity tonight to exclude sites suggested by staff and also ask staff to review additional sites for inclusion in the Draft Sites Inventory. Once Council provides direction, staff will review the list of sites to be added to the Inventory based on HCD criteria to see if they would qualify for inclusion. Additionally, staff will communicate with property owners who have questions and remove sites that property owners would prefer not to be included. Other sites that may be removed are in cases where additional information arises, such as recent improvements that aren't reflected in the data.

Staff will bring back the final Site Inventory and Back Pocket sites to be studied in the CEQA analysis in May/June to the EPC and Council.

10. There have been substantial changes to the rules for Housing Elements for this cycle. What has changed?

There have been numerous changes to the requirements for the 6th Cycle Housing Element Updates. Some of the most substantive changes include the requirement to conduct an Assessment of Fair Housing as part of the Housing Element needs assessment process, to evaluate the new Housing Element sites inventory through the lens of affirmatively furthering fair housing, and to include at least one program that affirmatively furthers fair housing. In addition, new requirements impose more stringent requirements for documenting the suitability of sites to accommodate housing, particularly for sites intended to accommodate the RHNA for very low- and low-income households. This includes requirements for additional evidence to document the likelihood that housing will develop on sites that are larger than ten acres or smaller than ½-acre, and sites that are “non-vacant” (i.e., will require infill or redevelopment). There are also new limits on how cities can re-use undeveloped sites from prior Housing Elements.

11. The staff report says that most opportunity sites “are applied to the low- and moderate-income RHNA, which is standard practice for site inventories.” Why is it standards practice to apply opportunity sites to the low- and moderate-income RHNA? Didn't most of our opportunity sites during the last cycle get developed as above moderate-income housing? Weren't most of them advertised as “luxury housing” when they were rented out?

The City cannot require that sites develop with 100% affordable housing. Therefore, it is not possible to guarantee a site inventory that will result in the RHNA income levels. That is why state law requires a jurisdiction to have a site inventory that minimizes constraints on development at the RHNA income levels. This is why the standard practice for all or nearly all opportunity sites is to designate them for lower-income and moderate-income units. The sites can accommodate those incomes because it is possible for developments at those incomes to be built, not because it is likely. The State has a range of criteria that they use for determining whether lower-income development (or residential development generally) is possible, including size, allowed density (minimum of 30 units/acre), and characteristics of existing uses.

While most sites are designated lower- or moderate-income, some large sites assume 85% market-rate (above-moderate income) and 15% affordable. These are sites that cannot reasonably accommodate 100% affordable developments based on HCD guidance (i.e., sites larger than 10 acres cannot be used for lower income units) and staff concern about the challenge of finding replacement units under future “No Net Loss” obligations.

The No Net Loss Law requires a jurisdiction to maintain a supply of adequate sites in the inventory to accommodate the RHNA at all times. Under this law, there is some risk that opportunity sites will not develop with the incomes identified. For this reason, the City is targeting at least a 15-30% buffer for the lower- and moderate-income RHNA, should sites that could accommodate affordable units be developed with above-moderate income units instead.

12. How many affordable housing units are the developments on East Evelyn Avenue, Montecito Avenue and Terra Bella Avenue expected to produce?

There are no draft plans yet under review for the East Evelyn Avenue sites, but it is likely that they could yield approximately 300-320 units. For the other two sites:

Montecito Avenue

- 84 affordable units and 1 manager unit

Terra Bella Avenue

- 106 affordable units and 2 manger units.

13. The staff report says, “Over the course of implementing the Housing Element, developments may remove sites from the Sites Inventory.” Is this saying that developments would remove sites because the owner does not want them developed as housing or because they start to be developed or for some other reason?

Due to No Net Loss laws, if a Housing Element site is developed with other uses, then it would no longer be an adequate site for the Housing Element Inventory. The assumed units for that property would need to be identified elsewhere in the City to ensure that the Inventory is compliant with the RHNA throughout the eight years.

14. For projects in the pipeline, how do you draw the line on whether they will be counted in the 5th or 6th RHNA cycle?

Annual Progress Reports and the Housing Element Site Inventory will have different sets of projects. 6th cycle APRs can only include projects that receive their building permits after January 31, 2023. However, the 6th cycle Housing Element Site Inventory can include projects that received their building permits during the 5th cycle, if they are still under construction by June 30, 2022.

This has been the source of much discussion with HCD, and while we still need final confirmation, our conclusion above is based on these discussions and the available resources.

15. The staff report says that the next steps for the Transit Center joint development project include “an economic feasibility analysis that takes into account the transit operational needs and other site constraints.” Can we prioritize and hasten starting and completing that feasibility study? Can we otherwise encourage the Transit Center joint development project to include housing and affordable housing at a fairly high density?

Due to current workloads and staffing vacancies, prioritizing this economic feasibility analysis will require that another project or initiative that is currently underway be deferred to stop work and make a project manager available. At this time, staff aims to begin work on the economic analysis in 2023. Once the City is ready to proceed, we will need to coordinate with Caltrain to confirm they also have the staffing available to work on the study.

Although the site is owned and operated by Caltrain, any development on the site for non-transit related uses is subject to City zoning and approval. Therefore, the City will have some leverage in working with Caltrain on ultimate land use mix, as long as the project stays feasible and Caltrain is amenable. The City Council may also have other goals for the project, including parking, heights or design, which may constrain the unit capacity of the site.

16. Please tell us more about the rezoning process called the “Village Center Overlay.” What does it consist of? What are the goals of the process?

In the El Camino Real Precise Plan, Village Centers are allowed three possible development paths:

- the Base FAR is 1.35;
- the Tier 1 FAR is 1.85, where community benefits are required;
- the Tier 2 FAR is 2.3, which requires a gatekeeper authorization, rezoning the property through a Zoning Map Amendment, and may be subject to additional environmental review. This is the “Village Center Overlay”.

The purpose of the overlay was to provide additional Council and community oversight and discretion, and additional community benefits, for these large projects. The FAR allowed with the Village Center overlay is within the maximum set by the General Plan.

Due to new state laws, if a project is consistent with the General Plan, a rezoning is not required to develop at the intensity stated in the General Plan. Therefore, projects are not required to undergo a Village Center Overlay zoning today if they meet all other criteria for the higher zoning in the Precise Plan. Despite this, the City cannot include these sites in the Site Inventory unless the zoning is consistent.

Whether Village Center sites in the Precise Plan are included in the Housing Element site inventory, staff recommends removing the required Village Center Overlay rezoning as part of a separate action to make the Precise Plan consistent with state law and result in a streamlined approval process, with no required gatekeeper authorization. These modifications to the El Camino Real Precise Plan can come to Council at a later date and separate from the Housing Element implementation process.

ITEM 8.1 Consideration of Assembly Bill 571 Contribution Limits for City Council Candidates and Future Campaign Finance Ordinance Amendments

1. Can a candidate pay for all or some of their campaign and not have it considered to be a loan?

The contribution limits imposed by AB 571 do not apply to a candidate. There is no limit or cap to how much candidates may contribute to their own campaign. If a candidate chooses to loan money to their campaign, the loan balance can never exceed \$100,000.

2. If the Council decided to lower the threshold limits for committee disclosures to an amount less than \$2,000, a committee would have to be formed in order to comply with the PRA filing requirements, correct?

That is correct. The proposed framework would require that a committee meeting the lower threshold limits register with and submit campaign statements to the City Clerk.

3. What about fliers delivered door-to-door? Is any dollar amount attributed to that?

Door-to-door flyers would be subject to disclosure requirements when issued by a committee, as defined. Currently, the threshold amounts to qualify as a committee under State law are receipt of contributions of \$2,000 or more, or making independent expenditures of \$1,000 or more.