

## CITY OF MOUNTAIN VIEW

ENVIRONMENTAL PLANNING COMMISSION  
STAFF REPORT  
NOVEMBER 16, 2022

### 5. STUDY SESSION

#### 5.1 Revised 2023-2031 Draft Housing Element

##### RECOMMENDATION

That the Environmental Planning Commission provide input on the revised Draft Housing Element (Exhibit 1 to the EPC Staff Report), specifically on revised and added programs since the first Draft Housing Element and on adding any alternate programs.

##### PUBLIC NOTIFICATION

The Environmental Planning Commission (EPC) agenda is advertised on Channel 26, and the agenda and this report appear on the City's website. A meeting reminder was emailed to all persons subscribed to the Housing Element mailing list (approximately 480 people); a notice regarding the public review draft of the Housing Element was mailed to all addresses in the City and all owners of property in the City; and a notice was published in the *Daily Post*.

##### BACKGROUND

###### City Council Study Session

On June 14, 2022, the City Council provided the following direction and staff revised the public review Draft Housing Element to incorporate changes to the narrative, sites inventory, and a few of the recommended programs. Policy direction that was included in the draft for the Department of Housing and Community Development (HCD) review:

- Include Program 1.2, Community Sites for Housing (now 1.4, Religious and Community Assembly Sites for Housing), in the Housing Plan.
- Include "Other Shopping Centers" in the back-pocket list for future rezonings in case the City's site inventory capacity falls below Regional Housing Needs Allocation (RHNA) ("no net loss").
- Remove the El Camino Health site (at Phyllis Avenue and El Camino Real) from the sites inventory.

- Include 57/67 East Evelyn Avenue and 1110 Terra Bella Avenue/1012 Linda Vista Avenue sites as rezonings concurrent with the Housing Element adoption.
- Enhance and update narrative to show explicit connection between public input and programs included in the Housing Element in response to public input.
- Review and add each of the programs based on resources and time:
  - Included in Program 2.1: Add Community Opportunity to Purchase Act (COPA) and Tenant Opportunity to Purchase Act (TOPA) programs in the programs section of the Housing Element and extend benefits to mobile homes.
  - Included in Program 4.2: Lobby the State to change laws to shift impact fees from residential to office development.
  - Included in Program 4.3: Develop local revenue ballot measures to fund affordable housing, support other housing programs, and increase the feasibility of residential development if the regional Bay Area Housing Finance Authority (BAHFA) measure is not implemented.
  - Included in Program 4.3: Increase housing impact fees for office development.

The following requested programs required additional time for interdepartmental input and were not included in the draft submitted to HCD. They are now included, in some fashion, in the second draft of the Housing Element, attached to this report and presented in the section Newly Added Programs below.

- Included in Program 1.3: Adopt ordinance updates that allow live-work uses in areas with ground-floor retail, where appropriate.
- Added Program 1.6: Adopt ordinance updates that allow condo mapping of Senate Bill (SB) 9 dual urban opportunity (DUO) developments to increase home ownership opportunities.
- Added Program 1.7: Create a design resource to encourage SB 9 DUO, accessory dwelling unit (ADU), and junior accessory dwelling unit (JADU) developments.
- Added Program 2.2: Create a funding program to encourage SB 9 DUO, ADU, and JADU developments.

- Included in Program 4.6: Adopt ordinance updates that allow the development of short-term employee housing on sites zoned for office use.
- Included in Program 4.6: Create a framework to collaborate with major employers (including large public entities) to provide work force housing.

Note that the Housing Plan was reformatted to provide more detail, and new programs were added, so program numbers may have changed since the July publication of the Draft Housing Element.

### **HCD Comments on First Draft Housing Element**

The Draft Housing Element was submitted to HCD on July 1, 2022 for a formal 90-day first draft review, and the City received comments on September 29 (see the letter in Exhibit 2). The comments cover a range of topics, including the following requests:

1. Clarification and additional detail on the site inventory analysis;
2. Additional programs addressing Affirmatively Furthering Fair Housing (AFFH) issues;
3. Incorporation of solutions to government constraints into programs;
4. Adding specific actions and metrics within the Housing Plan; and
5. Additional analysis on the effectiveness of previous programs.

One of the most repeated lessons learned from other California regions is the importance of establishing communication with HCD reviewers to better anticipate comments during the review and receive assistance in responding to formal comments after the review. Staff met with HCD for an initial meeting on September 13 and received informal comments regarding missing data points, answered some questions, and provided clarifications to HCD. Since receiving the formal comment letter, staff has met with HCD three times: October 5, October 12, and October 28. The Housing Element team used these meetings to ask for clarification on the comments and present draft responses for HCD feedback. Details about the major changes made to the Housing Element are discussed later in this staff report under the specific topic. Additionally, minor changes are in the attached redlined Housing Element and will not be summarized or discussed further in this report (see Exhibit 3).

Furthermore, HCD recommended that cities should submit subsequent drafts rather than adopted Housing Elements. This provides the opportunity to iterate with HCD on the draft rather than HCD simply taking the plan as it is. This is the most efficient use of time as they

can provide more assistance and guidance on drafts, and the City may be able to address them within the 60-day review period. Staff is, therefore, recommending a revised schedule rather than proceeding with the tentatively scheduled adoption hearings at the end of the year (this November EPC meeting and the December Council meeting). The revised schedule will also provide the EPC and Council with another opportunity to provide further direction on the Housing Element before adoption. Please refer to the Next Steps section of this report for the project schedule.

### **Consequences of Noncompliant Housing Element**

The deadline for Bay Area cities to have a compliant and adopted Housing Element is January 31, 2023. Consequences include, but are not limited to:

1. Loss of eligibility for applying for grants, including those for transportation funding;
2. Limited ability to deny residential projects that provide 20% low-income units or 100% moderate-income units based on nonconformance with general plan or zoning requirements and standards, including density or height (called the “Builder’s Remedy”); and
3. A requirement to add programs or language in the Housing Element for recent State laws that take effect in 2023 (such as Assembly Bill (AB) 2339).

## **ANALYSIS**

### **Recommended Changes in Response to HCD Comments**

The City is required to address HCD comments before HCD will certify the Housing Element as substantially in compliance with State law, though the comments are structured to give the City flexibility in how they are addressed. Exhibit 4 is the Response to Comments Matrix, which includes page references to where in the red-lined draft Housing Element the changes were made.

Most changes were requests for more information or clearer analysis, such as evaluation of past programs, status and deed restriction of pipeline units, cumulative impact of government constraints, review processes, etc. These requests were responded to in the revised draft that is attached but will not be further summarized in this report. Rather, this report will focus on substantive issues, such as the sites inventory revisions, the AFFH analysis of the sites inventory, and (in the next section) program revisions.

### *Recommended Changes to Sites Inventory*

Several changes were made to the sites inventory to respond to HCD comments, better support the analysis of nonvacant sites, and increase the City's buffer of sites above the minimum to meet its RHNA requirement:

- Additional narrative was provided justifying the site selection based on the City's record of developing housing on nonvacant sites.
- Based on the high occupancy rates and large numbers of tenants, more narrative was provided regarding the large shopping centers in the inventory and the possibility of their redevelopment. In addition, these centers were "discounted" by 80% to further acknowledge the viable existing uses.
- Two sites were added to the inventory:
  - 1250 Grant Road, the Nob Hill site in Grant Park Plaza. The age of this structure was previously inaccurately identified as 2005, but it was actually built in 1971 (which met the City's criteria for inclusion).
  - 1500 North Shoreline Boulevard, the Century Theatre in North Bayshore. This site was not previously included because it was not clear what the property owners intended to do with the site. However, staff has met with them several times over the last few months, and the owners have expressed interest in constructing housing. Per HCD Housing Element guidelines, because this is such a large site, most units cannot be counted to low or moderate income, but the City can count 300 units to those categories (which accounts for 15% of the roughly 2,000 units that may be built there).
- New submitted applications were added, most significantly the project at 685 East Middlefield Road, which includes 828 units, including 138 lower-income units.
- Units that had not received a final certificate of occupancy as of June 30, 2022 were added to the inventory (including 1720 Villa Street, 2580 California Street, and 950 West El Camino Real). These units were not included before because it was not clear how the City was supposed to address units that had already been reported on an annual progress report. However, HCD staff made it clear during discussions that these units should be counted.

Staff has reviewed draft language regarding the updated nonvacant site methodology with HCD staff, who expressed support. While this is not final approval of the inventory by HCD,

it is a promising outcome and provides some confidence that additional rezonings will not be required.

The updated sites inventory is shown below in Table 1. The new buffers are 30% on low-income units and 16% on moderate-income units. Though these are lower than the previous draft and the moderate-income buffer is lower than staff was targeting, it is still a very healthy buffer for several reasons:

- The City has a very large pipeline of units under review, approved, and under construction, and there is relatively low risk that the pipeline sites will redevelop at significantly fewer low- or moderate-income units than proposed. After removing the pipeline and ADUs, the buffer on the remaining RHNA are 72% (lower income) and 23% (moderate income).
- If new development reduces the moderate-income capacity below the RHNA, lower-income sites can be converted to moderate-income sites through the annual reporting process. Therefore, a more accurate calculation of the buffer would combine the two incomes, resulting in a buffer of 26%. Note this may not apply in the reverse (from moderate- to lower-income) because there are additional requirements for lower-income sites.

**Table 1: Site Inventory**

|                                    | Low-Income Units | Moderate-Income Units | Above Moderate-Income Units | Total Unit Capacity |
|------------------------------------|------------------|-----------------------|-----------------------------|---------------------|
| <b>Sixth-Cycle RHNA</b>            | <b>4,370</b>     | <b>1,885</b>          | <b>4,880</b>                | <b>11,135</b>       |
| <b>Pipeline Projects</b>           |                  |                       |                             |                     |
| <i>Approved/Under Construction</i> | 509              | 247                   | 3,186                       | 3,942               |
| <i>Proposed Projects</i>           | 1,992            | 252                   | 5,232                       | 7,476               |
| <i>No Rezoning Required</i>        | 1,884            | 252                   | 5,232                       | <b>7,368</b>        |
| <i>Rezoning Required</i>           | 108              | 0                     | 0                           | <b>108</b>          |
| Subtotal                           | 2,501            | 499                   | 8,418                       | 11,418              |
| <b>RHNA Remaining</b>              | <b>1,869</b>     | <b>1,386</b>          | <b>-3,538</b>               | <b>-283</b>         |
| <b>Opportunity Sites</b>           |                  |                       |                             |                     |
| <i>Developable Sites</i>           | 3,127            | 1,654                 | 1,484                       | <b>6,265</b>        |
| <i>ADUs</i>                        | 48               | 38                    | 10                          | <b>96</b>           |
| Subtotal                           | 3,175            | 1,692                 | 1,494                       | 6,361               |
| <b>RHNA Remaining</b>              | <b>-1,306</b>    | <b>-306</b>           | <b>-5,032</b>               | <b>-6,644</b>       |
| <b>Total Unit Capacity</b>         | <b>5,676</b>     | <b>2,191</b>          | <b>9,912</b>                | <b>17,779</b>       |
| <b>Buffer</b>                      | <b>30%</b>       | <b>16%</b>            | <b>103%</b>                 | <b>60%</b>          |

*Changes to AFFH Analysis of Sites Inventory*

HCD requested analysis and data supporting the Draft Housing Element’s conclusions that lower-income units in the site inventory were not concentrated in areas of the City. Specifically, HCD requested analysis of the distribution of the sites inventory relative to existing patterns of opportunity, racial segregation, or other AFFH concerns. HCD informally reviewed these data and methodology and expressed general support.

North Bayshore was excluded from this analysis, even though it is the City’s only low-resource census tract, according to the State’s Opportunity Index maps. There are several reasons for this, which ultimately relate to how special a case it is:

- North Bayshore contains the City’s highest concentration of high-paying jobs, which constitutes significant economic opportunity for the residents of this neighborhood.
- The number of existing units in North Bayshore is less than 10% of the expected number of units, which will be predominantly market rate for above-moderate incomes. This means the demographics of the area today do not represent the expected demographics in the near future.
- The North Bayshore Precise Plan and North Bayshore Master Plan both contain robust implementation plans to improve access to schools, open space, daily goods and services, and public transit, increasing opportunities for the existing and future residents.

After removing North Bayshore, the remaining lower-income units in the sites inventory (including pipeline projects) were compared to the existing distribution of units in the City along a range of AFFH metrics, including nonwhite population, incomes, opportunity areas, and education. These data are shown below in Table 2.

**Table 2: AFFH Analysis of Site Inventory**

| <b>AFFH Metric</b>                   | <b>Existing Units</b> | <b>Lower-Income Units in Site Inventory</b> |
|--------------------------------------|-----------------------|---|
| <b>Racial and Ethnic Composition</b> |                       |   |
| Less than 55% Nonwhite               | 23%                   | 4%  |
| 55%-65% Nonwhite                     | 48%                   | 74%   |
| 65% or more Nonwhite                 | 29%                   | 21%   |

| <b>AFFH Metric</b>                      | <b>Existing Units</b> | <b>Lower-Income Units in Site Inventory</b> |
|---|-----------------------|---|
| <b>Income Composition</b>               |                       |   |
| Less than 35% Low/<br>Moderate Income   | 49%                   | 54%   |
| 35% or higher Low/<br>Moderate Income   | 51%                   | 46%   |
| <b>Opportunity Index</b>                |                       |   |
| Highest Resource                        | 41%                   | 52%   |
| High Resource                           | 45%                   | 43%   |
| Moderate Resource<br>(rapidly changing) | 14%                   | 5%  |
| Low Resource                            | 0%                    | 0%  |
| <b>Education Domain Score</b>           |                       |   |
| Less than 80%                           | 49%                   | 34%   |
| 80% or higher                           | 51%                   | 66%   |

The data in Table 2 show the following, which reflect that the City's Housing Element is not concentrating new lower-income housing in low-resource or segregated neighborhoods:

- Lower-income site inventory units are more weighted to areas with more higher-income households and fewer moderate- or lower-income households.
- Lower-income site inventory units are more weighted to the highest resource opportunity areas than high- or moderate-resource areas.
- Lower-income units are more weighted to areas with higher education domain scores than lower education domain scores.

The race and ethnicity data is more nuanced, however. The lower-income units are weighted toward areas that are 55% to 65% nonwhite and away from areas that are less than 55% nonwhite. This reflects the few opportunities for new housing south of El Camino Real and near downtown. However, they are also weighted away from areas that are more than 65% nonwhite, meaning that the sites are not concentrated in areas of the highest racial segregation. In addition, the draft Housing Element includes new programs and enhances previous programs that further encourage development in areas that are less than 55% nonwhite, such as by promoting SB 9 and ADU development through design resources, a pilot financial support program, and subdivisions that can help make these projects more economically feasible.



### *Recommended Changes to Programs*

HCD provided comments requiring Housing Plan modifications mainly to:

- Provide more detail on quantifiable outcomes and desired achievements (such as including desired heights and densities regarding housing on religious and community assembly sites);
- Prioritize certain programs earlier in the Sixth Cycle (such as the process streamlining program); and
- Link how programs address fair housing issues and specify how they are meaningful to overcome identified patterns and trends of inequity (such as the Multi-Family Inspections and Code Enforcement programs).
- Address comments received by HCD from members of the public.

To address the comments, the latest Housing Plan is presented in a new format to accommodate the detail added for each program. In addition, several new programs were added based on Council direction. The following two tables highlight substantive changes since the last Council meeting and the first Draft Housing Element was submitted to HCD in July. These include:

- Newly Added Programs—Several new programs were added based on Council direction at the Study Session in June 2022. At that time, staff had noted that programs that needed additional review would not be included in the first draft to be submitted to HCD. The review has been completed, and the programs are in the second draft. Other programs are added based on comments received from HCD.
- Modified Programs—Here, programs are modified to address HCD comments.

Other changes in the redlined Housing Element are not substantive and will not be summarized or discussed in this report.

Where programs address public comments, they are noted below. A comprehensive list of comments and staff responses are included in Exhibit 5.

Newly Added Programs

| Description of New Program  | Source                                       |
|---|--|
| <b>1.2: Reduced Parking for Affordable Housing</b>  |  |
| Often, projects are approved with reduced parking through studies. Establishing reduced parking standards will streamline review of 100% affordable housing development.  |  |
| Codifies reduced parking for affordable housing projects based on precedent reductions, Transportation Demand Management (TDM), and other analyses and streamlines affordable housing review, which often require discretionary parking reductions. | HCD and raised in public comments.           |
| <b>1.6: SB 9 DUO Subdivisions</b>   |  |
| Through State law, single-family properties can subdivide once through SB 9. To increase home ownership opportunities, SB 9 DUO projects can propose condo mapping as part of the development, providing subdivisions of up to four units.          |  |
| Amend Zoning and Subdivision ordinances to allow SB 9 DUO subdivisions.   | Council and raised in public comments.       |
| <b>2.3: Pilot ADU and SB 9 Financial Incentives Program</b>   |  |
| To increase opportunities for additional density on single-family sites, the City will develop a pilot funding program.   |  |
| Develop opportunities for low-income households to access funding and resources to develop ADUs/SB 9 projects.  | HCD, Council, and raised in public comments. |
| <b>4.6: Partnerships with Employers</b>   |  |
| Find opportunities to communicate and collaborate with employers to address jobs-housing balance improvements.  |  |
| Meet with and survey employers on opportunities and constraints for work force housing.   | Council.                                     |
| Create a legal land use framework for short-term employee housing.  | Council.                                     |

Modified Programs

| Description of Modification  | Source/Response |
|--|-----------------|
| <b>1.1: Zoning Ordinance Update for Consistency with State Laws</b>  |                 |
| Required Zoning updates as new State laws become applicable. This program previously included a broader range of zoning amendments which were moved to 1.2 and 1.3.  |                 |
| Added various State requirements to amend the Zoning Ordinance to address residential care homes, reasonable accommodation, and rezoning for remaining site(s) on the inventory without consistent zoning. | HCD.            |

| Description of Modification  | Source/Response                              |
|--|--|
| <b>1.3: Review and Update Ordinance and Precise Plan Residential Standards</b>   |  |
| Updates that are not required by State law but would improve staff implementation and streamline processes to address governmental constraints. Previously in 1.1.   |  |
| Study live-work as an allowed residential use in viable locations.   | Council.                                     |
| Update standards and definitions in Zoning Ordinance and Precise Plans that constrain allowed density.   | HCD and raised in public comments.           |
| <b>1.4: Religious and Community Assembly Sites for Housing</b>   |  |
| Create opportunity for affordable housing on religious and community assembly sites that are located throughout the City and typically in existing high-opportunity residential areas. Previously 1.2.   |  |
| Added detail regarding heights (three stories) and densities (30 to 40 dwelling units per acre, approximately current R3 densities).   | HCD.   |
| <b>1.7: Monitor and Promote Accessory Dwelling Units, Junior Accessory Dwelling Units, and SB 9 Developments</b>   |  |
| Create added opportunities for additional density in single-family sites beyond State law by providing resources based on need through surveys, educational resources, etc. This program was previously 1.4.   |  |
| Develop and distribute promotional materials.  | HCD, Council, and raised in public comments. |
| Create preapproved design resource to encourage SB 9 DUO/ADU/JADU development.   |  |
| <b>2.1: Subsidize and Support Affordable Housing Programs</b>  |  |
| Make funding available and develop/market support programs, particularly for underserved populations.  |  |
| Included milestone of bringing research and analysis of appropriate innovative programs to Council by end of 2024 and specify COPA/TOPA as an option.  | HCD, Council, and raised in public comments. |
| <b>3.2: Displacement Prevention and Mitigation</b>   |  |
| Conserve and improve existing housing stock and develop strategy to prevent or mitigate displacement through various programs.   |  |
| More quantitative outcomes provided and additional detail on antidisplacement strategies, such as right of refusal requirements, displaced resident preferences, partnerships with developers on alternative units for displaced residents, and plans for unit preservation. | HCD and raised in public comments.           |

| Description of Modification   | Source/Response            |
|---|----------------------------|
| <b>4.1: Development Streamlining and Processing Revisions</b><br>Review existing operational details and codified approval processes and find solutions to improve and streamline processes.              |                            |
| Added development process review and related zoning code amendments.  | HCD.                       |
| Included language about internal City coordination and improved process by allocating dedicated staff to facilitate affordable housing development.   | Raised in public comments. |
| <b>4.2: Federal, State, and Regional Policy Initiatives</b><br>Advocate and shape legislation at regional, State, and Federal levels to improve opportunities to develop affordable housing and services. |                            |
| Lobbying State to change laws to shift impact fees from residential to office development.  | Council.                   |
| Develop local revenue ballot measure to fund affordable housing, support other housing programs, and increase the feasibility of residential development if regional BAHFA measure is not implemented.    | Council.                   |
| <b>4.3: Financial Support for Subsidized Housing</b><br>Examine existing and find new revenue sources to support extremely low- to moderate-income housing.   |                            |
| Included increasing housing impact fees for office development and other updates to fees.   | Council.                   |

***EPC Question No. 1: Does the EPC have any recommendations on the new or modified programs since the last Draft Housing Element?***

### **Alternate Programs for Consideration**

Council discussed a range of proposals for policy direction beyond what has been included in the first and second drafts of the Housing Element. There are a range of reasons why these proposals have not been in the draft, including because they have been rejected by Council at Study Sessions, they were deemed too uncertain for the Housing Element, they were partially addressed in the Housing Element, or the comments were received after the previous draft was presented to Council. Since this may be the final opportunity for EPC and Council to weigh in on these questions, the following section summarizes the key proposals for EPC recommendation on whether to include them in the Housing Element update.

### *Additional Rezonings—General*

The City has received many public comments regarding additional rezonings that the Housing Element should commit to. In general, the EPC should consider the following when recommending additional rezonings:

- They would increase the housing capacity of the City and allow housing on more underutilized sites.
- They would increase the site inventory buffer and/or provide opportunities to be more selective about site inventory sites. However, based on preliminary discussions with HCD, our current site inventory appears adequate to meet HCD requirements (though it is not certain until final approval).
- HCD generally expects upzoning programs to identify density targets, even for voluntary upzonings that are not necessary to meet RHNA (for example, they requested this information from our Religious Sites program). The City has not completed the analysis or outreach to identify specific upzoning densities.
- They would almost certainly require recirculation of the Draft Environmental Impact Report (EIR), delaying adoption by six months and adding up to \$200,000 to the budget.
- Nothing limits the City from pursuing these rezonings at any time in the next eight years, whether they are in the Housing Element or not.
- There is limited staff capacity over the next eight years. If EPC wishes to recommend more than one rezoning, they should also prioritize them.

The following areas have been promoted in one or more comments from the public as potential rezonings for the City to consider or undertake, but there has not been any outreach or analysis to support a commitment to particular densities. In addition, these areas have not had any outreach or analysis outside the Housing Element process, unlike the R3 Zoning District which is described below. In general, this list only includes rezonings that involve density increases or new allowances for residential. The draft Housing Element already includes programs that reduce development standards to improve viability of existing density allowances.

- Downtown Precise Plan. The City Council has expressed interest in a comprehensive update to the Downtown Precise Plan, which could include residential density increases. No outreach or analysis has been conducted to identify unit capacity,

target densities, redevelopment feasibility, or other factors that could affect residential development in the downtown area.

- Industrial Areas. Over the last 10 years, there have been several industrial-to-residential land conversions, most notably the North Bayshore and East Whisman Precise Plans, as well as some developments along Colony Street. In addition, the City prepared but ultimately did not approve the Terra Bella Vision Plan. Lastly, several industrial sites are already proposed for affordable housing in the Housing Element. While there may continue to be opportunities for conversion, the EPC may wish to consider the amount of land that should be preserved for industrial, the distance of these areas from school or neighborhood amenities, and that land costs may be kept low for affordable developers by maintaining the industrial zoning.
- Charleston Plaza (previous site of Best Buy and REI). In June, this site was presented to Council for discussion, and they did not direct staff to include it. In addition, there is currently an application under review to rehabilitate the buildings for R&D uses, which are allowed in the zoning district.

If the EPC wishes to recommend committing to rezoning any of these areas, they could be added to the back-pocket list or a program with the following language:

“Adopt density increases in/at \_\_\_\_\_. Adopted densities shall be based in part on an analysis of feasible development. The process shall include outreach to key stakeholders, analysis of constraints and existing uses that may impede development, review and development of policy goals for development (including distribution of densities or intensities, design and character, mix of uses, open space needs, and parking or TDM), and adoption of objective standards that do not constrain the increased densities.”

### *R3 Zoning District*

This section focuses on proposed density increases in the R3 Zoning District, which received more public comment than the areas identified above. Note that the considerations at the beginning of the previous section apply to this section as well. Unlike the areas above, the City has been working on a potential R3 zoning update over the last several years. The purpose of this update is to consider form-based zoning, incentivizing stacked flats, and updated rowhouse standards. In addition, options for increasing density in R3 have also been the subject of community outreach and presented to the City Council. In November 2021, the City Council directed staff not to include the R3 Update in the Housing Element based on its uncertainty, timing, and displacement concerns.

There are many opportunities to increase density in R3, which could focus on different areas (e.g., access to transit and services or distance from lower-density neighborhoods), underutilized opportunity sites, different form/character approaches, replacement targets, or other policy goals. These different goals should be evaluated and presented to Council before identifying or committing to target minimum densities. In addition, R3 density increases will occur on small sites through Program 1.3, which will update R3 and other districts to allow at least the densities prescribed by the General Plan (small sites currently have lower maximum density in R3 Zoning than in the General Plan).

If the EPC wishes to recommend committing to some increased density in R3, it could be added as a recommended program as noted below:

“Adopt higher densities on key sites or areas of the R3 Zoning District to achieve desired outcomes, such as affordable unit replacement, minimized displacement, access to transit/services/opportunity areas, or enhanced/preserved neighborhood character. Adopted densities shall be based in part on an analysis of feasible development. The process shall include outreach to key stakeholders, analysis of constraints and existing uses that may impede development, review and development of policy goals for development (including distribution of densities or intensities, design and character, mix of uses, open space needs, and parking or TDM), and adoption of objective standards that do not constrain the increased densities.”

#### *Replacement of Rent-Stabilized Units*

The Draft Housing Element includes a robust displacement mitigation program, including acquisition of existing units to support preservation and relocation, right of refusal requirements, COPA/TOPA and community land trusts, partnerships, and enforcement of current tenant-protection laws. However, the Draft Housing Element does not currently include a local replacement requirements provision, wherein developments that include demolition of existing rent-stabilized units must replace those units with new units at specified rent or area median income (AMI) levels.

As noted in the [August 30, 2022 affordable housing Study Session](#), staff and the City’s consultants are evaluating local replacement requirement options as a part of the larger displacement response framework listed above and in coordination with the R3 zoning project. Staff also plans to implement stakeholder outreach over the coming months to inform potential options that will be discussed with Council in a Study Session on displacement response.

Based on an initial review of replacement requirements, staff has identified the following options. These will all require further study from an economic, legal, and land use perspective:

1. Establishing requirements to replace demolished rent-stabilized units with new rent-stabilized units. This would involve adopting an ordinance pursuant to the Ellis Act that would provide additional protections for rent-stabilized units after the expiration of SB 330, the State Housing Crisis Act of 2019. Because SB 330 currently offers stronger protection, staff will likely recommend only adopting those sites once SB 330 expires (currently scheduled for 2030).
2. Putting in place a program to designate more than 15% inclusionary deed-restricted units in new developments, potentially as an incentive and/or alternative mitigation to Option 1. Staff is still studying the legal and financial feasibility of this option.
3. Expansion of housing element sites inventory to include additional residential sites with existing rent-stabilized units that are likely to be redeveloped to require 100% replacement of those rent-stabilized units as deed-restricted affordable units. This may be an option per the Government Code relating to housing elements. Staff is still studying the legal and financial feasibility of this option. If Council pursues this option, it will require site-specific analysis and consultation with HCD. Furthermore, the sites would have to comply with what would be appropriate to include in the sites inventory. Because this requires significant further study, considering this option now would cause delay in housing element adoption, but there is nothing barring the City from considering this and updating the sites inventory at a later date. Because these sites are currently protected by SB 330, there is no need to delay housing element adoption to consider this option. This can be pursued after the Housing Element is adopted, but before SB 330 expires.
4. Displacement response programs and local replacement requirements of other cities. Staff is working with consultants to assess the feasibility of applying these options to Mountain View.

In addition to the above, staff will consider other replacement requirement options to bring forward in the Study Session. Staff will also evaluate/recommend other avenues (such as advocating for an extension of SB 330 at the State level, developing partnerships with property owners with vacant units, and creating “displaced household” preferences for affordable housing), as appropriate, to support displacement prevention efforts.

As indicated above, replacement requirements are not currently explicitly included in the Housing Element, although staff will proceed on this work per Council direction as part of the larger displacement mitigation strategy. If EPC would like to recommend including a



program regarding replacement requirements, the following proposed language is recommended:

“Study and, where appropriate and legally feasible, adopt local replacement requirements to prevent displacement upon the expiration of SB 330. Next steps include consideration of options at a Study Session.”

### *Eliminating Parking Requirements*

The Housing Element includes programs to reduce standards affecting residential development, including parking. For example:

- The TDM ordinance will provide opportunities to propose reduced parking along with provisions supporting alternative mobility; and
- Affordable housing projects will be allowed streamlined reduced parking based on previous analysis, TDM, and other factors.

Further, the City has already eliminated minimum parking requirements for multi-family residential development in North Bayshore and East Whisman. Lastly, State law now restricts the City from enforcing minimum parking regulations in the vicinity of major transit stops, such as downtown, San Antonio, and East Whisman.

Some public commenters have further requested eliminating residential parking standards altogether. This would reduce the complexity of review of residential development and would likely reduce residential development costs. It also “internalizes” the decision to provide parking to the developer’s calculation of marketability, similar to other project amenities (such as fitness rooms or swimming pools), and developers may be better than a broadly applicable standard at responding to market changes or niche customers. In addition, reduced parking may encourage nondrivers to live in the City or encourage people in the City not to drive, which could reduce traffic and other car-related impacts. If developers choose not to build parking, it could also provide opportunities to improve project design by reducing parking-related constraints on development.

On the other hand, public comment was also received requesting that parking standards not be reduced because of the reduced quality of life for new and existing residents who would need to rely on congested street parking. In many places in the City, public parking is a free, common resource, and such resources tend to be inefficiently used, both by existing and future development. For example, near-term developers may have the incentive to build less parking until the street parking is over-capacity, creating additional construction costs for later developers as well as time and convenience costs to residents of existing and near-term development.

If the EPC wishes to recommend committing to eliminating or reducing parking requirements broadly and unrelated to TDM, the following recommended program language could be included:

“Reduce or eliminate parking minimum requirements for multifamily residential development. If reduced, set the minimum at a level that does not constrain development feasibility, for example, by setting it at or below typical amounts of parking provided in projects not subject to minimum parking standards.”

#### *Timing of Including Alternate Programs*

While we do not currently have absolute certainty about the approval of our Draft Housing Element by HCD, HCD staff have given positive feedback about the draft materials they have been able to review. As a result, it does not appear that these actions are necessary to comply with State law. However, the EPC or Council may wish to consider them either because they are consistent with their own policy goals or as “insurance” for HCD approval.

Because the tasks below involve significant amounts of staff time that may take away from future City priorities, staff does not recommend their inclusion. In addition, these actions can always be carried out in the future without inclusion in the Housing Element. Nonetheless, there are two options for adding this language to the Housing Element:

- They can be added now, before final HCD review; or
- The City can pursue adoption of a compliant Housing Element without them and then amend the Housing Element with the new programs.

***EPC Question No. 2: Does the EPC recommend adding any of the alternate programs? If so, does the EPC wish to add them as part of the current Housing Element or as part of a future update to the Housing Element?***

#### **ENVIRONMENTAL REVIEW**

Due to the large scale of anticipated housing development from the RHNA, the City prepared an EIR in accordance with the California Environmental Quality Act (CEQA) requirements to evaluate the impacts on the environment that could potentially occur with the implementation of the Housing Element update.

The Draft EIR was posted from July 22, 2022 until September 6, 2022 for public review and comments. During the circulation period, the City received seven comments from individuals, organizations, and agencies and comments from the EPC during the public

meeting held on August 3, 2022. The Final EIR consists of text changes made to the Draft EIR and the response to comments. It was made available to the public on November 4, 2022.

The City Council will not need to take action on certifying the EIR until the public hearing for adoption of the rezoning amendments, tentatively scheduled for January 24, 2023. The EPC will have an opportunity to recommend that action to Council at the EPC's December 7, 2022 meeting. It should, however, be noted that if the EPC is considering recommending alternative programs to be added to the Housing Element at this time, the EIR schedule could be impacted by six months.

### **NEXT STEPS**

EPC's recommendation will be forwarded to Council for feedback on the Housing Element revisions and on additional policy direction at a Study Session scheduled for December 13.

Furthermore, staff will submit the attached draft to HCD in the next several days for a formal 60-day review. HCD has stated that it is possible that they can provide preliminary comments before the 60 days are up.

There are a couple scenarios for the Housing Element Update adoption hearings depending on HCD's determination of the second draft review and the level of additional work requested by Council. In the current schedule, we expect the formal HCD review to conclude in early 2023, which allows us time to return to EPC and City Council as early as January/February.

Separately, staff will bring the Housing Element-related rezonings to the EPC on December 7, 2022 and for City Council adoption on January 24, 2023.

### **CONCLUSION**

In conclusion, staff is seeking EPC input on the revised Draft Housing Element, specifically:

1. Does the EPC have any recommendations on the new or modified programs since the last Draft Housing Element?

Staff additionally requests the EPC's recommendation on whether any of the alternative programs for consideration discussed in the report should be added to the Housing Element at this time.

2. Does the EPC recommend adding any of the Alternate Programs? If so, does the EPC wish to add them as part of the current Housing Element or as part of a future update to the Housing Element?
  - a. Programs to rezone any of the additional areas?
  - b. A program related to the R3 Zoning Update?
  - c. Programs referring to replacement requirements?
  - d. A program to eliminate residential parking requirements or reduce them without TDM?

Prepared by:

Ellen Yau  
Senior Planner

Approved by:

Eric Anderson  
Advance Planning Manager

Aarti Shrivastava  
Assistant City Manager/  
Community Development Director

EY/6/CDD  
810-11-16-22SR

- Exhibits:
1. Revised Draft Housing Element
  2. HCD Comment Letter, September 29, 2022
  3. Redlined Draft Housing Element
  4. Draft Response to Comments Matrix
  5. Public Comments and Staff Responses