

6th Cycle Housing Element Update

City Council
July 25, 2023



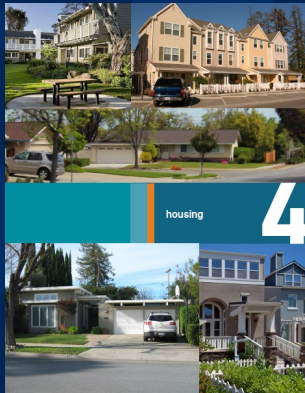
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Agenda

- Background
- What we know now
- Updated sites strategy
- Policies
- Timeline and next steps

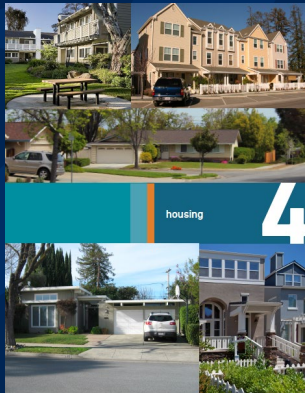
Background

- What is a Housing Element?
 - State-mandated Element of City's General Plan
- Why update it now?
 - Unlike other General Plan Elements required by State law to be updated every 8 years
- Purpose of the Update:
 - Study and plan for housing needs in the community, across all income levels



Background

- What does State law require?
 - Public Participation
 - Needs Analysis
 - Review of prior Housing Element policies/programs
 - Develop goals/policies/programs to address current needs
 - Housing Sites Inventory
- Who reviews and certifies compliance with State law?
 - CA Department of Housing and Community Development (HCD)

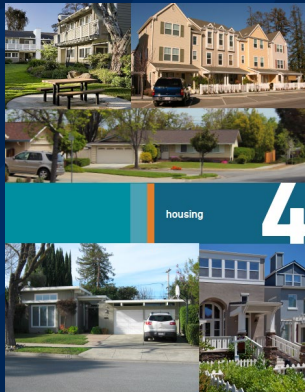


Related Updates

- Conforming changes:
 - Other General Plan Elements – Land Use, Transportation, Specific Plans
 - Rezoning
- State law requirements:
 - Health and Safety Element
 - Zoning amendments (emergency shelters etc.)
- Other – necessary to implement HE programs (e.g. Objective standards for housing developments)

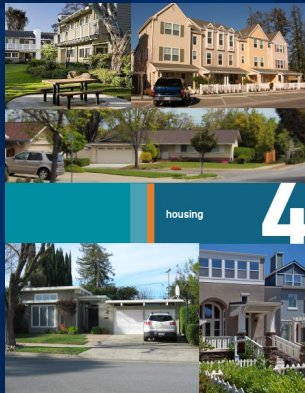
Background

- 6th Cycle Housing Element update covers 2023 – 2031 Planning Period.
- Certification deadline: January 31, 2023 (passed)
 - Rezoning must be completed by Jan 31, 2024
- 11 jurisdictions in Santa Clara County (15 cities/1 county) do not have compliant Housing Elements
 - ~56% of 109 ABAG jurisdictions not in compliance
 - ~1/3rd of SCAG jurisdictions still out of compliance



Background

- State-wide Housing Needs Determination made by HCD for each region within State
 - Cupertino in 9 County ABAG region



ABAG Regional Housing Needs Determination from HCD

Income Category	Percent	Housing Unit Need
Very Low	25.9%	114,442
Low	14.9%	65,892
Moderate	16.5%	72,712
Above Moderate	42.6%	188,130
Total	100%	441,176

Santa Clara County 6th RHNA Cycle

Jurisdiction	VERY LOW INCOME (<50% of Area Median Income)	LOW INCOME (50-80% of Area Median Income)	MODERATE INCOME (80-120% of Area Median Income)	ABOVE MODERATE INCOME (>120% of Area Median Income)	TOTAL
SANTA CLARA COUNTY					
Campbell	752	434	499	1,292	2,977
Cupertino	1,193	687	755	1,953	4,588
Gilroy	669	385	200	519	1,773
Los Altos	501	288	326	843	1,958
Los Altos Hills	125	72	82	210	489
Los Gatos	537	310	320	826	1,993
Milpitas	1,685	970	1,131	2,927	6,713
Monte Sereno	53	30	31	79	193
Morgan Hill	262	151	174	450	1,037
Mountain View	2,773	1,597	1,885	4,880	11,135
Palo Alto	1,556	896	1,013	2,621	6,086
San Jose	15,088	8,687	10,711	27,714	62,200
Santa Clara	2,872	1,653	1,981	5,126	11,632
Saratoga	454	261	278	719	1,712
Sunnyvale	2,968	1,709	2,032	5,257	11,966
Unincorporated Santa Clara	828	477	508	1,312	3,125

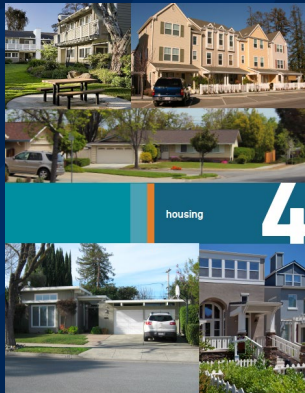
Cupertino's 6th Cycle RHNA

Income Group	Units	% of total
Very Low Income (<50% of AMI)	1,193	26.0
Low Income (50%-80% of AMI)	687	15.0
Moderate Income (80%-120% of AMI)	755	16.5
Above Moderate Income (>120% of AMI)	1,953	42.5
Total	4,588	100

Affordable
Units =
2,635

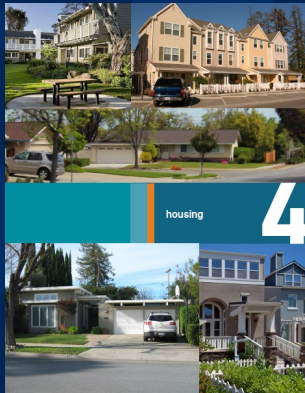
Background: 5th Cycle Performance

- City's 5th Cycle RHNA: 1,064 units
- Housing Element sites: 5 total, capacity ~1,400 units
- Approved projects on all 5 Housing Element sites
 - Total approved units: **3,370 units**
 - VLI units: 362; LI units: 847; Mod units: 75
- Building Permits issued: **546 units**
 - VLI units: 48; LI units: 19; Mod units: 158
- 4 out of 5 projects utilized State Density Bonus law
 - Density Bonus requested: 3 projects
 - Incentives: 2 projects
 - Waivers: 3 projects
 - Reduced parking standards: 3 projects



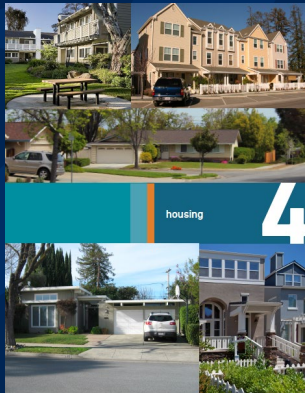
Background: 6th Cycle vs. 5th Cycle

- RHNA ~3x higher in Bay Area
- Fewer undeveloped sites, more reliance on redevelopment to meet RHNA
- New legislation adds requirements in:
 - Developing policy/programs
 - Greater accountability to produce housing
 - Site selection
 - Less discretion in housing development
 - More reporting
 - Affirmatively Furthering Fair Housing (AFFH)
 - More outreach and inclusion
- HE more like contract than standalone document.



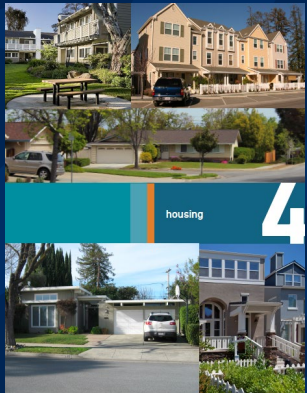
Background

- What can happen if city does not have a certified Housing Element?
 - Loss of local land use control – Builder’s Remedy projects
 - Court receivership appointing an agent to bring City’s Housing Element compliance
 - Lawsuits and attorney fees
 - Ineligibility for grant funding
 - Financial penalties, court issued fines
 - Streamlined ministerial approval of projects



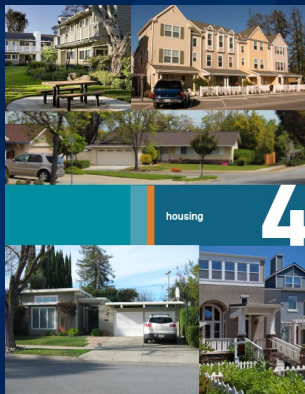
What is Affirmatively Furthering Fair Housing (AFFH)?

- AB 686 (2018) defines AFFH as: “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”
- Three community meetings focused on AFFH held May-September 2022.



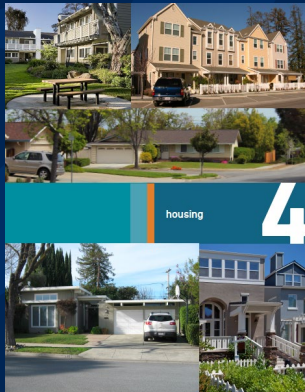
Affirmatively Furthering Fair Housing (AFFH) - Goals

- Address disparities in housing needs and access to opportunities.
- Replace segregated living patterns with integrated and balanced living patterns.
- Transform racially and ethnically concentrated areas of poverty into areas of opportunity.
- Foster and maintain compliance with civil rights and fair housing laws.



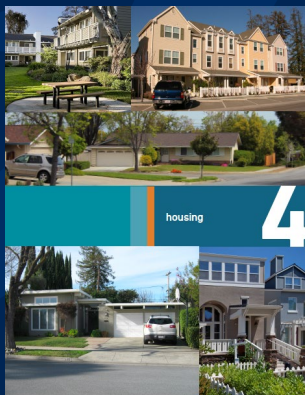
Affirmatively Furthering Fair Housing (AFFH) - Cupertino

- Most of City is Highest Resource with Access to Opportunities
- Housing anywhere in City would regionally Affirmatively Further Fair Housing
- City has higher RHNA and must look to accommodate persons who currently do not reside here



What's happened so far?

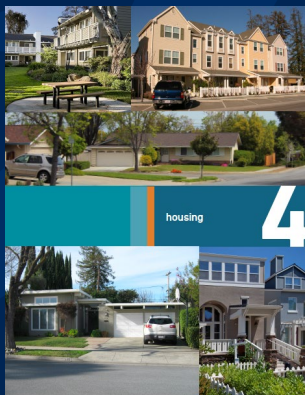
- **Community meetings** – Aug & Dec 2021
- **AFFH focused** meetings:
 - May 2022 – Unhoused, Veterans & individuals with disabilities
 - Jul 2022 – Students and Seniors
 - Sept 2022 – Cash-poor/House rich and workers
- **Consultant released** – Oct 2022
- Council directs staff to submit Draft HE to HCD – Nov 2022
- Draft HE submitted to HCD – Feb 4, 2023
- New Consultant approved – Mar 2023
- NOP for EIR sent to OPR's clearinghouse – Apr 2023
- EIR scoping meeting – April 18, 2023
- Comments received from HCD – May 4, 2023



What's happened so far?

- **Joint Study Sessions** with HC/PC/CC - April/May 2021 (2 meetings)
- **Consultant selected:** September 2021, following multiple RFPs
- **City Council:** Sept 2021 – Aug 2022 (8 meetings)
- **Housing Commission** – Dec 2021, Jun/Jul 2022 (3 meetings)
- **Planning Commission** – Jan 2022 – Jul 2022 (6 meetings)
- **Community Engagement Plan – Strategic Advisory Committee*** – Mar 2022 – Oct 2022 (8 meetings)

* Two councilmembers, HC Chair and PC Chair



Cupertino's 6th Cycle RHNA

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RHNA Buffer

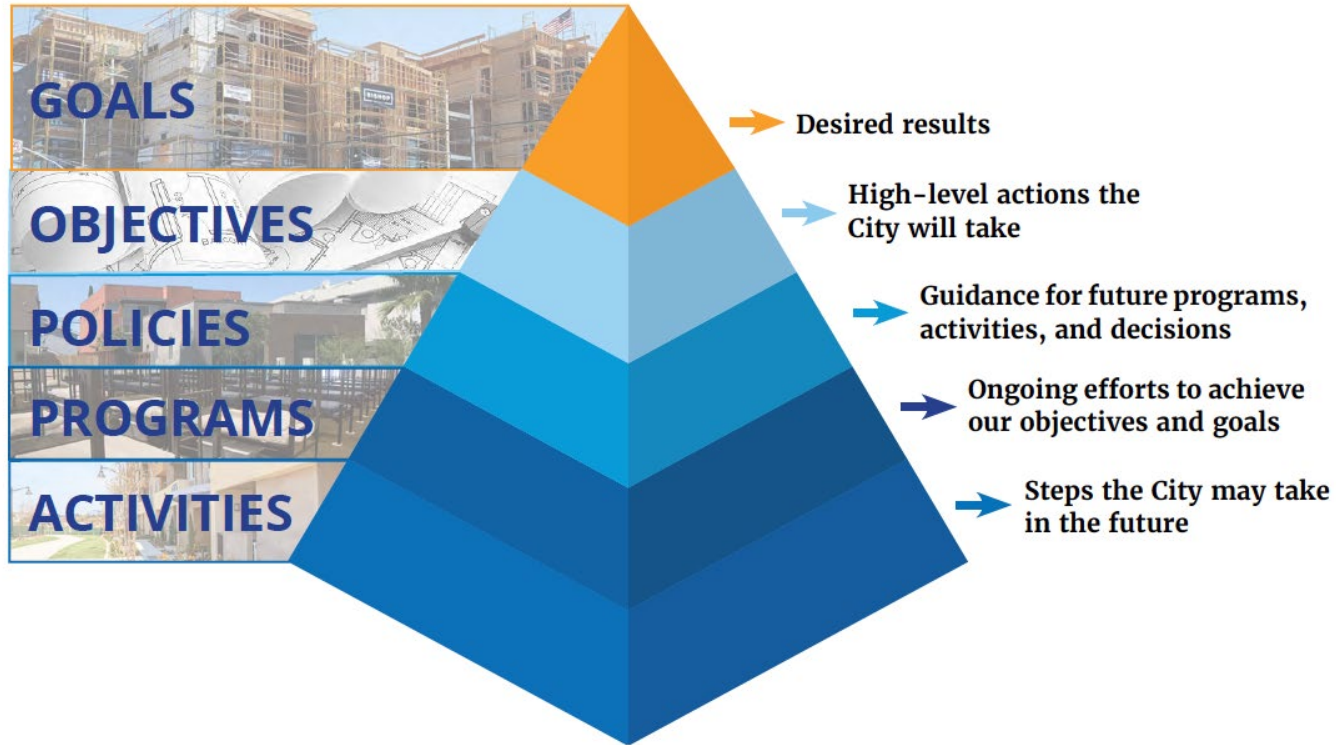
- Why do you need a RHNA Buffer?
 - SB166 (2017): No net loss law
 - Mandates that jurisdictions must maintain adequate site inventory to accommodate remaining unmet RHNA **by each income category** at all times
- How much is recommended?
 - ~ 25 - 30% particularly for lower income levels to ensure city does not have to update sites inventory before next HE update

Goals / Policies / Programs



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Goals, Policies and Programs



Required Programs and Policies

- Programs to provide **Adequate Housing Sites**
- Programs to **Assist Lower-Income Housing Development**
- Programs to Address Housing **Constraints**
- Programs to **Conserve and Improve the Housing Stock**
- Programs to **Affirmatively Further Fair Housing**
- Programs to **Preserve "at risk" Units**
- Programs for **ADUs/Second Units**

Sites Inventory

- Robust discussion in 2022 at Housing and Planning Commissions and City Council
- Started with all potential sites throughout the City which:
 - Met HCD size criteria – b/w 0.5 – 10 ac.
 - Indicated owner interest
 - Outside of fire hazard and geologic and other hazard zones – *more environmental impacts*

Sites Inventory

- More Interest in accommodating more development in western and southern parts of city
- Less interest in accommodating housing east of De Anza Blvd
- Locate housing sites to counteract declining school enrollment

Site selection strategy

- Comments from HCD: reliance on pipeline units
- New State law realities (AB 2011)
- Proximity to transportation – AB32/SB375
- Consultant experience based on likelihood of site acceptance by HCD
- Development potential of site
- Size of sites (0.5 acres (min.) to 10 acres (max.))

Pipeline Projects

- Over 3,500 units in first Draft HE
- Likely 1,500–1,600 units will be allowed at Vallco (west side only)
- Likely elimination of Hamptons (600 units) from pipeline
- If developed by 2031, City still gets credit for these units

Land use and Transportation

- State laws focus on linking land use and transportation to align with AB32 (2006) and SB375 (2008) – Climate Change and GHG reduction
- Regional plans (Plan Bay Area 2050 and Regional Transportation Plan) align with state law:
 - Identifies Heart of the City as Priority Development Area
 - Identifies transportation investment to support growth to reduce GHG
 - City's policies align

POLICY LU-1.1: LAND USE AND TRANSPORTATION

Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors. Figure LU-2 indicates the maximum residential densities for sites that allow residential land uses.

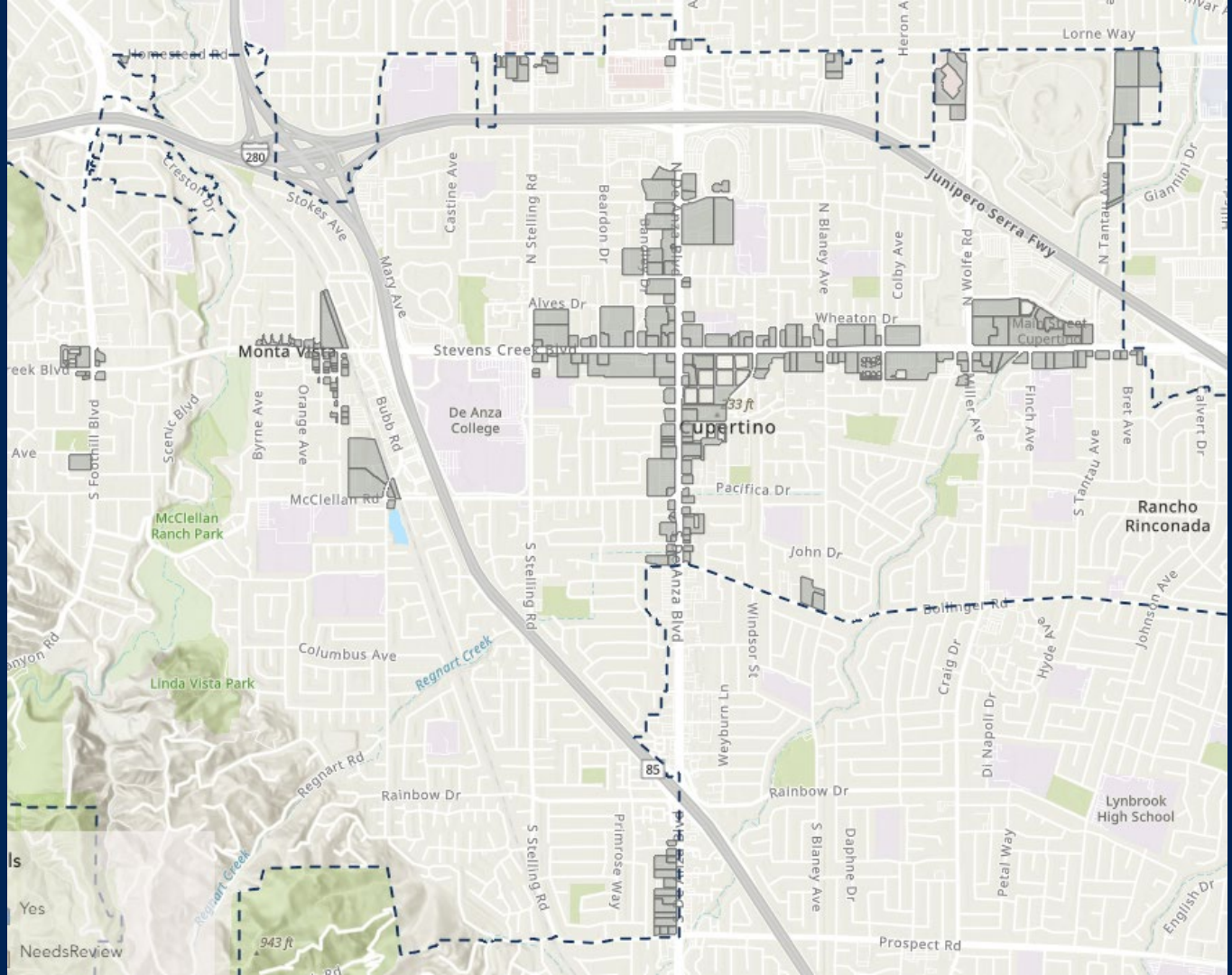
AB 2011/SB 6

- Effective July 1, 2023
- Allows Residential development on Commercial-Office Corridors regardless of Zoning
- Density and building height varies depending on lot size and width of corridor
- 45-foot minimum building height
- Zero-foot front setback

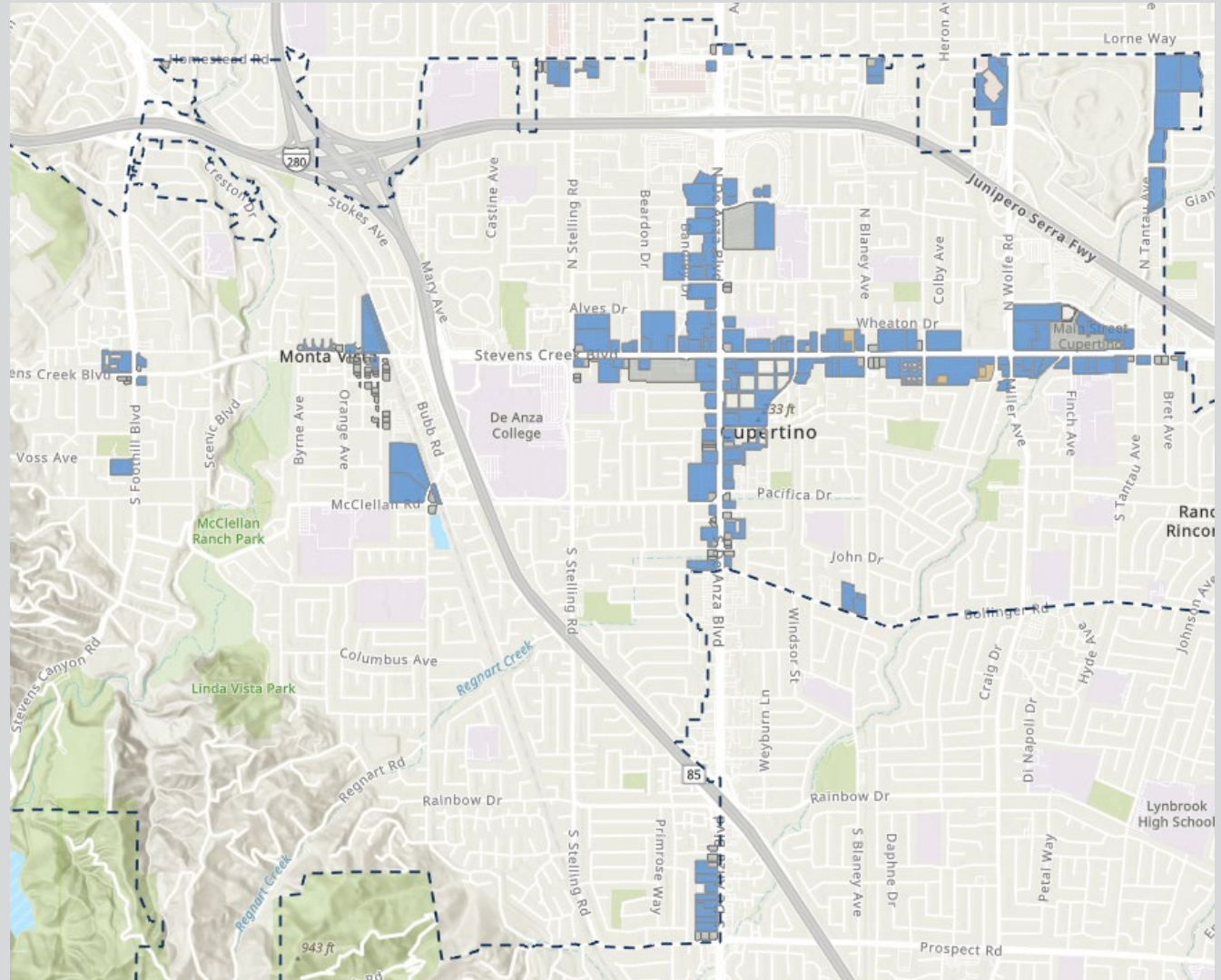
AB 2011 / SB 6?

SITE	DENSITY
Site < one (1) acre	30 du/acre
Site > one (1) acre and Commercial Corridor right-of-way < 100 feet	40 du/acre
Site > one (1) acre and Commercial Corridor right-of-way > 100 feet	60 du/acre
Site within one half-mile of Major Transit Stop (<u>N/A in Cupertino</u>)	80 du/acre

AB 2011 Sites



AB2011 with HCD size criteria



Updated Site Selection strategy

- Staff recommends using updated site selection strategy based on:
 - Consultant's feedback based on extensive HE update experience
 - Input from HCD on pipeline projects
 - HCD size and other criteria
 - State law (AB2011/SB6) framework to align transportation with land use

Housing Policy Areas

- Programs to **Assist Lower-Income Housing Development** –
 - Examples: Support Grant applications; Provide technical support; Issue NOFA for BMR Affordable Housing Funds
- Programs to Address Housing **Constraints** –
 - Examples: Adopt Objective standards, Continue fee waivers for affordable units and/or 100% affordable projects; evaluate Parking standards

Housing Policy Areas (cont.)

- Programs to **Conserve, Improve and Expand City Housing Stock** –
 - Examples: Requiring replacement of at least as many units as exist on a site; Disallow conversion of multi-family units to Single Family; CDBG funds for conservation/ improvements

Housing Policy Areas (cont.)

- Programs to **Affirmatively Further Fair Housing** –
 - Examples: Upzone sites adequately to allow accommodation of RHNA; Support teacher housing and ELI projects; Continue to support the development of ADUs, which offer opportunities with modest increases in density; Enhance "missing middle" housing policies

Housing Policy Areas (cont.)

- Programs to **Preserve "at risk" Units** –
 - Examples: programs to meet with affordable housing operators annually.
- Programs for **ADUs/Second Units** –
 - Examples: Continue to offer streamlined pre-approved plans; Evaluate and participate in local and regional efforts on ADU programs.

HCD comments

- Received May 4, 2023
- General in nature but comprehensive
- Asks for more analysis in several areas
- Some comments do not apply to City (e.g. manufactured homes/ADUs)
- No specific feedback on Sites Inventory, except pipeline (*discussed earlier*)

Council consensus on:

- Updated sites strategy
- Identifying priority housing policy areas among the following:
 - Assist lower income households
 - Address constraints
 - Conserve and Improve Housing Stock
 - Affirmatively Further Fair Housing
 - Preserve “at risk” units
 - ADUs/Second Units

Timeline and Next Steps



Sept 2023

- Submit revised draft to HCD



Dec 2023

- Publish Draft EIR
- Prepare 2nd Revised Draft HE



Mar/Apr 2024

- Comments from HCD
- Final EIR
- Adoption Hearings

Aug/ Early Sept 2023

- Publish Revised Draft HE
- Public Outreach re: zoning



Oct/Nov 2023

- EIR preparation continued
- Comments from HCD



Jan 2024

- Revised Draft to HCD
- Review/Comment on Draft EIR

