



## Legislation Details (With Text)

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Date	Ver.	Action By	Action	Result
4/6/2021	1	City Council and Authorities Concurrent	Approved	Pass

## REPORT TO COUNCIL

### SUBJECT

Study Session: Housing Element Update

### COUNCIL PILLAR

Promote and Enhance Economic, Housing and Transportation Development

### BACKGROUND

California state law mandates that all local governments adequately plan to meet the housing needs of their communities at all income levels. Under the law, the State Department of Housing and Community Development (HCD) first determines each region’s housing need for an upcoming eight-year planning period. The regional council of governments, which in the Bay Area is the Association of Bay Area Governments (ABAG), then allocates a “fair share” of the unit total to each jurisdiction. These first two parts of the process are known as the Regional Housing Needs Allocation (RHNA). Finally, local governments update their housing elements (a required element of the General Plan) to show how they will accommodate their share of the RHNA. Because the State assigned an overall housing need for the Bay Area that is approximately 2.5 times the need for the prior housing element cycle, jurisdictions throughout the ABAG region will receive significantly larger RHNA targets than they did in prior RHNA cycles.

The RHNA planning process for the Bay Area’s sixth housing element cycle, which will last from 2023 to 2031, began in 2019 by ABAG with a series of Housing Methodology Committee stakeholder meetings, and culminated in January 2021 with the adoption by the ABAG Executive Board of a RHNA distribution methodology for the allocation of housing needs to each city, town, and county in the region. The State HCD is currently reviewing the ABAG methodology for consistency with State criteria. The RHNA process will continue through 2021 with the release of draft allocations for each ABAG jurisdiction, an appeal process, and final allocations at the end of the calendar year. A preliminary allocation has been identified for each ABAG jurisdiction by utilizing the recently adopted

methodology.

Santa Clara, like all other Bay Area towns, cities, and counties, will be required to submit an adopted Housing Element to HCD by January 2023. The Housing Element must include identified sites for planned housing and pro-housing policies and strategies for how Santa Clara can achieve the development of the units allocated by the end of the sixth housing element cycle in January 2031. HCD will audit the Housing Element and if compliant, will certify it later in 2023. The Housing Element will include identified inventory sites that must have appropriate General Plan and zoning designations to enable housing development at indicated densities. These sites must also have received environmental clearance through the California Environmental Quality Act (CEQA) to allow housing at the densities called for. After adoption of the Housing Element, Santa Clara will also be responsible for submitting General Plan annual progress reports to HCD and the Governor's Office of Planning and Research (OPR) to document that the City is on course with the issuance of entitlements and building permits for new housing units. In order to meet this timeline, City of Santa Clara staff have begun working on preparation of the City's next housing element, utilizing the City's preliminary RHNA targets provided by AGAB upon adoption of the RHNA distribution methodology.

## **DISCUSSION**

Staff will provide an overview of the State's requirements for preparation of the City's 2023-2031 Housing Element at a City Council study session on March 23, 2021. The following is provided as background information in advance of the study session.

### **Santa Clara RHNA Allocation**

The RHNA sets a citywide target for housing production over the 8-year housing element timeframe for units affordable to households based on four different income levels. A key component of the City's Housing Element will be an inventory of housing development sites with demonstrated capacity to support new residential development that could fulfill the RHNA targets. The four income categories are Very Low Income (affordable to households with 0-50% of the Area Median Income (AMI)), Low Income (50-80% AMI), Moderate Income (80-120% AMI) and Above Moderate or Market Rate units (above 120% AMI). For reference, the San Jose-Sunnyvale-Santa Clara HUD Metro Fair Market Rate Area <[https://www.huduser.gov/portal/datasets/il/il2020/2020MedCalc.odn?inputname=METRO41940M41940\\*San+Jose-Sunnyvale-Santa+Clara%2C+CA+HUD+Metro+FMR+Area&selection\\_type=hmfa&year=2020&wherefrom=mfi&incpath=%24incpath%24](https://www.huduser.gov/portal/datasets/il/il2020/2020MedCalc.odn?inputname=METRO41940M41940*San+Jose-Sunnyvale-Santa+Clara%2C+CA+HUD+Metro+FMR+Area&selection_type=hmfa&year=2020&wherefrom=mfi&incpath=%24incpath%24)> AMI for a family of four is \$141,600 for 2020. Very Low Income housing is thus defined as housing affordable to households with an income of \$70,800 or less.

Based upon the RHNA methodology adopted by the ABAG Board, the City of Santa Clara has been given the following preliminary RHNA distribution for the sixth housing element cycle:

- Very Low Income Units: 2,872
- Low Income Units: 1,653
- Moderate Income Units: 1,981
- Above Moderate (Market Rate) Units: 5,126
- Total RHNA: 11,632

The City will need to base its Housing Element on the City's final RHNA distribution. Accordingly, the Housing Element under preparation will need to demonstrate capacity for the development of a minimum of 11,632 housing units. More than half of the identified capacity will need to meet the State's criteria to qualify as affordable housing capacity. For reference, 4,093 units were assigned to

the City of Santa Clara in the current fifth housing element cycle (2015 to 2023).

### Affordable Housing Sites

Housing Element law allows sites to be considered potentially affordable within a jurisdiction's Housing Element if the sites support densities of at least 30DU/AC. Therefore, many of the City's lands designated for medium or high residential densities could qualify as part of the City's affordable housing lands inventory. However, jurisdictions must demonstrate, on an annual basis, that sites remain available to fulfill the City's unmet RHNA allocation. If sites designated as affordable in the Housing Element do not get entitled at the planned affordability levels, the City will need to demonstrate through the "no net loss" provision discussed below how the City may still have capacity or will create additional capacity to achieve RHNA affordable units elsewhere in the city.

### New State Requirements

In addition to the challenge of planning for almost three times the RHNA number of units between the current fifth and the upcoming sixth cycle, recent changes to State Housing Element Law add complexities for Santa Clara as it prepares the upcoming Housing Element.

- SB 166 (2017): adds a "no net loss" provision for housing element site inventories. If an approved project on a housing element site has fewer units by income category than what was identified in the Housing Element, the remaining sites in the Housing Element must be adequate to meet the unmet RHNA requirements, or the City is required to identify and rezone additional sites to fully accommodate the unmet need within 180 days.
- AB 1397 (2017): increases eligibility requirements for housing element inventory sites. Sites in the inventory must now be both suitable and available. Sites smaller than a half-acre or larger than 10 acres are not considered adequate for lower income housing unless the jurisdiction provides examples of sites of equivalent size that were successfully developed during the prior planning period for an equivalent number of lower income housing units or other supporting evidence. Vacant sites cannot be used for more than two consecutive planning periods, and non-vacant sites for consecutive planning periods, unless the site is rezoned to allow at least 30 units per acre and by-right development if at least 20% of the units are affordable to lower income households. In addition, non-vacant sites must have realistic and demonstrated potential for redevelopment. If the City uses non-vacant sites to accommodate most of its lower income housing need, existing uses are presumed impediments absent substantial findings that the use is likely to be discontinued during the planning period. Finally, non-vacant sites with rent-controlled units, deed-restricted units, or units with lower income residents within the past five years must be replaced at the same or a lower income level.
- AB 686 (2018): adds a new provision to ensure all laws, programs, and activities, including Housing Elements, affirmatively further fair housing. Beginning January 1, 2019, all housing elements must now include a program that promotes and affirmatively furthers fair housing opportunities throughout the community for all persons. All housing elements due on or after January 1, 2021, must contain an Assessment of Fair Housing (AFH).
- AB 725 (2020): imposes a new minimum density of 4 dwelling units per acre (du/ac) for at least 25% of the sites designated as moderate-income or above-moderate in the next Housing Element, and imposes a maximum density of 100 dwelling units per acre for at least 25% of

the sites designated as moderate-income. Currently, most housing development in California comprises either single-family dwellings (which can be an inefficient use of land) or mid- or high-rise construction (which is expensive to build). This bill is intended to help encourage the development of “missing-middle” housing types that accommodate more units per acre, but are not inherently expensive to build.

### Strategies

While Santa Clara’s RHNA allocation is high and will be challenging to address, the City has been working in the last few years on significant long-range planning efforts to support growth in several strategic areas throughout the City. Completing the long-range planning processes and facilitating entitlements within those plan areas will be a key strategy for the City’s Housing Element. Additionally, updating the citywide affordable housing ordinance, creating objective development standards, and continuing to facilitate Accessory Dwelling Units will also be key pro-housing strategies for Santa Clara to include in its Housing Element update to achieve its RHNA requirements.

### *Long Range Planning Efforts*

The City is currently working on focused redevelopment within areas of the city through the development of the El Camino Real Specific Plan, Patrick Henry Drive Specific Plan, Downtown Precise Plan, and Freedom Circle Focus Area. The Tasman East Specific Plan is also proposed to be Amended to potentially increase capacity beyond the 4,500 units which were originally adopted with the original plan in 2018. While the land use plan is still being developed for the Downtown Precise Plan and thus the residential capacity in the Precise Plan is still undetermined, the efforts of the other listed long-range planning efforts could culminate in a total of 16,030 new units that may be constructed in the sixth RHNA cycle and thus could be identified in Santa Clara’s Housing Element. The El Camino Real Specific Plan, Patrick Henry Drive Specific Plan, and Freedom Circle Focus Area Plan are anticipated to be ready for City Council adoption in 2021.

These efforts could collectively address the City’s RHNA obligation regarding the total number of units to be produced and they present a timely opportunity to address the need to achieve more units of deeper affordability per RHNA requirements. For instance, the draft El Camino Real Specific Plan proposes a greater depth of affordability than the current Citywide affordable housing ordinance, as it proposes 15% of units to be affordable to households at 80% AMI. The affordability criteria included in the draft El Camino Real Specific Plan was proposed prior to Santa Clara receiving the RHNA requirements, which are higher than anticipated. Given that these long-range planning areas are where Santa Clara will see most new growth in the upcoming RHNA cycle, it will be critical to determine the right affordability requirements prior to the adoption of these plans.

### *Citywide Affordable Housing Ordinance*

The City also has a citywide affordable housing ordinance, which was adopted by the City Council in 2018. Santa Clara was one of the first cities in Santa Clara County to adopt such an ordinance and includes a commercial linkage fee so that most types of new development contribute to the creation of affordable housing. The current ordinance requires that all rental or ownership residential projects with 10 or more units provide 15% of the units at rents or sales prices that are affordable to households at a Moderate Income level of 100% AMI. Project developers can also propose to deliver affordable units in an alternate form provided that they provide units at deeper levels of affordability to better align with the City’s RHNA targets and the value of the proposal to the City is equal or greater than what is specified in the citywide affordable housing ordinance.

To further meet the City's RHNA requirements, staff has begun evaluating the possible modification of the City's Affordable Housing Ordinance to produce more affordable units. Staff has contracted with a consulting firm, Economic & Planning Systems (EPS), to evaluate the financial feasibility for developers to meet increased affordability requirements. While early in the process, EPS has developed several proformas corresponding to different types of residential development and with different affordability requirements, and tested their assumptions for those proformas with a sample group of local residential developers. Preliminary results show there may be some, but limited opportunities to require either more units or deeper affordability on certain residential project typologies without making development infeasible. Expanding opportunities for use of and/or increasing in-lieu fees will also be evaluated. There is a fine balance to increase the effective production of affordable housing through updates to the citywide ordinance, especially to produce more low and very low income units required through RHNA, while also ensuring that projects are still profitable so that the City's affordability requirements do not become a barrier overall to housing production.

An initial residential developer stakeholder meeting was held on March 12, 2021 to broadly inform the development community that this study is in progress. Participants included approximately 30 residential developers as well as representatives of SV@Home and the Building Industry Associates. Staff facilitated multiple break-out rooms so that participants could provide extensive input regarding the types of housing development addressed in the study, current market conditions, and measures that could help maintain feasibility for development while also producing more affordable units. A summary of input from the meeting is attached (Attachment 2).

Additional stakeholder outreach will be conducted to receive feedback as policy alternatives are developed for potential modification of the ordinance.

#### *Objective Development Standards*

Recent State legislation enables housing projects to have streamlined processes if they build in conformance to the City's General Plan and limit the City's review process to objective development standards. Such standards are most typically established within the Zoning Ordinance so that their application is non-discretionary. While Santa Clara, like many cities, has relied heavily on the Planned Development Zoning process to entitle new higher density and mixed-use residential projects, in the future projects will increasingly be able to bypass such a process and utilize existing zoning standards.

The City has made steps to address this need by implementing new zoning districts with the recent adoption of the Lawrence Station and Tasman East Specific Plans, and is also including new, modernized zoning districts with objective standards in the Zoning Code update in process. The latter effort is particularly important as the current Zoning Code, originally adopted in 1969, does not set forth standards that relate well to modern development typologies. The City has been working on a comprehensive update to the Zoning Code, and a public review draft is expected in the Summer 2021 timeframe. The new Zoning Code proposes new mixed use and multifamily development standards that are more reflective of contemporary projects. These activities will both streamline housing projects and create more tools to achieve design standards.

#### *Accessory Dwelling Units*

State law has facilitated the production of affordable housing by reducing the ability of local jurisdictions to apply restrictive standards or a discretionary process for the review of accessory dwelling units (ADUs). Like most cities, Santa Clara has seen an increase in the development of

ADUs and has issued building permits for 129 ADUs since 2019. The City is working with the other Santa Clara County agencies through a Planning Collaborative, which utilizes State grant funds to collaborate on work associated with Housing Elements, to analyze the production of ADUs in terms of the level of affordability. This data can be used to show how the City will in part meet its future RHNA requirements through new ADU construction.

Through outreach conducted with the Zoning Code update, feedback received from many members of community includes establishing a size for ADUs in a manner more proportionate to the size of the existing single-family lot. Currently Santa Clara allows all ADUs to be up to 1,200 square feet whereas the State requires only a minimum of 800 square feet for ADUs. 1,200 square foot ADUs are larger than many detached single-family residences in the City. Right sizing ADUs may also be a strategy that increases their affordability as larger units command higher rents. Santa Clara will continue to investigate how to further facilitate the development of ADUs in general to support homeowners through the process.

#### Housing Element Update Work Program

The Housing Element update is a high priority work item for the next two years. Santa Clara has been awarded \$499,150 through the State's 2020 Local Early Action Planning (LEAP) Grants Program Award, which is a reimbursable grant to the City to fund consultant work to develop the Housing Element as well as to fund a staff person focused on facilitating housing projects and developing pro-housing policies. Staff will be working through a consultant selection process to bring on board a consultant by July 2021. Staff will provide periodic updates with the City Council through the Housing Element's development and the final draft will be provided to City Council in Fall of 2022 for adoption.

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **FISCAL IMPACT**

There is no fiscal impact associated with this status report. It is anticipated that the City will utilize consultants to assist in the preparation of the Housing Element. The City has been awarded \$499,150 through the State's 2020 Local Early Action Planning (LEAP) Grants Program Award, which is a reimbursable grant to the City to fund consultant work to develop the Housing Element. The contract and corresponding budget approval to utilize the reimbursable grant will be brought forward for City Council for consideration by July 2021.

#### **COORDINATION**

This report was coordinated with the City Attorney's Office.

#### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>>.

**RECOMMENDATION**

Note and file the report on the Housing Element Update.

Reviewed by: Andrew Crabtree, Director, Community Development Department

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Santa Clara Long-Range Planning Activity Map
2. Summary of Stakeholder Input from March 12, 2021 Outreach Meeting