



**CITY COUNCIL  
HOUSING SUBCOMMITTEE  
AGENDA REPORT  
(AR)**

<b>Item Title:</b>	<b>Update on Adoption of the 6<sup>th</sup> Cycle Draft Housing Element (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Alex Andrade, Director of Economic Development, 408-586-3046)</b>
<b>Category:</b>	Community Development
<b>Meeting Date:</b>	1/6/2023
	<u>Recommendation:</u> Update on Adoption of the 6 <sup>th</sup> Cycle Draft Housing Element

**BACKGROUND:**

City staff and the Housing Element consultant will discuss the revisions to the Draft Housing Element in response to public comments received during the 30-day public review period that concluded on September 30, 2022, as well as edits based on preliminary comments received from the California Department of Housing and Community Development (HCD) with the Housing Subcommittee on January 6, 2023.

The Draft Housing Element represents the sixth update of this document and covers the eight-year planning period from 2023 to 2031. It is one of eight State-mandated General Plan elements and is the only General Plan element subject to review and certification by HCD. The purpose of the Draft Housing Element is to analyze the community's housing needs for current and future residents across various income categories; create, update, and guide housing policy in the City; and identify locations to accommodate the City's Regional Housing Needs Allocation (RHNA) goals.

A summary of the Public Draft Housing Element was presented to the City Council Housing Subcommittee for initial comments on August 22, 2022, prior to release of the document for a mandatory 30-day public review period on August 30, 2022, as required by HCD. This public review period represented the third phase of an extensive community outreach process for the Housing Element update which began in early 2022. The City Council received a presentation and held a public hearing on the Public Draft Housing Element on September 20, 2022. At this meeting, staff summarized the Subcommittee's comments and the corresponding revisions to the document to address to these comments. See Council Agenda Report [here](#).

The public review period for the Public Draft Housing Element ended on September 30, 2022. During the review period, the following meetings were held to provide information and receive public comments:

- Planning Commission - August 31, 2022
- Community Workshop #3 - September 13, 2022
- Community Development Roundtable - September 16, 2022
- Great Mall Farmers' Market Pop-Up Event - September 18, 2022
- City Council Meeting - September 20, 2022
- Santa Clara Collaborative Equity Advisory Group – September 29, 2022

Additionally, public comments were solicited online through a third community survey that was available during the review period. Comments could also be entered directly into the Draft Housing Element document that was posted on the project website via an online public engagement tool, or comments could be sent to a dedicated Housing Element email address.

## **ANALYSIS:**

### **Revisions Based on Comments Received During Public Review Period**

Following the conclusion of the public review period, staff revised the Public Draft Housing Element to respond to City Council input and the most recent community comments, which can be viewed [here](#). An updated version of the Public Draft Housing Element (HCD Review Draft) was posted on the City's Housing Element website and submitted to HCD for review on October 14, 2022. In addition to updating the information contained in the Public Draft Housing Element and the accompanying appendices, revisions to the Housing Element policies included the following:

- **Goal HE-1: Adequate Sites and Housing Production**
  - HE 1.7: Refined policy on school coordination to address opportunities for housing on surplus school properties.
- **Goal HE-3: Barriers to New Housing Production**
  - HE 3.3: Refined policy on Housing Opportunity Zones (HOZ) land use to balance commercial and residential uses for mixed use development.
  - Policy HE 3.7: Refined adaptive reuse policy to focus on economically under-utilized properties.
- **Goal HE-4: Housing Diversity and Affordability**
  - HE 4.7 (formerly 4.8): Expanded policy to support alternative housing types.
  - HE 4.9 (formerly 4.10): Refined policy associated with alternative supportive housing and care.
  - HE 4.11 (formerly 4.12): Added Community Development Block Grant (CDBG) policy related to use of funds for affordable housing.
- **Goal HE-7: Special Needs Populations**
  - HE 7.1, 7.5 (formerly 7.4), and 7.8 (formerly 7.7): Expanded policies to address housing for special needs populations.
- **Goal HE-8: Unhoused Population**
  - HE 8.6: Expanded on feasibility study for low-barrier navigation center (tiny homes model).

Additionally, the draft Housing Element contains specific programs that are intended to implement the Housing Element goals and policies. These programs were refined and expanded based on public comments and recommendations. The primary program revisions are summarized in Table A.

**Table A**  
**Summary of Revisions to Housing Element Programs Based on**  
**Community Comments During Public Review Period**

Programs	Program Revisions
<b>Program 4: ADUs</b>	<ul style="list-style-type: none"> <li>Added provision targeting funding/incentives for persons with disabilities and their caregivers</li> </ul>
<b>Program 6: Housing Rehabilitation</b>	<ul style="list-style-type: none"> <li>Added ongoing Milpitas Assistance Program (MAP)</li> </ul>
<b>Program 7: Tenant Assistance and Fair Housing</b>	<ul style="list-style-type: none"> <li>Added ongoing coordination with the San Andreas Regional Center (SARC)</li> </ul>
<b>Program 9: Anti-Displacement</b>	<ul style="list-style-type: none"> <li>Added regular survey on rental assistance program and anti-displacement activities</li> <li>Refined anti-displacement program list</li> </ul>
<b>Program 15: HOZ</b>	<ul style="list-style-type: none"> <li>Added incentives for persons with disabilities</li> </ul>
<b>Program 16: Affordable Housing Development</b>	<ul style="list-style-type: none"> <li>Added language about County funding and incentives for persons with disabilities</li> <li>Added action for Enhanced Infrastructure Financing District (EIFD)</li> </ul>
<b>Program 21: Zoning Ordinance and Building Code Amendments</b>	<ul style="list-style-type: none"> <li>Added Tiny Homes study</li> <li>Updated to reflect 2019 Service Delivery Fee Study and AB 2234 (post-entitlement permitting)</li> </ul>
<b>Program 22: Supportive Housing for Persons with Disabilities</b>	<ul style="list-style-type: none"> <li>Added ongoing coordination with the SARC</li> <li>Added incentive actions for supportive housing and units for persons with disabilities</li> </ul>

**HCD Preliminary Review and Revised Draft Housing Element**

By state law, HCD is allowed up to 90 days to provide initial comments on the first submittal of a Draft Housing Element, and HCD indicated that our response letter would be received no later than January 13, 2023. Since Bay Area cities must adopt their Housing Element by January 31, 2023, staff contacted HCD to determine if comments could be provided earlier before the due date of their letter.

Staff appreciates that HCD staff met with the Milpitas Housing Element Team on three occasions in December to provide preliminary comments on our Draft Housing Element. The mutual goal has been to resolve as many questions and comments as possible to facilitate the certification of Milpitas’s Housing Element. HCD staff was helpful in providing a checklist of their preliminary comments. The Housing Element Team agreed that it would be beneficial to submit a Revised HCD Review Draft Housing Element that addresses as many of HCD’s checklist items as possible. HCD’s response letter would then be based on a resubmitted document instead of our submittal on October 14, 2022. This is expected to reduce the remaining items the City would need to address after receiving HCD’s formal response letter.

Per HCD’s transparency requirements, any subsequent draft revisions must be posted on the jurisdiction’s website and a link must be emailed to all individuals and organizations that have previously requested notices relating to the local government’s housing element. The mandatory posting period is at least seven days before the draft revisions can be submitted to HCD for review. Additionally, HCD staff requested that upon receiving the revised document, the City should allow seven days for them to complete their response letter. In order to adhere to these time constraints, the following schedule has been established:

- **December 30, 2022** - Notice and post Revised HCD Review Draft Housing Element that addresses HCD’s preliminary comments (task completed). The latest [links](#) are now live on the Milpitas Housing Element [website](#).
- **January 6, 2023** - City Council Housing Subcommittee meeting

- **January 6, 2023** - Following seven-day public review period, transmit Revised HCD Review Draft Housing Element to HCD for review
- **January 11, 2023** - Planning Commission public hearing and recommendation
- **January 13, 2023** - Response letter expected to be received by City from HCD
- **January 17, 2023** - City Council Public Hearing and Adoption, with direction to respond to HCD's comments
- **January 31, 2023** - Submit adopted Housing Element with further revisions as needed to HCD for certification by the end of January

The Revised HCD Review Draft Housing Element is available on the City's Housing Element website at <https://milpitashousingelement.com/>.

HCD's preliminary comments pertained to: 1) verifying and elaborating on existing City conditions and performance for the 5<sup>th</sup> Cycle Housing Element (2014-2022); 2) clarifying and justifying the sites and housing units included in the City's Site Inventory to meet its Regional Housing Needs Allocation (RHNA); 3) elaborating on how the City has responded to public comments in the Housing Element; and 4) refining or expanding policies, programs, and actions to meet affordable housing and fair housing objectives.

Additionally, the City received a comment letter on December 20, 2022, from the Law Foundation of Silicon Valley. Along with addressing HCD's preliminary comments, the Revised HCD Review Draft Housing Element also includes edits to respond to the Law Foundation's comments.

Key revisions and additions in the latest document are summarized below:

- **How Community Engagement Shaped the Plan** - Discussion was added on the specific revisions that were incorporated in the Draft Housing Element to respond to public comments.
- **RHNA Strategy** - Adjustment were made in several areas:
  - **ADUs**: The potential accessory dwelling units (ADUs) for the 2023-31 Housing Element cycle was reduced from 248 to 176 units based on building permits issued for ADUs between 2019-22. The previous projection included pending applications and must be based on actual building permits issued each year. The result is a slight reduction in the total number of potential housing units, but the City will continue to exceed its RHNA across all income categories.
  - **Milpitas Metro Plan Residential/Mixed Use Sites**: Because the Metro Plan is scheduled to be adopted after January 31, 2023, and rezoning of certain sites will occur later in 2023, these sites have been redesignated in the RHNA Strategy from Opportunity Sites to Rezone Sites. Opportunity Sites are sites where the zoning is currently in place at Housing Element certification to permit development of the projected residential units, whereas Rezone Sites are pending rezoning to permit residential development or to increase the residential density. This change in site designation does not affect the total units in the RHNA Strategy. In accordance with HCD regulations governing RHNA units, Milpitas will need to complete the rezonings by the end of 2023. Staff expects that with the planned adoption of the Metro Plan on February 7, 2023, the associated rezonings could occur by the required date.

The revised RHNA Strategy (Table 8 in the Revised HCD Review Draft Housing Element) is included below:

## RHNA STRATEGY

	Units by Income Group				Total
	Very Low	Low	Moderate	Above-Mod	
<b>RHNA</b>	<b>1,685</b>	<b>970</b>	<b>1,131</b>	<b>2,927</b>	<b>6,713</b>
<b>Credits</b>	<b>176</b>	<b>253</b>	<b>148</b>	<b>1,793</b>	<b>2,370</b>
<b>Potential ADUs</b>	<b>53</b>	<b>53</b>	<b>53</b>	<b>18</b>	<b>177</b>
<b>Pipeline Projects</b>	<b>123</b>	<b>200</b>	<b>95</b>	<b>1,775</b>	<b>2,193</b>
<b>Remaining RHNA</b>	<b>1,509</b>	<b>717</b>	<b>983</b>	<b>1,134</b>	<b>4,343</b>
<b>Existing Opportunity / Adequate Sites</b>	<b>233</b>	<b>233</b>	<b>14</b>	<b>159</b>	<b>639</b>
<b>RHNA Shortfall</b>	<b>1,760</b>		<b>969</b>	<b>975</b>	<b>3,704</b>
<b>Rezone Sites</b>	<b>1,081</b>	<b>1,081</b>	<b>1,881</b>	<b>2,346</b>	<b>6,389</b>
<b>Surplus (+) / Deficit (-) (RHNA vs. Credits), Opportunity Sites, and Rezone Sites</b>	<b>+402</b>		<b>+912</b>	<b>+1,371</b>	<b>+2,685</b>

- **Goal HE-1: Adequate Sites** – expanded following policy:
  - **HE 1.6:** Continue to work with property owners to facilitate land acquisition and site assembly. Maintain communications with property owners and developers who exhibited interest in redeveloping their properties. Regularly identify steps and/or actions to transform interest into affordable housing production.
  
- **Goal HE-3: Barriers to Housing Production** – added or expanded following policies:
  - **HE 3.1:** Continually review and right-size development fees on housing development. Adjust or defer City fees for affordable housing development.
  - **HE 3.2:** Track changes to State housing legislation and regularly update the City’s Zoning Ordinance to reduce barriers to housing production and incentivize affordable housing production.
  - **HE 3.8:** Be a strong advocate for legislative change and funding/financing initiatives to support affordable housing.
  - **HE 3.9:** Continue to streamline housing permitting and procedures consistent with State laws (e.g., AB 2234) and the City’s Service Delivery Study.
  
- **Goal HE-4: Housing Diversity and Affordability** – added or expanded following policies:
  - **HE 4.5:** Regularly review and update the City’s Affordable Housing Ordinance and State Density Bonus ordinance to ensure both increase in the production of housing affordable to very low-, low- and moderate-income households.
  - **HE 4.12:** Continue to release land designated as surplus for development of affordable housing and other uses.
  - **HE 4.13:** Proactively monitor and enforce the City’s Short-Term Rental ordinance to minimize impacts on affordable housing options.
  
- **Goal HE-7: Special Needs Populations** – added following policy:
  - **HE 7.2:** Maintain financial assistance programs, such as the Rent Relief Program and Milpitas Assistance Program, to support residents and families with emergency needs.
  
- **Program Revisions** – Table B summarizes the revisions included in the Revised HCD Review Draft Housing Element as outlined below:

**Table B**  
**Summary of Primary Program Revisions in Revised**  
**HCD Review Draft Housing Element**

<b>Program</b>	<b>Program Revision</b>
<b>Program 1: Adequate Sites</b>	<ul style="list-style-type: none"> <li>• Engage with property owners and developers to develop sites</li> <li>• Address disposal of city-owned sites</li> <li>• Near end of Housing Element cycle, identify additional sites and rezone as needed to meet RHNA</li> </ul>
<b>Program 4: ADUs</b>	<ul style="list-style-type: none"> <li>• Take corrective measures to encourage ADU production</li> <li>• Annually review and revise ADU ordinance as appropriate</li> </ul>
<b>Program 6: Housing Rehabilitation</b>	<ul style="list-style-type: none"> <li>• Connect residents to energy efficiency and retrofit programs</li> </ul>
<b>Program 9: Anti-Displacement</b>	<ul style="list-style-type: none"> <li>• Expand measures for tenant protections and move up completion date to 2026</li> </ul>
<b>Program 11: Preservation of At-Risk Housing</b>	<ul style="list-style-type: none"> <li>• Expand support for tenants of at-risk units</li> </ul>
<b>Program 16: Affordable Housing Development</b>	<ul style="list-style-type: none"> <li>• Establish policy priority for water and sewer service for lower-income housing projects</li> </ul>
<b>Program 21: Zoning Code and Building Code Amendments</b>	<ul style="list-style-type: none"> <li>• Review parking and open space standards</li> <li>• Clarify process requirements for supportive housing to streamline approval</li> <li>• Address zoning constraints for production of single-room occupancy (SRO) housing</li> <li>• Establish procedures for approval of SB35 qualifying projects</li> <li>• Complete tiny homes study in 2023</li> </ul>
<b>Program 24: Missing Middle Housing</b>	<ul style="list-style-type: none"> <li>• Expand actions to facilitate and incentivize missing middle housing</li> </ul>

**Environmental Review**

The Draft Housing Element was reviewed for compliance with the California Environmental Quality Act (CEQA) based on the Final Environmental Impact Report (FEIR) that was certified for the Milpitas General Plan in 2021 (State Clearinghouse Number 2020070348). It was determined that there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the FEIR. Also, there is no "new information of substantial importance" that would require an update to the FEIR. Therefore, the previously certified EIR is deemed adequate and an ADDENDUM to the FEIR has been prepared.

**NEXT STEPS:**

Following the Housing Subcommittee meeting on January 6<sup>th</sup>, the Revised HCD Review Draft Housing Element will be presented to the Planning Commission on January 11<sup>th</sup> for a recommendation that the City Council consider adoption on January 17<sup>th</sup>. Staff expects to receive HCD's comment letter by January 13<sup>th</sup> and will address additional revisions as feasible before submittal of the Housing Element to HCD for certification by January 31, 2023.