



MILPITAS PLANNING COMMISSION STAFF REPORT

September 10, 2014

RECOMMENDATION: Staff recommends that the Planning Commission provide comments on the Draft General Plan Updated Housing Element (2015-2023) and recommend the City Council authorize staff to submit the Draft General Plan Updated Housing Element (2015-2023) to the California Department of Housing and Community Development for review and certification in accordance with State law.

PROJECT DATA: N/A

General Plan/
Zoning Designation: All Residential Zoning Districts

Overlay District: N/A

Specific Plan: None

PREPARED BY: Felix Reliford, Principal Housing Planner

ATTACHMENTS: Draft Updated Housing Element (2015-2023)

BACKGROUND

Summary State Housing Element Law

Under State law, Section 65302(c) of the Government Code requires a Housing Element as a mandatory element of the General Plan, which needs to be updated every eight years. All local jurisdictions must have a General Plan that includes a Housing Element. State law also requires that a General Plan and its constituent elements “comprise” an integrated internally consistent and compatible statement of policies.

State Housing Element law mandates and requires that the following issues be addressed within the Housing Element:

- Review of prior Housing Element (2009-2014) including analysis of housing production in comparison to mandated housing goals (Regional Housing Needs Allocation-RHNA).
- Analysis of the City’s current and future housing needs.
- Inventory and analysis of housing resources.
- Analysis of governmental and non-governmental constraints to housing production.

- A housing plan setting forth goals, policies, programs and qualified objectives to address the City's housing needs.

The current round of housing element review includes several new mandated actions required by the California Department of Housing and Community Development (HCD) which reviews the housing element and determines if the document meets State requirements and will be certified. These new mandates will be addressed later within the staff report.

Draft Updated Housing Element Public Review Process

On February 25 and March 11, 2014, staff conducted two community meetings on the Draft Housing Element Update to obtain public input and comments on the preparation of the document prior to the submittal of the draft housing element before the Planning Commission and City Council. The community meetings were advertised in the Milpitas Post, City's Website and Cable TV. Also, notices of the meetings were mailed to 70 different organizations, agencies, groups and other interested parties.

The February meeting included the following topics: 1) What is the Housing Element and State Housing Element requirements; 2) Housing Element relationship to the General Plan; 3) New laws affecting the Updated Housing Element; 4) What public participation is important to the Housing Element; 5) Role of HCD in reviewing the Housing Element; and 6) Discussion on housing needs assessment for the Housing Element.

The March meeting included the following topics: 1) Review of previous Housing Element (2009-2014) goals, policies and objectives; 2) Discussion on adequate housing sites inventory; 3) Discussion on projected housing needs; 4) Special housing needs and reasonable accommodations policy; 5) Governmental constraints; and 6) Timeframe for implementation of Updated Housing Element.

On May 14, 2014, the Planning Commission received an update on the status of the Housing Element process.

In October and November 2013, the Planning Commission recommended and City Council adopted several zoning ordinance amendments as required by State Housing Element Law to address Emergency Shelters, Transitional and Supportive Housing, Single Room Occupancy and adopted a policy to address reasonable accommodation in housing for disabled persons. Adoption of these ordinances allows the City to be a candidate for the streamlining review process by HCD of the Updated Housing Element.

After the Planning Commission review of the Draft General Plan Updated Housing Element (2015-2023), the Planning Commission recommendations will be forwarded to the City Council for their review and input. The Council meeting is tentatively scheduled for September 16, 2014. Both the Planning Commission and City Council meetings have been noticed in the Milpitas Post, Cable TV and on the City's Website.

After City Council review and comments, staff will advertise a 30-day public review and comments period on the Draft Updated Housing Element. Copies of the draft will be available at the Milpitas Public Library, City Hall and on the City's Website.

After City Council review, consideration of comments and approval of the Draft Updated Housing Element, it will be forwarded to HCD for review and consideration for certification. After responding to HCD comments, and receiving final certification, the Draft Updated Housing Element will be scheduled for public hearings before the Planning Commission and City Council for final adoption.

along with the environmental assessment (anticipate negative declaration since no new major land uses are being proposed or any other significant impacts) and other ordinance amendments. Staff estimates the public hearings for adoption will be held in December or January 2015. State law requires the Housing Element be certified by HCD before January 31, 2015.

Previous Housing Element Achievements (2007-2014)

During the previous Housing Element period, the City accomplished several major goals, which includes the following:

- Approved 13 residential projects with a total of 731 affordable housing units (351 very low-income, 194 low-income and 174 moderate-income).
- Assisted 227 first-time homebuyers for affordable housing units.
- Provided \$5.3 million in development fee reductions and waivers to assist development of 308 affordable housing units.
- Provided financial contribution every two years to support Countywide Homeless Census and Survey by the County to obtain Emergency Shelter Grants (ESG) from HUD.
- Provided \$185,000 in CDBG funding for 63 households to assist residents with home retrofits.
- Continued to work with Housing Authority of Santa Clara County to maintain affordability of expired units at Sunnyhills Apartments.
- Purchased additional wastewater capacity to accommodate infrastructure necessary for new housing development.
- Provided over \$40,000 of CDBG funds for shelter and services serving 78 Milpitas homeless residents.
- Implemented State Density Bonus toward affordable housing units.
- Adopted regulations to address reasonable accommodations to increase housing opportunities for disabled persons.
- Provided CDBG funding for Project Sentinel to enforce fair housing laws.
- Continued to promote PG&E Energy Partners Program through information provided on cable TV and City's website.
- Provided referrals and outreach materials to help low-income seniors reduce energy consumption.
- Adopted LEED checklist for planning applications.
- Provided public information on housing and housing opportunities on the City's website, Cable TV and the Milpitas Post.
- Provided public information to developers regarding Title 24 and ADA compliance and to disabled persons about housing opportunities and resources.
- Adopted Green Building Ordinance in 2008, updated in 2014.

- Provided \$15.6 million towards the development of the DeVries Place Senior Housing Project with 103 affordable senior housing units.

Progress in Achieving Regional Housing Needs Allocation (RHNA)

The Regional Housing Needs Assessment (RHNA) is mandated by State Housing Law as part of the periodic process of updating local housing elements of the General Plan. The RHNA quantifies the need for housing within each jurisdiction during specified planning periods.

One of the major requirements of the Housing Element process is the need to address the Regional Housing Needs Allocation from ABAG for the reporting period from 2007-2014. The total RHNA for the city was 2,487 residential units with 689 very low-income, 421 low-income, 441 moderate-income, and 936 above moderate-income. 6,310 housing units were built in the city during the period from 2007-2014, well exceeding the City’s overall housing allocation. However, the City is currently not meeting its very-low income, low-income and moderate-income targets. The chart below illustrates the City’s accomplishments in meeting the housing goals during the last Housing Element period:

2007-2014 Housing Element/RHNA			
	Units Built/ Permitted	Regional Housing Needs Allocation	Percent Goal Achieved
Total Units	6,310	2,487	389%
Very Low-Income	336	689	48.8%
Low-Income	109	421	25.9%
Moderate-Income	264	441	59.9%
Above Moderate-Income	5,601	936	598.4%

Current General Plan Housing Element/RHNA (2015-2023)

For the next Housing Element time period from from 2015-2023, the City received a Regional Housing Needs Allocation of 3,290 units as identified below:

Milpitas 2015-2023 RHNA Allocation					
	Very Low	Low	Moderate	Above Moderate	Total
City of Milpitas	1004	570	565	1,151	3,290
Percentage Distribution	30.5%	17.3%	17.2%	35%	100%
Current Housing Provided	56	7	0	6,083	6.146%
Percentage of Distribution	0.9%	0.1%	0	99.0%	100%

The Milpitas RHNA allocation represents over five percent (5.5%) of the total Santa Clara County RHHA figure of 58,836 housing units. As stated by the chart above, the City will not meet its housing

goals unless new policies and programs are considered and adopted to increase the production of affordable housing. As illustrated on the chart above moderate housing production will be met by traditional market conditions and demands over the eight year period. However, approximately 48% (1,004 very low and 570 low-income units = 1,574 units of the total 3,290 units) of the required allocation will be extremely difficult to meet without new policies and programs for affordable housing. The very low and low income units are individuals with incomes in the range of \$53,050 to \$84,900 for a typical four person household.

Policies and Programs to Address Affordable Housing Goals (2015-2023)

The Draft Housing Element details a number of policies and programs that Milpitas currently implements to address affordable housing goals. These include zoning and development standards that facilitate the development of affordable housing, the City’s Density Bonus Ordinance, and waiving developer impact fees when feasible for projects that provide affordable housing, among other strategies.

However, due to the dissolution of redevelopment agencies in California, Milpitas has recently lost a major source of City financing for affordable housing. There are a number of additional programs that the Planning Commission and City Council may consider to facilitate the development of affordable housing in the absence of the funding that was previously available through Redevelopment Housing Set-Aside funds. Many other cities in the Bay Area and throughout the state have adopted one or more of these programs to address their affordable housing goals, and others are reviewing these programs through the Housing Element Update process, as indicated in the table below. Potential programs include:

- **Inclusionary Zoning** - This would require developers to set aside a certain percentage of units in their projects to be affordable to certain income levels. Although a 2009 California Appellate Court decision ruled that inclusionary requirements cannot be enforced on rental units, it may be possible to apply these requirements on for-sale units.
- **Housing Impact Fee** - This would require developers of market-rate residential projects to pay a fee, either on a per-square-foot or a per-unit basis, that the City would use for the future development or preservation of affordable housing.
- **Commercial Linkage Fee** - This would require developers of new commercial projects to pay a fee, typically on a per-square foot basis. Similar to a Housing Impact Fee, a Commercial Linkage Fee would generate funds that the City could apply towards future development or preservation of affordable housing.

<i>2014 Survey of Santa Clara County Affordable Housing Program</i>				
<i>City</i>	<i>Inclusionary Zoning</i>	<i>Commercial Linkage Fee</i>	<i>Housing Linkage Fee</i>	<i>In Lieu Housing Fee</i>
Fremont	Yes	No	No	Yes
Cupertino	Yes	No	No	Yes
San Jose	Yes	No	No	Yes
Sunnyvale	Yes	Yes	Studying	Yes
Los Gatos	Yes	No	No	Yes
Morgan Hill	Yes	No	No	Yes
Santa Clara County	Yes	No	No	Yes

At the direction of the City Council, the Housing Element Update could include a program stating that Milpitas will consider any or all of the programs listed above during the 2015-2023 Housing Element planning period. Further review and consideration will be necessary to determine whether Milpitas should implement these programs, with consideration given to the need for resources for affordable housing, potential impacts on development feasibility, and other issues. Any future Housing Impact or Commercial Linkage fees will require a nexus study to determine the appropriate fee rate.

New State Housing Element Laws

The State Housing Element Law also includes several new mandated requirements which are required in the Draft Updated Housing Element, including:

- SB 375 Global Warming – Recognizing the link between good housing planning and mobility and the role of these regional and local planning efforts in meeting sustainable communities objectives.
- AB 162 Flood Hazards – Requires amendment to the General Plan Safety Element which requires information related to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM's) dam inundations zones, and City goals and policies to comply with State law. The Safety Element will also include adoption of the Santa Clara County's multi-jurisdictional *Local Hazard Mitigation Plan and the City's Local Hazard Mitigation Plan Annex* to ensure that appropriate emergency measures are implemented when a natural disaster occurs.
- Minor Amendments to the Open Space and Conservation Element to include a map of rivers, creeks, streams, and riparian habitat per AB 162 requirements.
- Policies to address housing opportunities for, and services available to, persons with developmental disabilities.

These amendments will be forwarded to the Commission and Council during the final adoption of the Updated Housing Element.

The Updated Housing Element also includes several new policies for the Planning Commission and City Council's consideration:

- Support the development and preservation of affordable housing and housing for individuals with special needs.
- Advocate for policies and legislation at the State and Federal level that increase the funding available to support the development and preservation of affordable housing.
- Implementation of policies to support SB 375 (Global Warming).
- Implementation of policies to support AB 162 to address potential natural disasters.
- Implementation of outreach program with San Andreas Regional Center that informs residents on housing and services available to persons with developmental disabilities.

Consideration to Delete Previous Housing Element Policy - Facilitate Development of Executive-Luxury Style Housing

The current Housing Element included a policy which supports facilitating development of executive-luxury style housing. HCD, which certifies the housing element, requests this policy be deleted being

that the average price of a single-family home in Santa Clara County is in excess of \$700,000 (which is unaffordable to most county residents), and the need for government policies to support executive-luxury housing is contrary to addressing the needs of lower-income residents that cannot afford adequate housing in the Bay Area, which is one of the most expensive housing markets in the country.

Dissolution of Milpitas Redevelopment Agency

Finally, the dissolution of the Milpitas Redevelopment Agency has had major negative financial consequences on the City's ability to support and provide affordable housing. The elimination of approximately \$6-7 million annually (20% of redevelopment funding by law was required to support affordable housing programs) has substantially limited the ability to increase affordable housing opportunities. The City will need to consider new policies and programs to continue to support affordable housing and provide housing opportunities (rental and for-sale) for Milpitas residents.

Fiscal Impact: None

Recommendation:

Staff recommends that the Planning Commission:

- 1) Conduct a public hearing;
- 2) Provide comments on the Draft General Plan Updated Housing Element (2015-2023); and
- 3) Recommend the City Council authorize staff to submit the Draft General Plan Updated Housing Element (2015-2023) to the California Department of Housing and Community Development in accordance with State law.