



456 West Olive Avenue
Sunnyvale, CA 94088-3707

408-730-7473
TDD/TYY 408-730-7501
sunnyvale.ca.gov

DRAFT LETTER TO THE CIVIL GRAND JURY
Affordable Housing Crisis: Density is our Destiny

September ____, 2018

Honorable Patricia Lucas
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA. 95113

Glenn Hendricks
Mayor

Re: Santa Clara County Civil Grand Jury Report Response

Larry Klein
Vice Mayor

Honorable Judge Lucas,

Jim Griffith
Councilmember

The Sunnyvale City Council received the 2017-2018 Santa Clara County Civil Grand Jury's Final Report on *Affordable Housing Crisis: Density is our Destiny*. The following is the City Council's response to the Findings and Recommendations applicable to the City of Sunnyvale, as required by section 933.05 (a) of the California Penal Code.

Gustav Larsson
Councilmember

Nancy Smith
Councilmember

Russ Melton
Councilmember

The City of Sunnyvale thanks the Civil Grand Jury members for their service and their dedication to evaluating the concerns around affordable housing in the region.

Michael S. Goldman
Councilmember

Adequate number of housing units and housing affordability for the region is not a new issue; however, as the Civil Grand Jury indicates, there is now a critical need to address these issues. The City of Sunnyvale has long recognized that housing and transportation are regional issues that cannot be addressed by one community and Sunnyvale has taken numerous steps to address housing supply and affordability.

Sunnyvale considers itself a regional leader in addressing housing needs and recognizes that not all techniques are appropriate for all communities. There are physical differences in communities (e.g., hillsides, earthquake fault lines, contaminated soil, sea level rise), locational challenges (no or little public transportation), infrastructure constraints (availability and distribution of water, collection and treatment of waste water) and fundamental community values that shape the way regulations are



formulated in each community. That being said, we agree that all communities have a role to play in addressing the housing crisis.

Responses to Findings and Recommendations

Finding 1a

Lack of housing near employment centers worsens traffic congestion in the County and increases the urgency to add such housing. Cities to respond are Campbell, Cupertino, Gilroy, Los Altos, Los Gatos, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Response to Finding 1a – AGREE

Sunnyvale generally agrees in principle. The lack of housing near employment is one factor contributing to traffic congestion; though other factors also contribute to traffic congestion (e.g., inadequate public transportation options and the relatively inexpensive cost to commute by private vehicle).

Finding 1b

Mass transit stations (Caltrain, VTA, BART) create opportunities for BMR units. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Response to Finding 1b – AGREE

Higher density housing development near transit stations and corridors does create opportunities for all housing, including BMR units.

Higher density housing development near transit stations is supported by the City of Sunnyvale General Plan goals and policies. The highest residential densities allowed in Sunnyvale are near the two Caltrain stations: Downtown Specific Plan (DSP) and Lawrence Station Area Plan (LSAP). The LSAP incentivizes higher densities by requiring additional affordable housing, exceeding the State Density Bonus Law provisions. In addition to being committed to creating higher density housing opportunities near mass transit options, the City of Sunnyvale has partnered with the VTA for the Peery Park Rides pilot program, which is a shuttle service that will support the Peery Park area, and nearby established residential areas. Peery Park Rides will connect residents and employees with the Downtown Caltrain station.



Finding 1c

Density bonus programs are not being used aggressively enough to produce the needed BMR units within one-half mile of transit hubs. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Response to Finding 1c – DISAGREE IN PART

Sunnyvale’s density bonus housing program is being utilized to the greatest extent that market forces will permit. Within the last five years alone, Sunnyvale has several examples of high density housing developments (completed, under construction and pending review) within one-half mile of Caltrain and LRT stations that were entitled with the state affordable housing density bonus, or local density bonus provisions.

Since 2013:

***Downtown** has five high density projects using density bonus provisions;*

- *three completed developments (about 300 units) (Iron Works North, Iron Works South, 481@Mathilda)*
- *two projects (850 units) are in the review phase.*

***Lawrence Station** includes two projects utilizing density bonus incentives;*

- *520 unit Greystar development on Kifer (under construction)*
- *743 unit project on Aster (under review)*

***Near the Tasman Fair Oaks Light Rail Station** are three density bonus projects;*

- *recently completed En Casa and 6tenEast, totaling 670 units*
- *250 units under construction on Karlstad.*

Sunnyvale will continue to work with developers requesting density bonuses, but also realizes that this is an area in which cities must continue to commit their resources and staff time to increase the number of BMR units within one-half mile of transit hubs.

Recommendation 1a

To improve jobs-to-housing imbalances, the cities of Palo Alto, Santa Clara, Milpitas, Mountain View and Sunnyvale should identify, by June 30, 2019, parcels where housing densities will be increased. The identification should include when projects are expected to be permitted and the number of BMR units anticipated for each parcel.



Response to Recommendation 1a – IMPLEMENTED and WILL BE IMPLEMENTED

Sunnyvale has implemented strategies to improve the jobs-to-housing ratio and has a long history of continuously looking for opportunities for more housing in the community and working to maintain a reasonable jobs-to-housing ratio. This commitment was recognized by the Grand Jury when it noted that Sunnyvale is one of three Santa Clara County cities that reasonably balances its jobs and housing (See page 20 of the Grand Jury Report).

Identification of housing opportunities has already been provided in the adopted Housing Element, including an analysis of how affordability levels will be achieved. It is not possible to predict when a site will redevelop as that is dependent on the property owner interest in changing the use or selling the property to a developer. The City cannot mandate a site be redeveloped.

The Land Use and Transportation Element (LUTE) of the General Plan, adopted in April 2017, included additional housing opportunities, increasing the 2014 buildout potential from approximately 68,000 housing units to 72,140 units (which was 27% more than the existing 57,000 housing units in 2014). Additional housing was identified along El Camino Real, Lawrence Station area, Peery Park (see discussion of these three plan areas and other areas below), in new mixed use commercial/residential Village Centers, and conversion of industrial sites to residential uses in East Sunnyvale

There is currently an update pending for the Lawrence Station Area Plan (LSAP) where the City Council has authorized the study of up to 2,839 additional housing units in the plan area (above already adopted levels). All parcels in the current plan boundaries are potentially eligible for additional density or for changed zoning to enable housing development. The aggressive LSAP density bonus provisions would apply (e.g., more density for additional affordable units). This plan update, including all required studies, is not likely to be completed by June 30, 2019. The current schedule for completion is late 2019.

The Precise Plan for El Camino Real is also being updated. The City Council has authorized the study of 2,700 additional housing opportunities above the



adopted General Plan (which allows an additional 4,200 housing units over existing). This plan is expected to be completed in mid-2019.

The Moffett Park Specific Plan (MPSP) has also been authorized for update. At this time residential development is not permitted in this business park, due to past uses that were not compatible with residential populations and due to lack of residential services. This study will not be completed by June, 2019.

Several sites within the Downtown Specific Plan (DSP) area are authorized for study of additional housing. One study has commenced and is expected for completion in mid-late 2019; another study has not commenced and is subject to property owner application and staff availability. These two studies, plus two pending projects using state density bonus provisions would increase allowable housing in the DSP area by 1,000 units.

The City Council has also authorized the study off additional housing in the Peery Park Specific Plan (PPSP) area. Only two areas are appropriate for housing due to proximity to the Moffett Federal Airfield. This study has not been scheduled and will not be completed by June, 2019

Recommendation 1b

Cities should identify parcels within one-half mile of a transit hub that will help them meet their LI and moderate-income BMR objectives in the current RHNA cycle, by the end of 2019. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Response to Recommendation 1b – IMPLEMENTED AND WILL BE IMPLEMENTED

Sunnyvale has identified parcels and implemented the necessary zoning for higher density housing near the two Caltrain stations in Sunnyvale and has included incentives for higher zoning based on the provision of affordable housing greater than the state density bonus law provisions, which is currently only in the LSAP). The adopted Downtown Specific Plan (includes Caltrain station) anticipates an additional 1,000 units above existing, the adopted LSAP Plan (includes a Caltrain station) anticipates 2,300 additional housing units and the adopted LUTE anticipates 4,200 units along El Camino Real (includes



major bus lines and connections); all three of these plans are being studied to increase allowable housing. The completion dates for the studies to permit these additional units are discussed above in our response to Recommendation 1a. In addition, the City has entered into an Exclusive Negotiation Agreement for a 90-unit affordable development (serving Extremely Low, Very Low, and Low income households) on City owned property in the Downtown, about one-half mile from the Caltrain station.

Sunnyvale has a Housing Element, Certified by the California Department of Housing and Community Development (HCD). As required by state laws, the Housing Element identifies available sites to comply with the current RHNA and describes how housing units and affordability goals will be pursued. This element will be updated for the next RHNA cycle due in 2023. In the meantime, the City of Sunnyvale is working on a Housing Strategy to further address housing affordability and supply needs in the community.

Of the seven VTA LRT stations in Sunnyvale:

- two stations are adjacent to mobile home parks, an important and protected housing option in the community (one of these stations is also adjacent to a business park area);*
- one station (Tasman/Fair Oaks) serves an area converting from industrial to residential (a mix of medium density townhomes with 12.5% of the units BMRs that are affordable to moderate income households, mixed-use high density residential developments—most with 15% of the units as BMRs. As discussed above in Response to Finding 1c there are recent high density projects using density bonus provisions in this neighborhood.; and*
- four stations are in the Moffett Park area (a business park) that for many years has included land uses with 24-hour noisy operations and hazardous materials that make for an incompatible relationship with residential uses. An update to the Moffett Park Specific Plan (also discussed under Response to Recommendation 1a), already initiated by the City Council, will consider whether business uses have changed and whether it is appropriate to add housing to this area.*

Recommendation 1c

Cities should revise their density bonus ordinances to provide bonuses for LI and moderate- income BMR units that exceed the minimum bonuses required by State law for parcels within one-half mile of a transit hub, by the end of



2020. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Response to Recommendation 1c IMPLEMENTED and WILL BE IMPLEMENTED

Sunnyvale has implemented higher density bonuses for a greater percentage of affordability, scaled for all income levels, in the LSAP. Sunnyvale is currently studying the addition of housing units in the Downtown Specific Plan area; this study will address the provision of inclusionary units, density bonuses and affordability specific to the sites included in the study. Sunnyvale is also studying amendments to the LSAP to increase the allowable densities on existing sites that allow housing, and expand the number of properties where residential development can be built (which would apply the higher density bonus provisions in the LSAP).

The Housing Strategy, referenced above in our Response to Recommendation 1b, will further examine programs that may affect the provision of additional affordable housing units.

Upon completion of each of the studies reference above, Sunnyvale will implement higher density bonuses in each of the study areas and in the time lines discussed above.

Finding 2a

Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents. Agencies to respond are all 15 cities and the County.

Response to Finding 2a – AGREE

Sunnyvale generally agrees in principle. The vibrant economy is one factor in the cost of housing in the region; though there are other factors that have caused the inflated housing market and displaced many residents (e.g., the proximity of three large universities that produce a talented labor pool, excellent weather, and good to excellent school districts). These additional factors have led to the investment in property from investors outside of Santa Clara County. Investors that are ready, willing and able to pay high value and in many cases without significant loans or all cash transactions.



The high cost of housing has displaced residents, some of whom have moved out of the area, some of whom are struggling to remain in Santa Clara County.

Finding 2b

Contributions to BMR housing from employers in the County are not mandated nor evenly shared. Agencies to respond are all 15 cities and the County.

Response to Finding 2b – AGREE

Though Sunnyvale is not intimately aware of all the efforts undertaken by other cities, currently there is no mechanism to evenly share contributions received from employers in the County. Each city in the County has developed tools to help implement their housing elements. One component of Sunnyvale’s housing programs is that we have established a commercial linkage fee (called a Housing Mitigation Fee), which is collected on net new commercial development. This program was updated in 2012 to include all net new commercial development across all zoning districts (not just higher intensity developments in industrial zoning districts). These locally generated funds are used to fund affordable housing projects and programs in Sunnyvale.

Recommendation 2a

The County should form a task force with the cities to establish housing impact fees for employers to subsidize BMR housing, by June 30, 2019. Agencies to respond are all 15 cities and the County.

Response to Recommendation 2a – WILL NOT BE IMPLEMENTED

As Sunnyvale already has a housing impact fee that is used to support affordable housing development its participation in a County-wide task force to establish such fees is not warranted. Sunnyvale’s response is limited to its own situation and is not a response as to whether other cities without such fees should form a task force formed by the County.

Recommendation 2b

Every city in the County should enact housing impact fees for employers to create a fund that subsidizes BMR housing, by June 30, 2020. Agencies to respond are the County and all 15 cities.

Response to Recommendation 2b – IMPLEMENTED



Sunnyvale already has a housing impact fee on new commercial development that is used to support affordable housing development. It is collected at the time of site development and is not dependent on the employer.

Finding 3a

RHNA sub-regions formed by several San Francisco Bay Area counties enable their cities to develop promising means to meet their collective BMR requirements. Such sub-regions can serve as instructive examples for cities in the County. Agencies to respond are all 15 cities.

Response to Finding 3a – AGREE

Though the Sunnyvale has not found studies or data that support a sub-region being better at enabling jurisdictions to meet collective BMR requirements, Sunnyvale agrees in principle that RNHA sub-regions may be a way to increase the number of BMR units in the County and may be worth discussing further. As a member of the Santa Clara County Cities Association, which has established a working group to explore a RNHA sub-region, Sunnyvale feels that the resolution of the formation of RNHA sub-regions should be addressed by the Association.

Finding 3c

More BMR units could be developed if cities with lower housing costs form RHNA sub-regions with adjacent cities with higher housing costs. Responding agencies are all 15 cities.

Response to Finding 3c – AGREE

See response to Finding 3a above.

Finding 3e

High-cost/low-cost RHNA sub-regions could be attractive to high-cost cities because they could meet their BMR requirements without providing units in their cities. Cities to respond are Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga and Sunnyvale.

Response to Finding 3e – PARTIALLY AGREE

The City agrees that creation of RHNA sub-regions could be attractive to some cities. We think it is important for the City of Sunnyvale to provide a variety of housing



options at a variety of affordability levels, as expressed by this goal in the adopted Housing Element of the General Plan.

- **Goal HE-1** *Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale's households of all income levels.*

See, also, response to Finding 3a above regarding sub-regions.

Recommendation 3a

Every city in the County should identify at least one potential RHNA sub-region they would be willing to help form and join, and report how the sub-region(s) will increase BMR housing, by the end of 2019. Agencies to respond are all 15 cities.

Response to Recommendation 3a – WILL NOT BE IMPLEMENTED

See response to Finding 3a above. Assuming the Cities Association of Santa Clara County supports the formation of RNHA sub-regions, requiring this to be accomplished by the end of 2019 is not reasonable. The factors involved in the formation of RNHA sub-regions is extremely complicated and the challenge of reaching a consensus amongst the various cities in such a short time frame is unreasonable.

Recommendation 3b

A RHNA sub-region should be formed including one or more low-cost cities with one or more high-cost cities, by the end of 2021. Agencies to respond are all 15 cities.

Response to Recommendation 3b – WILL NOT BE IMPLEMENTED

See response to Finding 3a above.

Recommendation 3c

High-cost cities and the County should provide compensation to low-cost cities for increased public services required for taking on more BMR units in any high-rent/low-rent RHNA sub-region, by the end of 2021. Agencies to respond are Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga, Sunnyvale and the County.

Response to Recommendation 3c – WILL NOT BE IMPLEMENTED



See response to Finding 3a above.

Finding 5a

Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements. Agencies to respond are all 15 cities and the County.

Response to Finding 5a – AGREE

Sunnyvale generally agrees in principle and notes that varying BMR percentages are just one of many factors that can affect production. BMRs can be a subset of a market rate development or can be part of a 100% affordable housing development. The 100% affordable projects are often dependent on local sources of funding as well as other regional, state and federal funding sources and programs. Also, Cities that do not anticipate much new development may not find an inclusionary program beneficial to meeting their RHNA goals and may prefer other programs to address their RHNA goals.

Recommendation 5

Inclusionary BMR percentage requirements should be increased to at least 15% in Gilroy, Los Altos, Los Gatos, Milpitas, Morgan Hill, Palo Alto and Sunnyvale, by the end of 2019.

Response to Recommendation 5 – WILL BE IMPLEMENTED

Sunnyvale has recently retained a consultant to assist the city on a Housing Strategy. One of the first deliverables of the strategy is a reinstatement of zoning code provisions for inclusionary affordable rental units (to the previous requirement of 15%). The rental inclusionary component of the strategy will also examine if other updates to BMR provisions are desirable. Later in the Housing Strategy study there could be recommendations for further modification of the for-sale BMR requirements. This zoning code provision is currently that 12.5% of for-sale units must be affordable to moderate income households. The Housing Strategy should be completed by the end of 2019.

Finding 6

In-lieu fees, when offered as an option, are too low to produce the needed number of BMR units and delay their creation. Cities to respond are Campbell, Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.



Response to Finding 6 – DISAGREE

In Sunnyvale, the in-lieu fee provisions are available in two situations: when partial units are required, or when requested by a developer and approved by the City Council at a public hearing. The partial units occur when 12.5% is not a whole number; the developer can satisfy the partial unit with an in-lieu fee. The in-lieu option has been approved for two projects where it was found that in-lieu fees could finance one or more larger affordable housing projects with a much higher number of affordable units, most likely at a deeper level of affordability, than would be provided within these projects.

Recommendation 6

Cities with an in-lieu option should raise the fee to at least 30% higher than the inclusionary BMR equivalent where supported by fee studies, by the end of 2019. Cities to respond are Campbell, Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Response to Recommendation 6 – WILL NOT BE IMPLEMENTED

The in-lieu fee option was carefully developed to be equivalent to unit values. It is used sparingly in Sunnyvale.

Finding 7

NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR housing units. Agencies to respond are all 15 cities and the County.

Response to Finding 7 – AGREE

The City of Sunnyvale agrees in principle. Opposition to development projects exists with or without inclusion of BMR units. In Sunnyvale objections to proposed residential developments have related more to concerns for potential impacts on privacy and traffic as well as the appearance (height, setback, etc.) of a project. For projects that are 100% affordable, neighbors' concerns have typically been addressed by a better understanding of what type of household is likely to reside in the development and who is going to be served by the programs.

Recommendation 7

A task force to communicate the value and importance of each city meeting its RHNA objectives for BMR housing should be created and funded by the County and all 15 cities, by June 30, 2019.



Response to Recommendation 7 – WILL NOT BE IMPLEMENTED

The City of Sunnyvale understands the importance of the RHNA and the programs to help meet these objectives. It regularly communicates with other cities about the programs we have implemented and the strengths and weakness of these program. The formation of a task force will not increase Sunnyvale's current practice of communication with other cities and is not warranted.

Finding 8

It is unnecessarily difficult to confirm how many BMR units are constructed in a particular year or RHNA cycle because cities and the County only report permitted units. Agencies to respond are all 15 cities and the County.

Response to Finding 8 – DISAGREE

Sunnyvale already gathers this data and presents it annually to the City Council with the budget transmittal (in the Community Condition Indicators section).

Recommendation 8

All 15 cities and the County should annually publish the number of constructed BMR units, starting in April 2019.

Response to Recommendation 8 –IMPLEMENTED

Sunnyvale publishes this information annually in the Recommended Budget documents presented to City Council in early May of each year. In addition, annually, starting in June 2019, we will post our housing accomplishments on the Housing webpages to assure the data is more readily available. It appears likely that HCD will require this information to be included in the annual progress reports submitted to HCD in the future.

Again, we thank the Civil Grand Jury for their interest in this important issue. If you have any comments or questions, please contact me at (408) 730-7473.

Sincerely,

Glenn Hendricks
Mayor