

LOSALTOSHILLS



CALIFORNIA

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September 20, 2018

Clerk of the Court
Superior Court of CA County of Santa Clara
BY _____ DEPUTY
Janice Jones

Via E-mail CGJ@scscourt.org and First-Class Mail

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

RE: Response to the 2017-18 Santa Clara County Civil Grand Jury Final Report titled,
"Affordable Housing Crisis: Density is Our Destiny"

Dear Judge Lucas:

The Town of Los Altos Hills is providing its response to the to Santa Clara County Civil Grand Jury Final Report titled, "Affordable Housing Crisis: Density is Our Destiny". According to the report, the Town is required to respond to Findings 2a, 2b, 3a, 3b, 3c, 3e, 5a, 5b, 6, 7, 8, 9 and 10 and to Recommendations 2a, 2b, 3a, 3b, 3c, 7, 8, 9a, 9b, 10a and 10b.

As directed by the Civil Grand Jury, responses are provided in accordance with Section 933.05(a) and (b) of the California Penal Code. The responses are as follows:

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.

The Town of Los Altos Hills agrees with this Finding.

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.

This recommendation will not be implemented because it is not warranted in the Town of Los Altos Hills. The Town has no commercial or industrial zoning districts and just six facilities with 20 or more employees, of which only two have 50 or more employees. Five of the six facilities are government entities, private schools or non-profit religious institutions and staffing levels have remained fairly steady over the past five years or in some cases have fallen. Foothill Community College, a state entity, is the only employer that has expanded its facilities in the last five years

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and the Town has no ability to impose impact fees on a state entity. Based on these circumstances, a housing impact fee would not generate any measurable amount of funds to develop BMR housing and participating on a housing task force would not benefit the Town. Furthermore, the Town's certified Housing Element contains programs to allow each non-residential use to provide on-site affordable housing for up to six (6) employees and allows for multi-family housing at Foothill Community College at densities of up to 20 units an acre.

Additionally, on November 8, 2016, Santa Clara County voters approved Measure A, a \$950,000,000 affordable housing bond to create and preserve over 5,000 BMR units. The measure added a \$12.66 surcharge to residential and commercial properties for every \$100,000 of assessed value. Based on the generally higher per parcel assessed value of property in Los Altos Hills, the property owners in Town are already paying additional taxes dedicated toward affordable housing than property owners residing in other jurisdictions with lower assessed property values.

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.

The Town of Los Altos Hills agrees with this Finding.

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.

This recommendation will not be implemented because it is not warranted in the Town of Los Altos Hills. The Town has no commercial or industrial zoning districts and just six facilities with 20 or more employees, of which only two have 50 or more employees. Five of the six facilities are government entities, private schools or non-profit religious institutions and staffing levels have remained fairly steady over the past five years or in some cases have fallen. Foothill Community College, a state entity, is the only employer that has expanded its facilities in the last five years and the Town has no ability to impose impact fees on a state entity. Based on these circumstances, a housing impact fee would not generate any measurable amount of funds to develop BMR housing within the Town. Furthermore, the Town's certified Housing Element contains programs to allow each non-residential use to provide on-site affordable housing for up to six (6) employees and allows for multi-family housing at Foothill Community College at densities of up to 20 units an acre.

Additionally, on November 8, 2016, Santa Clara County voters approved Measure A, a \$950,000,000 affordable housing bond to create and preserve over 5,000 BMR units. The measure added a \$12.66 surcharge to residential and commercial properties for every \$100,000 of assessed value. Based on the generally higher per parcel assessed value of property in Los Altos Hills, the property owners in Town are already paying additional taxes dedicated toward affordable housing than property owners residing in other jurisdictions with lower assessed property values.

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.

The Town of Los Altos Hills agrees with this Finding.

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.

This recommendation has not been implemented but may be implemented in the future. The Town's certified Housing Element contains a policy and programs stating that the Town shall participate with the county in the assessment of local and regional housing needs by 2022. The programs do not specifically discuss joining a sub-region and that process would require further analysis by Town staff and require additional time to organize meetings between the various agencies to determine which entities should join a sub-region. In addition, the City Council unanimously adopted a Resolution on June 21, 2018 expressing support to create a sub-region and authorizing the City Manager to enter into discussions to form a sub-region with other jurisdictions. Based on the need to reach a consensus with multiple jurisdictions, implementation of this recommendation could be achieved by the end of 2021.

Finding 3b - Developers are less willing to consider BMR developments in cities with the County's highest real estate values because these developments cannot meet their target return on investment. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Palo Alto and Saratoga.

The Town of Los Altos Hills disagrees partially with this finding. Although the Town has no experience with developers wanting to build multi-family BMR units, it is well documented that even when offered incentives and density bonuses to build affordable rental units, developers opt not to construct BMR units. The problem is not entirely due to the cost of the land. For sale units (which are generally not affordable in the county) are easier to finance, can be built incrementally, and provide a more guaranteed return on investment. In addition, multi-family structures have more stringent building code requirements and increased materials, labor and finance costs resulting in expensive new apartments for moderate and upper income households and few affordable units.

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.

This recommendation has not been implemented but may be implemented in the future. The Town's certified Housing Element contains a policy and programs stating that the Town shall participate with the county in the assessment of local and regional housing needs by 2022. The programs do not specifically discuss joining a sub-region and that process would require further analysis by Town staff and require additional time to organize meetings between the various

agencies to determine which entities should join forces. In addition, the City Council unanimously adopted a Resolution on June 21, 2018 expressing support to create a sub-region and authorizing the City Manager to enter into discussions to form a sub-region with other jurisdictions. Based on the need to reach a consensus with multiple jurisdictions, implementation of this recommendation could be achieved by the end of 2021 instead of 2022.

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.

The Town of Los Altos Hills disagrees partially with this Finding. There is no evidence in the report that supports this finding. There is a reference to a RHNA sub-region formed in San Mateo County (which is a high cost county similar to Santa Clara) but there is no evidence provided indicating that a greater number of BMR units has been constructed as a result of the formation of the sub-region.

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.

This recommendation will not be implemented because it is not warranted in the Town of Los Altos Hills. The Town's land use patterns and historical development do not result in any substantive annual increase in employment numbers. In addition, the number of jobs per employed resident is substantially lower than the one to one ratio considered ideal (about 0.72 jobs for every employed resident).

Additionally, on November 8, 2016, Santa Clara County voters approved Measure A, a \$950,000,000 affordable housing bond to create and preserve over 5,000 BMR units. The measure added a \$12.66 surcharge to residential and commercial properties for every \$100,000 of assessed value. Based on the generally higher per parcel assessed value of property in Los Altos Hills, the property owners in Town are already paying additional taxes dedicated toward affordable housing than property owners residing in other jurisdictions with lower assessed property values.

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.

The Town of Los Altos Hills agrees with this Finding.

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.

The Town of Los Altos Hills disagrees partially with this Finding. The Town does not have any experience with inclusionary housing requirements and there is not enough evidence presented in the report for the Town to support the finding.

Finding 5b - Inclusionary ordinances in cities having only a small number of potential multi-unit developments would generate too few BMR units to justify their passage. Cities to respond are Los Altos Hills, Monte Sereno and Saratoga.

The Town of Los Altos Hills agrees with this Finding.

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.

The Town of Los Altos Hills has no in-lieu fee, so this finding is not applicable.

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.

The Town of Los Altos Hills agrees with this Finding. However, it should be noted that there can be valid reasons for why a group or community opposes development and these concerns should not be dismissed outright without understanding the underlying reasons for the concern.

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.

This recommendation has not been implemented but will be implemented by June 30, 2019. The Town of Los Altos Hills supports educating the public and elected/appointed officials on the benefits of affordable housing and the production of BMR units.

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.

The Town of Los Altos Hills disagrees with this Finding. Every April, an Annual Report on the production of very low, low, moderate and above moderate housing production is already required of every jurisdiction in the state. Based on the Town's experience, if a building permit is issued for a new unit, then it will be built and occupied within about two years. A review of permits issued two years before followed up with a field inspection of projects under construction should be adequate to confirm which units are complete in all but the largest cities.

Recommendation 8 - All 15 cities and the County should annually publish the number of constructed BMR units, starting in April 2019.

This recommendation can be implemented by April 2019.

Finding 9 - Accessory Dwelling Units (ADUs) offer a prime opportunity for cities with low housing density and limited developable land to produce more BMR units. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

The Town of Los Altos Hills agrees with this Finding.

Recommendation 9a - ADU creation should be encouraged by decreasing minimum lot size requirements and increasing the allowed unit maximum square footage to that prescribed by state law, by the end of 2019. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

This recommendation has not been implemented, however, the Town of Los Altos Hills does recognize that more can be done to encourage the creation of second units. The Town's certified Housing Element includes multiple policies and programs to encourage the production of ADUs. These programs include reduction of fees, evaluating existing nonconforming structures and parking for new units, an amnesty program for illegally constructed units, allowing attached ADUs on substandard lots, and allowing for ADUs up to 1,200 square feet. These potential zoning code changes are scheduled to be reviewed by the Town by the end of 2019 as recommended in the Final Report.

Recommendation 9b - Increasing BMR unit creation by incentivizing long-term affordability through deed restrictions for ADUs should be adopted, by the end of 2019. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

This recommendation has not been implemented, however, the Town of Los Altos Hills does recognize that deed restrictions are an effective tool that can be utilized to preserve affordability of ADUs. Several cities with similar land use patterns to Los Altos Hills currently use deed restrictions and the Town would be open to implementing a deed restriction process. The timeframe for reviewing and potentially implementing deed restrictions for ADUs could be completed within the recommended timeframe (end of 2019).

Finding 10 - Lack of funding mechanisms to create BMR housing has restricted BMR achievement by cities with limited commercial development or developable land. Cities to respond are Los Altos Hills, Monte Sereno and Saratoga.

The Town of Los Altos Hills disagrees with this Finding. The Town currently produces BMR units through ADUs and believes that it can successfully meet its RHNA goals for affordable units with additional minor modifications to Town regulations.

Additionally, on November 8, 2016, Santa Clara County voters approved Measure A, a \$950,000,000 affordable housing bond to create and preserve over 5,000 BMR units. The measure

added a \$12.66 surcharge to residential and commercial properties for every \$100,000 of assessed value. Based on the generally higher per parcel assessed value of property in Los Altos Hills, the property owners in Town are already paying additional taxes dedicated toward affordable housing than property owners residing in other jurisdictions with lower assessed property values.

Recommendation 10a - Residential development impact fees to fund BMR developments should be enacted by the cities of Los Altos Hills, Monte Sereno and Saratoga, by the end of 2019.

This recommendation will not be implemented because it is not reasonable in the Town of Los Altos Hills. Most of the single-family homes being constructed in the Town are replacement dwellings and on average, only nine (9) new moderate and above moderate-income residences are constructed in the Town every year. Based on the limited amount of money that would be collected and the cost of construction in the county, the impact fees would not be sufficient to produce any BMR units within a reasonable time span.

Additionally, on November 8, 2016, Santa Clara County voters approved Measure A, a \$950,000,000 affordable housing bond to create and preserve over 5,000 BMR units. The measure added a \$12.66 surcharge to residential and commercial properties for every \$100,000 of assessed value. Based on the generally higher per parcel assessed value of property in Los Altos Hills, the property owners in Town are already paying additional taxes dedicated toward affordable housing than property owners residing in other jurisdictions with lower assessed property values.

Recommendation 10b - Parcel taxes to fund BMR developments should be brought as a ballot measure to the voters of the cities of Los Altos Hills, Monte Sereno and Saratoga, by the 2020 elections.

This recommendation will not be implemented because it is not reasonable in the Town of Los Altos Hills. The Town's residential land uses and historical development do not result in the creation of employment centers or a jobs/housing imbalance that are more prevalent in the larger cities in the county. The Town currently produces affordable housing units through ADUs and believes that it can successfully meet its RHNA goals for affordable units with additional minor modifications to Town regulations.

Additionally, on November 8, 2016, Santa Clara County voters approved Measure A, a \$950,000,000 affordable housing bond to create and preserve over 5,000 BMR units. The measure added a \$12.66 surcharge to residential and commercial properties for every \$100,000 of assessed value. Based on the generally higher per parcel assessed value of property in Los Altos Hills, the property owners in Town are already paying additional taxes dedicated toward affordable housing than property owners residing in other jurisdictions with lower assessed property values.

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This concludes the Town's responses to the findings and recommendations in the Final Report. Please contact me or the Planning Director at (650) 941-7222 if you have any questions or need any additional information related to this response.

Sincerely,



Carl Cahill
City Manager
ccahill@losaltoshills.ca.gov

cc: Los Altos Hills City Council
Suzanne Avila, Planning Director