

# City of Gilroy Mayor's Office

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September 11, 2018

Peter L. Hertan, Foreperson  
Santa Clara County Civil Grand Jury  
Superior Court Building  
191 North First Street  
San Jose, CA 95113

(ENDORSED)  
**FILED**  
SEP 17 2018

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

Dear Mr. Hertan:

Thank you for your letter dated June 18, 2018, transmitting the Santa Clara County Civil Grand Jury's (SCCCGJ) final report entitled, "Affordable Housing Crisis Density is our Destiny" (Report). In accordance with Section 933 and 933.05 of the California Penal Code, the following are the City of Gilroy's responses to the findings and recommendations contained in the June 21, 2018 Report.

As required by California Penal Code § 933.05 (a) the City of Gilroy has responded to each finding by indicating one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As required by California Penal Code § 933.05 (b) the City of Gilroy has responded to each recommendation with one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Following are the responses to findings and recommendations assigned to the City of Gilroy.

Finding 1a: Lack of Housing near employment centers worsens traffic congestion in the County and increases the urgency to add such housing.

Response: *Agree.*

Finding 1b: Mass transit stations (Caltrain, VTA, BART) create opportunities for BMR units.

Response: Agree. However, the implication is that such stations offer adequate transit service to encourage increased ridership from the additional, close-by new housing. This is not the case at the Gilroy Caltrain station, which provides very limited commute service. Increased transit service is vital to the success of future transit-oriented development (TOD) in downtown Gilroy and Morgan Hill.

Finding 1c: Density Bonus programs are not being used aggressively enough to produce the needed BMR units within one-half mile of transit hubs.

Response: Disagree. In Gilroy, two affordable housing projects, Alexander Station and Monterey Gateway Senior Apartments, both within on-half mile of the Gilroy Caltrain Station, have been approved incorporating density bonus provisions. Alexander Station with 262 units (90% low income, 10% Very Low income) will begin occupancy in September, 2018. The 75-unit senior affordable Monterey Gateway project is awaiting building permit issuance. A third project, located on North Monterey Street, outside the Downtown, utilized a density bonus to include 9 low-income units. In addition, a 100% affordable project, the 104-unit Cannery project, which did not require a density bonus, is also under construction, located approximately one-third mile from the station. We are unaware of the level of use of density bonus programs in other jurisdictions.

Recommendation 1b: Cities should identify parcels within one-half mile of a transit hub that will help them meet their Low Income and Moderate-Income BMR objectives in the current RHNA cycle, by the end of 2019.

Response: This recommendation has been implemented. The Gilroy General Plan 2015 – 2023 Housing Element identifies the remaining capacity of low income dwelling units that can be built in the Downtown Specific Plan area through a combination of development on both vacant and developed sites to be redeveloped. The Downtown Specific Plan zoning districts require new residential development to provide a minimum density of 20 dwelling units per acre, the default density standard for low income units.

Recommendation 1c: Cities should revise their density bonus ordinances to provide bonuses for low-income 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.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. As noted in the response to Finding 1c, Gilroy has utilized density bonus provisions successfully. We believe there is additional potential to utilize them in the future in projects in the Downtown Specific Plan area, and, in particular, within one-half mile of the Gilroy Caltrain Station. The application of density bonus provisions is dependent on market factors and other variables, beyond the City's willingness to apply them. Accordingly, we see no need to create greater density bonus provisions.

Finding 2a: Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents.

Response: Agree. However, it is important to point out that the vibrancy in the economy varies drastically between the northern and southern regions of Santa Clara County. Gilroy and Morgan Hill have historically been deemed bedroom communities, and struggle to expand as employment centers. The lack of economic and employment growth results in continued impacts, including lower municipal revenue generation, and accompanying constraints on improvements in infrastructure and services, together with growing transportation-related impacts from the significant amount of residents who travel long distances to jobs elsewhere in the County.

Finding 2b: Contributions to BMR housing from employers in the County are not mandated nor evenly shared.

Response: Agree. Similar to the response to Finding 2a, not all employers are created equal when it comes to ability to accept fees to support housing. South County cities, especially Gilroy do not have high tech businesses that typically generate the amount of employment and revenue necessary to provide financial support to city housing programs. The imposition of such affordable housing fees on South County businesses would likely result in loss of businesses and discouragement of future economic development.

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.

Response: *The recommendation will not be implemented because it is not reasonable. The Grand Jury Report discussion of this recommendation refers to major Tech companies in cities like Mountain View and Cupertino, where such fees either already exist or are being considered. Such companies have generated thousands of employees and generated significant housing demand, as noted in Finding 2a. Cities like Gilroy with slightly lower cost housing, are housing many of these workers. At the same time there are no such Tech employers in Gilroy. The imposition of such impact fees would be detrimental to Gilroy's economic development efforts to both retain existing employers and recruit new ones.*

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.

Response: *This recommendation will not be implemented because it is not reasonable. See response to Recommendation 2a.*

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.

Response: *Agree. The Cities Association of Santa Clara County has proposed formation of a county-wide RHNA Sub-region and has asked all cities in the county to support implementation of the sub-region by October 2018.*

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.

Response: *Disagree. On the surface, a simple low-housing cost city/high housing cost city RHNA formula would not be viable. The methodology for sharing/ transferring RHNA allocations between jurisdictions is more complex and must include a variety of relevant factors, in addition to the cost of housing, including the full range of services costs to support such housing. In addition, the Plan Bay Area, which the RHNA implements, calls for a minimum of 70% of new housing to be built in Preferred Development Areas (PDA) and other transit-rich areas. In Gilroy, the Downtown Specific Plan area is the only PDA. There are already 441 units of BMR housing under construction and planned for this area. Focusing significant additional BMR housing in the Downtown area may be inappropriate due to the potential affects from over concentration. The creation of a robust downtown requires a mix of affordable and market-rate housing. Finally, such an approach would be difficult, if not impossible for governing bodies of lower-cost housing cities to accept and promote to their constituents.*

Finding 3d: High-cost/low-cost RHNA sub-regions would be attractive to low-cost cities if they are compensated by high-cost cities for improving streets, schools, safety, public transportation and other services.

Response: *Disagree. See response to Finding 3c.*

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.

Response: *This recommendation requires further analysis. Gilroy agrees that there is merit in pursuing formation of a county-wide RHNA Sub-region. The Gilroy City Council will consider supporting the proposed sub-region at its September 10, 2018 meeting. The direction to report upon how the countywide sub-region will increase BMR supply by the end of 2019 is unrealistic.*

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.

Response: *This recommendation requires further analysis. As noted in the response to Finding 3c, we do not agree that a low housing cost city/high housing cost city sub-region approach is viable. Gilroy agrees that there is merit in pursuing formation of a county-wide RHNA Sub-region. The Gilroy City Council will consider supporting the proposed sub-region at its September 10, 2018 meeting. Regarding the recommended inclusion of low-cost and high-cost cities, see response to Finding 3c.*

Finding 5a: Uneven BMR achievements among cities are caused in part by varying inclusionary BMR unit percentage requirements.

Response: *Agree. The Gilroy Zoning Ordinance includes a requirement for 15% of new dwelling units in the Neighborhood District zoning district to be affordable to very low, low and moderate income residents. However, the inclusionary requirement does not apply to other residential zoning districts in the city.*

Recommendation 5: Inclusionary BMR percentage requirements should be increased to at least 15% in Gilroy, Los Altos, Los Gatos, Milpitas, Gilroy, Palo Alto, by the end of 2019.

Response: *This recommendation requires further analysis. The Grand Jury recommendation would require the City to adopt a citywide Inclusionary Housing ordinance. Prior to December 21, 2018, the Gilroy City Council will review and consider creation of a citywide Inclusionary Housing ordinance requiring a minimum of 15% of new dwelling units to be affordable to very low, low, and moderate income families.*

Finding 7: NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR Housing units.

Response: *Agree.*

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: *Agree. Consideration should be given to incorporating this recommendation with the Cities Association of Santa Clara County effort to establish a RHNA sub-region.*

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.

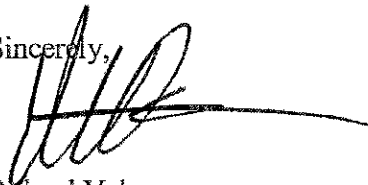
Response: *Disagree. It is not clear to us why this problem exists. In Gilroy, once building permits are issued, construction is commenced and completed. It is rare, if at all, that a permit is issued and then not constructed.*

Recommendation 8: All 15 cities and the county should annually publish the number of constructed BMR units.

Response: *This recommendation has been implemented. Gilroy prepares a General Plan and Housing Element Annual Progress Report (APR), which documents the City's progress toward achieving its RHNA. The report is accepted by the City Council, submitted to the Governor's Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD) and posted on the City's Housing and Community Development Division website.*

This concludes the City of Gilroy's responses to specific findings and recommendations.

Sincerely,



Roland Velasco  
Mayor, City of Gilroy