

Item 10.2 General Plan Policy H-2.9 Updates ("1.5-Acre Rule" for Affordable Housing)

City Council Hearing
February 9, 2021



*Planning, Building and
Code Enforcement*

What is the current Policy?

- **H-2.9:** 100% deed restricted housing development allowed on sites outside of Growth Areas on properties with a Mixed Use Commercial or Neighborhood/Community Commercial land use designation, if the development meets the following criteria:
 1. Site is 1.5 acre or less
 2. Site is vacant or underutilized
 3. Site has adjacent properties with a residential General Plan land use designation on at least one side
 4. Development would not impact the viability of surrounding commercial or industrial properties or businesses
 5. Site is located within a ½-mile of an existing transit line
 6. Development integrates commercial uses that support the affordable housing project and/or the surrounding neighborhood
 7. Development on properties that contain structures that are on, or are eligible for inclusion on the City's Historic Resources Inventory should adaptively reuse these structures

Why the proposed changes?

- City Council direction to define underutilized sites (Housing Crisis Workplan)
- General Plan Four-Year Review Task Force Recommendation to remove commercial space requirement
- State Laws: Housing Accountability Act, SB 330, SB 35, AB 2162
 - Restrict ability to use subjective criteria for housing development projects (i. e. neighborhood character, “should” vs. “shall”)
 - Tighten definition of objective standards, criteria

The revised policy will...

- Provide clarity on key definitions and criteria
- Provide consistency in the application of the policy



H-2.9 Clarifications & Changes

1. Clarifying definition of “affordable housing development” to deed restricted by a public agency for not less than 55 years to low-income residents

Criteria:

- a. Site size criteria: 1.5 gross acre or less
- b. Vacant site (no buildings or structures) or underutilized
 - 1) Stand-alone surface parking lot or
 - 2) Has structure with a Floor Area Ratio (FAR) of 0.2 or less;
 - 3) If FAR greater than 0.2, building must be vacant for 5 years or more

H-2.9 Clarifications & Changes

- c. Share a property line with a parcel that has a residential General Plan (GP) land use designation
- d. Site shall be at least 1,000 feet from property with a Heavy Industrial or Light Industrial GP land use designation, and at least 500 feet from property with a Combined Industrial Commercial or Industrial Park GP land use designation
- e. Site located within one-half mile of existing transit line with minimum 30-minute peak headway

H-2.9 Clarifications & Changes

- f. Development must adaptively reuse any existing structures that are on, or are eligible for inclusion on Historic Resources Inventory
- g. Project must provide relocation assistance to tenants if existing rental units are removed – consistent with relocation laws and City’s Ellis Act Ordinance
- h. Policies of safety, height and noise, as defined by San Jose International Airport or Reid Hillview Airport Comprehensive Land Use Plans govern projects within Airport Influence Areas

Areas of Concern

1. Definition of underutilized:

- Building vacant for 5 years or more vs. Building two-thirds vacant for 5 years or more, or 100% vacant for 3 years or more
 - Partial tenancy indicates viability for commercial use
 - Potential business displacement
 - Difficulty in determining two-thirds vacancy

2. Proximity to Industrial sites:

- 1,000 feet from Heavy Industrial or Light Industrial and 500 feet from Combined Industrial Commercial or Industrial Park
 - Preserves limited industrial lands and well-paying jobs
 - Better reflects distance requirement for Fire Department haz mat storage
 - Limits placing new residents, especially lower-income residents, in/near hazardous uses – fostering environmental justice
 - Protects industrial uses from limitations imposed by nearby residential uses
 - Complies with State requirement for objective standards

Planning Commission Recommendation

January 27, 2021 meeting – supported staff recommendation and voted to recommend that City Council approve the GP text amendment:

- 1. Consider the Determination of Consistency** with the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report and Addenda thereto, in accordance with the California Environmental Quality Act as amended; and
- 2. Adopt a resolution approving the General Plan Text Amendment** to revise Policy H-2.9 in Chapter 4 and the Neighborhood/Community Commercial land use designation in Chapter 5 of the Envision San José 2040 General Plan.

Q&A / Discussion