



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Jimenez

**SUBJECT:** PP20-009 - Amendment to Title 20

**DATE:** April 24, 2020

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Approved

Date:

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## RECOMMENDATION

1. Approve the staff recommendation.
2. Direct staff to investigate whether additional amendments to the Zoning Code are necessary to clarify the intent behind AB 101 and AB 2162. Specifically:
  - a. Determine whether AB 2162 applies more broadly to zones where multi-family residential is allowed as a conditional or special use, including mixed-use residential/commercial as a conditional or special use.
  - b. Determine whether AB 101 requires Low Barrier Navigation Center as a by-right use in residential zones where multifamily uses are permitted.
  - c. Return to Council with these amendments, or the results of this investigation, before the summer recess.
3. Direct staff to return to Council with the following additional modifications to the Zoning Code before the end of the year:
  - a. To be more explicitly consistent with Senate Bill 2 (2007), add Transitional Housing, as defined in Ordinance No. 28680, to the land use tables for all residential and mixed-use Zoning Districts. Transitional Housing should remain a permitted use in all residential zones, as required by Ordinance No. 28680, and be allowed as a conditional or special use in appropriate non-residential zoning districts, as determined by staff.
  - b. Allow additional beds in existing, legal non-conforming shelters in industrial Zoning Districts as long as a physical expansion of the shelter is not necessary. Additionally, evaluate and recommend criteria to allow reasonable physical expansions of existing, legal non-conforming shelters in industrial districts.
4. Direct staff to identify any obstacles to the establishment of emergency shelter, transitional housing, and permanent supportive housing in the Zoning Code or in other City regulations and return to Council with recommendations for modifications intended to streamline and facilitate the establishment of emergency shelter, including the addition of beds to existing shelters, and the creation of transitional and permanent supportive housing.

## BACKGROUND/ANALYSIS

The public health and economic impacts of COVID-19 have been severe, and the City of San Jose has responded quickly, dramatically, and creatively to mitigate those impacts. Unfortunately, despite the efforts of local, state, and federal government, more than 3 million Californians have filed for unemployment over the past month, and the full economic toll of the pandemic is not yet known. We should anticipate and prepare for a strong likelihood that the pandemic will only exacerbate the crisis of homelessness that plagued our City well before the pandemic hit.

We have long known how difficult it is to find locations for emergency shelter and transitional housing. We all remember the lack of community support received when we first started looking for Bridge Housing Community sites – a sentiment reiterated during our meeting on April 21st. Though the need for emergency shelter and transitional housing is exemplified everyday by the numerous unsanctioned encampments across the City, it is still difficult to find locations for shelter without creating controversy. Therefore, I am proposing that we modify our zoning code to facilitate and streamline emergency shelter, transitional housing, and permanent supportive housing within San Jose. San Jose is a city with over 180 square miles of land. We can easily find locations to house our most vulnerable residents within our borders without needing to pander to other jurisdictions.

AB 101 stipulates that “a Low Barrier Navigation Center development is a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses...” (section 65662). AB 2162 similarly stipulates that “Supportive housing shall be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses...” (section 65651).

Some commercial zoning districts allow “mixed use residential/commercial” as either a conditional or special use where the General Plan allows residential uses. Based on language in AB 2162, supportive housing must be allowed as a by-right use in these mixed-use districts under the appropriate General Plan designation. Recommendation 2 directs staff to conduct additional analysis to determine whether further amendments are necessary to clarify the intention behind AB 101 and AB 2162.

Furthermore, on June 25, 2019, the Council approved amendments to the zoning code as part of the first phase of aligning zoning with the General Plan. These amendments included eliminating emergency residential shelter (both “more than 50 beds” and “50 beds or fewer”) as a conditional use in most industrial zones. Unfortunately, almost all of our existing emergency shelters are located in these industrial zones. Given the challenge of locating new sites for emergency shelter, I recommend that we allow adding beds to existing shelters when no physical expansion of the building is necessary. I also recommend directing staff to return to Council with criteria for allowing physical expansions of existing shelters in industrial areas.

Only by reducing regulatory barriers, including those in our own zoning code, will we be able to meaningfully increase the creation of emergency shelter beds, transitional housing, and permanent supportive housing. I strongly urge my colleagues to support these recommendations. We have little control over Caltrans, the County, or the State, but we have full authority to modify our zoning code to accommodate our urgent need for shelter.

We acknowledged last week when we moved forward with additional Bridge Housing Communities that BHCs alone will not solve the problem. The Mayor emphasized the state's frustration with using state dollars for services and not the construction of permanent facilities. Let's use this opportunity to further reduce barriers to the creation of desperately needed emergency shelter, transitional housing, and permanent supportive housing.

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