



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey

**SUBJECT:** GPT20-005 – GENERAL  
PLAN POLICY H-2.9

**DATE:** February 8, 2021

Approved

Date

2/9/2021

## **REASON FOR SUPPLEMENTAL**

This memorandum provides information in response to the February 5, 2021 memorandum from Councilmembers Peralez and Jimenez, and the February 8, 2021 memorandum from Councilmember Esparza.

## **BACKGROUND**

Staff approached changes to General Plan Policy H-2.9 (“1.5-acre rule”) with multiple goals in mind, including the production of affordable housing, preservation of industrial lands, and prevention of small business displacement. From this premise, the staff recommendation detailing the definition of “underutilized” provides a balanced approach to achieving these goals.

With regard to Recommendation #1 of Councilmembers Peralez and Jimenez’s memorandum to modify the requirements of Criteria 1.b.3 (found in Exhibit “A” of the draft resolution) to allow two-thirds building vacancy for five years or more and 100% building vacancy for three or more years, staff’s concern is that if a building has tenants, though not at full capacity, it indicates the building/site is still viable for commercial uses. Commercial vacancies can be caused by several factors, including how the site is marketed, asking rents, property maintenance, etc. Also, determining and verifying partial vacancy of commercial sites will be more difficult to determine than full vacancy and make the policy more challenging to implement.

Additionally, for Criteria 1.b, staff clarifies that the Floor Area Ratio (FAR) should be defined consistent with the definition of FAR in the General Plan.

In response to Recommendation #2 of Councilmember Peralez and Jimenez’s memorandum to replace Criteria 1.d with language that the residential use shall be consistent with existing limits determined by the General Plan, staff clarifies that the General Plan does not include any distance requirement between industrial/commercial zones and residential zones. The desire to provide buffers is well noted; however, staff is approaching the issue from a different perspective. Staff’s recommendation for the 1,000-foot buffer is to protect industrial uses from

the *residential uses*, not the other way around. For example, some industrial businesses located near residential uses often receive complaints about noise, truck traffic and third shift activity. Additionally, some companies that use chemicals in their operations require more distance from residential uses. The recommendation for a 1,000-foot buffer is to protect industrial businesses and parcels from the limitations imposed by nearby residential uses. In addition, staff is concerned about locating new residents, especially lower-income residents, near industrial uses with potential exposure to hazardous material. It is also noted that to comply with state law that requires objective criteria for residential uses, the distance requirement is such an objective standard.

Staff also underscores the importance of preserving the City's limited industrial lands. Since 1980, approximately 2,300 acres of employment lands have been converted to non-employment uses, resulting in an estimated loss in job capacity between 52,000 and 110,000 jobs. Overall, employment lands and light/heavy industrial lands in particular make up a small percentage (2.7%) of the City's overall land portfolio. Additionally, industrial space vacancy rates are currently low in San José (approximately 2%) and demand is high. Industrial businesses provide many quality employment opportunities that do not require a college degree. Since industrial lands tends to have lower assessed value than other land use designations, the likelihood of new industrial land being established through landowners seeking a General Plan amendment is highly unlikely. This economic reality necessitates the need for the City to preserve its stock of industrial and mixed industrial-commercial designated lands and the viability for industrial uses on those properties.

/s/  
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