



BUILDING INDUSTRY ASSOCIATION

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Transmitted via EMAIL

Mayor Sam Liccardo  
San Jose City Council  
200 E. Santa Clara St.  
San José, CA 95113

**RE: April 9, 2019 Agenda Item 10.4, PD Rezoning Hemlock Mixed Use**

Dear Mayor and Councilmembers,

BIA Bay Area takes this opportunity to comment on the Hemlock Mixed Use project that lies within the Santana Row/Valley Fair Urban Village. While BIA rarely comments on a specific project, we want to make the point that this project represents exactly the type of mixed use development the City wants and needs in the Urban Villages. Yet, the City continues to cling to outmoded rezoning requirements for Urban Village projects that add time, expense, and unnecessary regulation to the production of housing.

As the Envision 2040 Plan makes clear, the Urban Villages represent an essential strategy for the City—and indeed the region—to begin to address the crippling housing supply shortfall:

The Envision San Jose 2040 General Plan provides capacity for 120,000 residential units throughout San Jose. Through Major Strategy #5, the General Plan introduced the Urban Villages concept as one of the primary strategies to accommodate projected job and population growth.

Through the introduction of mixed-use residential development into many of San Jose's auto oriented commercial corridors and nodes, the Strategy aims to transform them into more urban, walkable mixed-use communities.

For Envision 2040 Major Strategy #5 to be successful, BIA urges you to continue to push progressive, resourceful policy solutions that allow residential development to quickly move forward in relief of the grimmest housing emergency in Bay Area history. Our recommendation addresses a principal concern that stands in the way of realizing the goals of Envision 2040:

- Proactive conforming zoning: Further streamline the entitlement process in the urban villages by incorporating proactive Village Plan-wide rezoning thereby fast-tracking housing while preserving vital legal protections for housing developments;

The current Urban Village rezoning process retains the worst element of San Jose's status quo entitlement: the requirement that housing developers obtain project-by-project rezonings where the general plan already allows the dense urban housing development called for within the Village Plan.

While the UV Implementation plan includes creation of a new mixed-use zoning district for residential development in the Urban Village plans, it inexplicably rules out proactively rezoning mixed use housing sites on a Village Plan -wide basis and instead calls for residential mixed-use projects to have to obtain a rezoning on a project-by-project basis.

There is no legitimate planning or policy reason to continue this burdensome aspect of the status quo. Whatever community amenities, extractions, or conditions of approval the city desires to impose on housing projects in the Village Plans (including CFD participation) can be effected through the terms of a village-wide rezoning.

The only consequences of retaining project-by-project rezonings are blatantly anti-reform. Because even project-specific rezonings undertaken to conform to the newly adopted general plan are considered "legislative" in nature, the recommended process would remove vital legal protections from every housing development in the Village plans including the protections of the Permit Streamlining Act and the Housing Accountability Act. The rezonings would also be vulnerable to referenda at the end of the lengthy and expensive entitlement process.

It is for precisely these reasons that BIA enthusiastically endorses one of SPUR's top recommendations to improve the entitlement process in San Jose by adopting Village Plan-wide rezonings for housing projects:

SPUR Recommendation 2: As new Urban Villages are approved, adopt the zoning needed to implement those plans.

"Developers of new housing need to apply to change the zoning on their parcels in order to conform to the land use designations called out in the Urban Village plan. This dynamic creates a number of problems. It has the potential to politicize the approval of every new development, since each development requires legislative action to move forward."

"Adopting zoning for an entire Urban Village during the approval process would also have the benefit of creating certain legal protections for new housing. Projects that conform to zoning are more likely to successfully fend off referendums. They are also protected by the Permit Streamlining Act and the Housing Accountability Act."

So again, BIA recommends that Council focus on ensuring that once the Urban Village Framework is in place that projects are not required to secure a project specific rezoning. At

minimum, a project that pencils and follows all the rules should be able to proceed protected by the Housing Accountability Act and the Permit Streamlining Act and not be subject to referendum.

Any suggestion that project-by-project rezoning is necessary to protect the City's legitimate planning goals related to securing amenities is simply not true. Those conditions and requirements can be written into the zoning ordinance itself so that any individual project that is proposed will have those conditions already applicable by the underlying zoning and a Site Permit will not be approved without adherence.

In closing, BIA Bay Area builders welcome the opportunity to achieve San Jose's Urban Village housing objectives as outlined in Envision 2040. Adopting proactive Village Plan-wide rezonings and adaptive Village Plan amenity and city-wide impact fees are the critical policy solutions to achieve our mutual goals.

Yours truly,

Dennis Martin  
BIA Bay Area