



COUNCIL AGENDA: 12/14/21
FILE: 21-2572
ITEM: 10.4

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Christopher Burton

SUBJECT: SEE BELOW

DATE: December 13, 2021

Approved

Date

12/13/2021

SUPPLEMENTAL

SUBJECT: GPT21-005 - GENERAL PLAN FOUR-YEAR REVIEW

REASON FOR SUPPLEMENTAL

The purpose of this supplemental memorandum is to make modifications to the staff recommendation regarding changes to General Plan Policy IP-5.12 and to recommend exploration of future programs to facilitate the development of commercial space in affordable housing developments.

RECOMMENDATION

- (a) Consider the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto in conformance with CEQA.
- (b) Adopt a resolution approving the General Plan Text Amendments on General Plan Policy IP-5.12 associated with the Envision San José 2040 General Plan Four-Year Review.
- (c) Direct staff to further explore programs to help assist in the creation of commercial space in affordable housing developments.
- (d) Direct staff to amend the zoning ordinance to require commercial space in Urban Villages along the frontage of City Connector Streets, Expressways, Grand Boulevards, Local Connector Streets, On-Street Primary Bicycle Facilities, and Main Streets for projects using General Plan Policy IP-5.12, with a minimum depth of 60 feet.

OUTCOME

The proposed changes to Policy IP-5.12 modify the commercial space replacement requirement. The changes also further clarify which properties are excluded from utilizing this policy and align all criteria with the state requirement for objective standards for housing policies. Additionally, staff is proposing to further explore the creation of programs to assist affordable housing developers to build or find tenants for new commercial space.

BACKGROUND

Policy IP-5.12 currently allows residential projects that are 100% affordable to move forward within an Urban Village that does not have an approved Urban Village Plan. Changes to this Policy were contemplated as a part of the General Plan Four-Year Review process to clarify its requirements, especially as it relates to the amount of required commercial space for projects using the policy. Recent changes to state law require that policies concerning housing must only contain objective standards and eliminate any criteria that unnecessarily restrict development.

As a part of the scope of work for the General Plan Four-Year Review, staff and the Task Force were directed to look at changes to the commercial space requirements for affordable housing. The staff recommendation presented to the Planning Commission was to amend Policy IP-5.12 to create a more objective requirement for the replacement of existing commercial space. The Task Force recommendation, and the recommendation of the Planning Commission to the City Council, was that 100% affordable housing projects built under Policy IP-5.12 would not be required to provide commercial space, even if a project site contains existing commercial uses.

ANALYSIS

The City Council, staff, and the community are striving to address the urgent need for affordable housing. There is no doubt that the need for affordable housing is severe and urgent. The City has one of the most aggressive work plans in the region to address the need for affordable housing. The City is also working to create great places that incorporate housing, jobs, retail, and open space. The placement of residential will be a 100+ year decision and will impact the development of Urban Villages moving forward. The Urban Village strategy embedded in the General Plan involves the conversion of sites with 100% commercial uses to residential mixed-use. This strategy was pursued with the understanding that there would continue to be employment uses on these sites in order to improve the jobs to employed residents ratio, or at a minimum, not further add to the existing imbalance. As staff has noted previously, of the total developable land within the City, only 13% remains designated for employment uses. If the City continues to remove or reduce commercial replacement requirements, this percentage will continue to diminish.

In addition, the goal of the Urban Village Strategy is to create mixed-use walkable urban communities, which integrate housing with commercial uses, allowing people to meet many of their daily needs by walking, bicycling, taking transit, or even making a short drive. The Strategy also intends to create great places with vibrant public spaces, and mixed-use projects can contribute to this goal by including commercial uses that create an active ground floor pedestrian environment.

It is with this perspective in mind that staff are recommending additional modifications to the criteria within Policy IP-5.12 to specify which sites are excluded from affordable housing being built using the Policy. These modifications will provide more clarity and better conform with state requirements for objective standards. Staff is also proposing to modify the commercial space requirement to require commercial space along the ground floor street frontage. The modified staff recommended policy language is detailed below, the changes to the previous staff recommendation are highlighted in red.

Policy IP-5.12 Residential projects that are 100% affordable deed-restricted by a public entity for a period not less than 55 years to low-income residents (earning 80% or less of the Area Median Income) can proceed within an Urban Village without an approved Plan if the project meets the following criteria:

1. *Provides ground floor commercial space along the street frontage of the following Envision 2040 San Jose Roadway Typologies, consistent with the requirements of the zoning code:*
 - a. City Connector Street
 - b. Expressway
 - c. Grand Boulevard
 - d. Local Connector Street
 - e. Main Street
 - f. On-Street Primary Bicycle Facility
2. *The project is not located on identified key employment opportunity sites, which are sites that meet any of the following criteria:*
 - a. ~~Generally 2~~ *Two acres or larger*
 - b. Located at a major intersection, which is defined as site being bounded on two or more sides by any combination of the following Envision 2040 San Jose Roadway Typologies:
 - i. City Connector Street
 - ii. Expressway
 - iii. Grand Boulevard
 - iv. Local Connector Street
 - v. Main Street

- vi. On-Street Primary Bicycle Facility*
 - c. Listed on the Key Employment Opportunity Site Inventory, located in the appendices of the General Plan. ~~and for which there is anticipated market demand for commercial uses within the next 10 to 15 years.~~*

In addition to the recommended policy amendments above, staff is recommending that Council direct staff to amend the zoning ordinance for commercial properties within Urban Villages to include the following commercial requirements for affordable housing projects built under Policy IP-5.12:

Required commercial space will encompass every net usable parcel frontage (net of vehicular ingress/egress) to a minimum depth of 60 feet along the Urban Village Street (i.e. City Connector Streets, Expressways, Grand Boulevards, Local Connector Streets, On-Street Primary Bicycle Facility, and Main Streets.)

The proposed modification to the commercial space requirement is similar to the newly adopted rules for Neighborhood Business Districts. This requirement does not set a minimum commercial space requirement but will require that street frontage on primary streets remain commercial. The proposed minimum depth in the zoning code would ensure the space is usable for a mix of commercial uses. Staff believes that this change strikes the right balance between the desire to decrease the commercial requirements for affordable projects, while also maintaining an active street frontage.

The current language in Policy IP-5.12 that excludes key employment sites is not clear as it does not define major intersections, does not explicitly state that sites over two acres are to be excluded, and does not define how market demand in 10 to 15 years would be measured. The updated language makes clear that sites larger than two acres are not eligible for Policy IP-5.12 and defines major intersections which are also excluded regardless of site size. Additionally, the new language specifies a Key Employment Opportunity Site Inventory where sites listed on this inventory would also be ineligible for the Policy. No specified site inventory is proposed at the present time, but if the City Council approves these modifications to the Policy, staff would work to develop a Key Employment Opportunity Site Inventory. The Key Employment Opportunity Site Inventory would be adopted as an Appendix to the General Plan that could be updated without a General Plan amendment.

Prior to adopting Urban Village plans, the City and community have not had the chance to do a detailed review of the sites and existing uses within an Urban Village to understand which sites would be key opportunities for future employment or commercial uses. Sites in Urban Villages that are two acres or larger are generally better suited for integration of office development or more intense commercial uses. These sites would also generally be able to develop mixed-use residential through the Signature Project policy. Sites at major intersections are often also important, regardless of size, for retail and other commercial uses in the long term. Lastly, nearly all recent affordable housing projects are on sites less than two acres in size.

Staff estimates that by using the proposed criteria above, there would be 2,076 properties eligible to utilize Policy IP-5.12 out of all properties within Urban Villages without approved plans. There would be 234 sites excluded for affordable housing developments that are greater than or equal to two acres, and 176 excluded sites that are at ‘major intersections’ under the proposed definition. An interactive map showing these parcels can be accessed here: <https://bit.ly/3GJ1d7t>.

<u>Total Sites in Unapproved Urban Villages</u>	<u>3,816</u>
<u>Sites over two acres</u>	<u>234</u>
<u>Sites located at major intersections</u>	<u>176</u>
<u>Sites Available for IP 5.12 Affordable Housing Developments</u>	<u>2,076</u>

Commercial Space in Affordable Housing Developments

Proposed affordable housing developments pursuing the use of Policy IP-5.12 are located on properties currently designated for commercial uses. This could include retail, office, or other employment uses. While the integration of both commercial and housing uses would therefore be ideal in these locations, achieving this mix of uses brings special challenges for affordable housing developments.

Some affordable housing developers have indicated a willingness to build commercial uses if both financing and commercial tenants can be matched with their projects. In some instances, daycare uses may be viable for affordable housing developments on larger sites if traffic circulation and outdoor space requirements can be accommodated. Staff is therefore proposing to explore new potential creative ownership and financing models that could facilitate both the development of commercial space in affordable housing and could help get spaces occupied by tenants. This could include using any of the following funding sources or funding mechanisms:

- Community Development Financing Institution loans
- Direct City financing
- Community Development Block Grant Funds
- Measure B Funds
- Creation of commercial space in-lieu funds.

In addition, this work would integrate into the City’s efforts to develop Community Development Corporations (CDCs), local community-based nonprofit organizations that have an interest in supporting the needs of tenants and small businesses in their areas. Future CDCs could be potential occupants of ground-floor commercial spaces, could create community-serving programs that could occupy those spaces, or could eventually help to develop those spaces. The list above represents possibilities that staff will need additional time to explore and understand. Any proposal or recommendations would be brought back to the Community and Economic Development Committee for further consideration and could then be forwarded to the City Council for approval.

Alternative Commercial Space Requirement

As an alternative to staff's recommendation on the requirements for commercial space, the City Council could modify the criteria to instead say the following:

1. *Affordable housing projects developed under Policy IP-5.12 are encouraged to provide ground floor commercial space to further the goal of creating mixed-use, walkable urban communities, with vibrant public spaces and sidewalks, where residents will have good and close access to the amenities and services that they need on a regular basis.*

While staff still recommends establishing a minimum objective requirement for the replacement of commercial, this alternative policy would, at a minimum, emphasize the General Plan's goal of creating mixed-use affordable projects even though such projects would not be required to provide commercial. As proposed in this supplemental memorandum, staff would then explore and develop potential ownership and financing models to facilitate commercial space in affordable housing projects and therefore implement this General Plan goal. In addition, staff could use the inclusion of commercial space as an additional benefit to consider as part of the City's affordable housing funding selection process.

CONCLUSION

Staff is proposing further modifications to General Plan Policy IP-5.12 which allows 100% affordable development on sites within Urban Villages without adopted Urban Village plans. The further modifications are intended to clarify which sites are eligible to use the Policy and make changes to the required commercial space. Staff is also recommending that it explore programs to help assist affordable housing developments to construct and integrate commercial spaces, especially those that help achieve other City policy objectives.

CLIMATE SMART SAN JOSE

Overall, the recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals, particularly the goal to focus develop into infill location on transit to reduce vehicle miles traveled and therefore greenhouse gas emissions.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 14, 2021, City Council Meeting. Additionally, public outreach would be done as a part of the effort to develop funding strategies or mechanisms for commercial space in affordable housing developments.

COORDINATION

This memorandum was coordinated with the Office of Economic Development and Cultural Affairs, the Department of Housing, and the Office of the City Attorney.

CEQA

The environmental impacts of the General Plan Four-Year Review were evaluated in an Initial Study/Addendum to the Envision San Jose 2040 General Plan Program Environmental Impact Report (EIR), Supplemental Environmental Impact Report, and Addenda thereto. As described in the Initial Study/Addendum, the General Plan Four-Year Review does not create any of the conditions described in Section 15162 of the CEQA Guidelines that call for the preparation of a subsequent Environmental Impact Report. No new significant impacts would occur, and no previously examined significant effects would be substantially more severe than shown in the Envision San José 2040 General Plan EIR and SEIR. Thus, an Addendum to the adopted EIRs is the appropriate environmental documentation to analyze the potential environmental impact. The Initial Study/Addendum is posted to the City's "Active EIRs" website at: (<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/general-plan-four-year-review>). The Envision San José 2040 General Plan EIR and SEIR can be found at www.sanjoseca.gov/completedeirs.

/s/

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