



Memorandum

TO: HONORABLE MAYOR

FROM: Harry Freitas
Kim Walesh

AND CITY COUNCIL

**SUBJECT: REPORT ON THE URBAN VILLAGE
IMPLEMENTATION FRAMEWORK**

DATE: May 26, 2017

Approved

Date

5/26/17

RECOMMENDATION

Accept the progress report on the implementation framework for Urban Villages as identified in the Envision San Jose 2040 General Plan, and provide comments on the proposed framework approach for implementation.

BACKGROUND

The Envision San Jose 2040 General Plan includes Major Strategy #5 – Urban Villages, as one of its primary strategies to accommodate projected job and population growth. This Strategy includes a policy framework to transform many of San Jose’s auto-oriented commercial corridors and nodes into more urban, walkable and mixed use communities, where many of one’s daily needs could be met by walking, biking, riding transit, or making a shorter drive. To achieve the General Plan’s Regional Employment Center, Measurable Sustainability/Environmental Stewardship, and Fiscally Strong City Major Strategies, the Urban Village Strategy plans for significant employment growth to be added to the existing commercial uses within these established commercial areas, while also planning for the integration of significant high density and mixed use residential development.

While high quality private development will be instrumental in implementing the Urban Village Strategy, integrating public improvements and amenities in the public realm, between the new commercial and mixed use buildings, will also be critical in creating dynamic great places. With the end of Redevelopment in California, and with the City of San Jose’s on-going fiscal challenges, staff needed to identify new implementation tools to successfully realize the Urban Village Strategy. It was with this in mind that, as part of the 2013 General Plan annual review, the City Council gave direction to the Administration that, “Urban Village Plans presented to the City Council for adoption in the future include an Implementation Financing Strategy for each area that describes and proposed infrastructure improvements and funding mechanisms.” The Little Portugal and Roosevelt Park Urban Village Plans, together with the Five Wounds, and the 24th and William Street Urban Village Plans, were the first group of Urban Village Plans prepared by the City and the community to further the Urban Village Strategy of the Envision

San Jose 2040 General Plan. When Council approved the plans on November 19, 2013, the Implementation Chapters were not included. Rather the City Council directed staff to return to Council with; 1) an action to develop an implementation strategy that will establish financing mechanisms to fund the Plans' implementation; and 2) a policy that Housing shall not be approved prior to the City Council approval of an Urban Village Implementation Finance Strategy for these four separate Plans.

On April 1, 2014, a City Council Study Session was held on Urban Village financing, which presented the concept of "capturing" a portion of the enhanced land value resulting from the granting of residential entitlements, and investing this value into Urban Village amenities. After evaluating various funding mechanisms, staff identified the preferred approach of establishing an Urban Village Amenity program. This program would require residential mixed use development to fund identified amenities, above and beyond existing requirements. These amenities would be negotiated as part of a rezoning action to redevelop commercial land uses to mixed use residential land uses, consistent with the Plan.

On December 13, 2016, the City Council held a public hearing and dropped the General Plan Text Amendment for the Roosevelt Park and Little Portugal Implementation Chapters, citing the need for additional outreach to developers. The Alameda Urban Village Plan was also adopted, but without an Implementation Chapter. Staff updated the Implementation Chapters based on public comment at the December hearing. On March 10, 2017, staff presented the updated Implementation Chapters at the Developers' Roundtable meeting for their information and input.

Comments from those in attendance at the Developers' Roundtable meeting centered on the existing difficulties of constructing new housing development in San Jose and concern that the proposed requirements of the Implementation Chapter would add yet another level of difficulty to a process that is already cumbersome, adding more uncertainty to the permitting process, as well as adding cost. In general, most thought that the City Council should approve the Urban Village plans without the Urban Village Amenities Program in the Implementation Chapter and let the existing mechanisms for funding affordable housing, street improvements, parks, etc. provide those public improvements.

The revised Implementation Chapters were presented to the City Council on April 11, 2017. At the hearing, the City Council voted to direct staff to come back to the City Council with a progress report for achieving a simplified, transparent, and predictable financing mechanism for financing Urban Village amenities, and for implementing the Urban Village Plan, as directed in a memorandum signed by Mayor Liccardo, Vice Mayor Carrasco, and Councilmembers Jones, Peralez, and Davis. The memorandum included direction for staff to evaluate the establishment of a reasonable city-wide Urban Village Amenities (UVA) Fee, based on predetermined formula, paid by the developer of any proposed residential development in an Urban Village.

OUTCOME

Should the City Council accept the report, staff will return to City Council in Fall of this year, during the General Plan Annual Review, with the introduction of the Urban Village Implementation Framework.

ANALYSIS

A. Identified Urban Village Improvements that should be supported by Development

As part of the Urban Village planning processes that have occurred to date, the community and staff have identified a number of improvements that are needed and enhancements that are desired within these Villages. These improvements fall under the three major categories shown in the table below.

<i>Village Needs</i>	<i>On-Site Village Enhancements</i>	<i>Off-Site Village Enhancements</i>
<ul style="list-style-type: none"> • Affordable Housing • Parks and Trail Improvements • Major transportation Infrastructure 	<ul style="list-style-type: none"> • Public Art • Privately Owned/Publicly Accessible Open Space • Additional Commercial Space • Affordable space for Industrial/Maker uses, Cultural Organizations/ Non- Profits, and small businesses. 	<ul style="list-style-type: none"> • Enhanced Streetscape • Minor Capital Improvements • Pedestrian enhancements • Ongoing maintenance and activation

The improvements listed above can be accomplished to a varying extent in each Urban Village by placing new requirements on the redevelopment of commercial lands into mixed use residential development. In the table above, Village Needs are those improvements that have been identified as critical to achieving the goals of an Urban Village, and include affordable housing, parks and trail improvements, and major transportation improvements. On-Site Village improvements are those that would be provided on-site within a given development project. These on-site enhancements could include privately owned/publicly accessible open spaces (i.e. POPOS), public art, additional commercial space beyond what is required by an Urban Village plan, and affordable space for makers, manufacture and repair uses, “mom and pop” small businesses, non-profits, and arts and cultural organizations. The last category is Off-Site Village Enhancements. These enhancements include streetscape and pedestrian improvements and other

minor capital improvements. While these improvements are off-site, they are often built by a development project when they occur adjacent or within close proximity to the project.

B. Proposed Urban Village Implementation Approach

California state law limits the authority of local government to raise taxes, establish and increase fees, and require other exactions from property owners and developers. Upon review of various appropriate methods of funding development related urban village improvements, staff's recommended approach is to establish an Urban Village Zoning District, as described below.

None of the funding mechanisms within the new zoning district described below provide a one-size-fits-all solution for all of the urban villages in the City. They do however, comport with state law limitations on obtaining funding from new development. All of these methods may also not necessarily prove viable or provide full funding for desired improvements in each urban village because of different land values and markets in the various urban villages. Staff is facilitating 100% affordable housing to move forward in the Urban Villages; 100% deed restricted affordable housing would not be subject to the implementation approach below, but would be subject to the goals and policies of the General Plan and the relevant Urban Village Plan, when one exists.

Urban Village Zoning Districts

Staff proposes creating a new Urban Village Commercial (UVC) Zoning District that would establish minimum design standards and identify allowable uses. Given the diversity of built environments in San Jose, there would likely not be a one-size fits all zoning district, but instead two UVC zoning districts. The first would be crafted for Villages largely developed prior to the second world war that have an existing urban form (e.g. The Alameda, East Santa Clara Street, Roosevelt Park, West San Carlos etc.). The second would be crafted for more suburban Villages, which are beginning the process of transitioning into a more urban landscape (e.g. Saratoga Avenue, Tully and King, Oakridge Mall and Vicinity etc.). The allowable uses under these Urban Village zoning districts would generally align with those uses allowed in the existing commercial zoning districts and would not allow residential uses; staff will, however, explore an approach that will allow deed restricted affordable housing within a UVC zoning district, precluding the need for a rezoning. The UVC district(s) would be the base district for Urban Villages, regardless of residential growth horizon. As resources permit, the City would proactively rezone commercial properties within Urban Villages to the UVC district, first focusing on the rezoning of property in Horizon I Urban Villages.

Staff also proposes the creation of an Urban Village Mixed-Use Zoning District (UVMU). This district would be similar in design standards and allowable uses to the corresponding Urban Village Commercial district, but would allow residential in a mixed-use format. Staff are not proposing, however, to initiate the rezoning of private property to this district. The rezoning of property to a UVMU district would occur as part of the entitlement process as individual mixed-use residential projects come forward.

Additional Contributions from Residential Mixed-Use Development

As part of the rezoning process to UVMU, mixed use residential development would be required to provide additional “above and beyond” contributions for the implementation of a given Urban Village Plan, as outlined below. These additional requirements would be codified in the zoning code, within the UNMU zoning district to provide clarity and predictability to the community and developers.

1. Surcharge on Base Impact Fees/Village Needs

As part of the UVMU zoning district staff proposes that residential development would be required to pay a surcharge above and beyond the existing base impact fees, but no more than the maximum fee amount that is supported by an existing nexus study. The amount of this fee surcharge would be set by the Council and would be implemented as a condition of approval of such a project. This would require that the rezoning be bundled with discretionary permits for the project so that the conditions of approval are placed on the project at the same time as the rezoning is approved. This approach is similar to the one established by the City of Santa Monica in 2016 that applies higher fees (as supported by nexus studies) to residential development that is of a higher density and height than would otherwise be allowed in the zoning district.

Fees, such as the Affordable Housing Impact Fee and various traffic impact fees, are established through a nexus study, which identifies a specific need that must be mitigated and the associated cost to fulfill it. When impact fees such as these are established, they often are not set in an amount that is the maximum amount supported by the nexus study and they also often assume that a portion of the cost of the fee program will be attributed to other funding sources, such as regional grants. As the cost to development does not constitute the full cost of the improvement or mitigation, the City has the ability to increase the fee to an amount that is supported by the existing nexus study.

It is proposed that staff further explore increasing fees on mixed use residential projects in urban villages for the affordable housing impact fee for rental housing and the inclusionary housing program for for-sale projects¹ as these are the only impact fees that have City-wide applicability and capacity for increases. The City considers the adoption of new impact fees, or the modification of existing fees, as increased fees that could be charged for Urban Village residential mixed use projects when supported by the nexus study for the fee. For both for-sale and rental projects, the developer could voluntarily choose to build additional affordable housing units instead of paying the higher fee.

With the exception of locations that have an Area Development Policy or Transportation Development Policy, (i.e. North San Jose, 101-Oakland-Mabury, Evergreen East Hills, and I-280/Winchester), the City has not established transportation impact fees, instead relying on project specific transportation improvements and in lieu fees. In the coming fiscal year, staff will be developing an Area Development Policy for the Winchester, Santana Row/Valley Fair, Stevens Creek, West San Carlos, and South Bascom Urban Villages. This policy may include

¹ For sale projects would have to provide additional inclusionary affordable housing units, or could pay an increased in lieu fee.

the adoption of a multi-modal transportation impact fee to fund bicycle, pedestrian, transit and motor vehicle circulation improvements. If the City establishes an area specific or, potentially a City-wide multi-modal transportation fee, residential mixed-use development within Urban Villages could also be required to pay an additional transportation impact fee surcharge if the fee is supported by the relevant nexus study or draws down reliance on grant funding for the required improvements.

PRNS is currently in the process of updating the City's long term strategic plan the *Greenprint* which will guide the future of San José's parks, recreation facilities, and community services. Additionally, PRNS is advancing a Funding Feasibility Study and a Nexus Study. The Funding Feasibility Study will explore possible funding solutions to a sustainable funding stream for park and recreation facilities. The Nexus Study will evaluate how park fees are assessed under the Park Dedication Ordinance and Park Impact Ordinance. As an Urban Village develops, the primary and most direct funding mechanism for constructing new or improving existing parks, trails, recreational, and community amenities will be through the implementation of the Parkland Dedication Ordinance (PDO) and Park Impact Ordinances (PIO).

2. Project Related Conditions of Approval/On-Site Village Enhancements

As a condition of approval for residential mixed-use developments, projects would be required to provide on-site enhancements. These enhancements would generally be identified in the Zoning Ordinance, with more specificity provided in the individual Urban Village Plans. These additional enhancements would be included as part of the design and construction of a mixed use residential project, and many of them could enhance the quality and value of a project, in addition to benefiting the Urban Village. Proposed development would not need to provide all of the enhancements listed in the Zoning Ordinance but might be required to select a specified number of enhancements. While the list is being refined, additional enhancements include:

- i. Plazas, parks and paseos that are privately maintained and publicly accessible, and are consistent with the design guidelines of the applicable Urban Village Plan.
- ii. Public Art - For public art a developer could integrate art on site or choose to contribute towards the City's public art program at an equivalent amount still to be determined.
- iii. Provide increased commercial square footage above the base amount required by a given Urban Village Plan – for example provide 120% more than the minimum required Commercial area, or, for example, projects that provide 150% or more of the required commercial square footage would not have to provide as many amenities.
- iv. Include commercial space dedicated exclusively to 1) small scale or artisanal manufacturing and repair uses consistent with the proposed UVMC Zoning District; 2) small mom and pop business, particularly businesses faced with displacement; and 3) cultural groups and non-profits

Based on community input and staff's professional recommendation, the City Council approved Urban Village Plans would identify which of the above on-site enhancements are priorities for a given Village, providing further direction on which would be sought through the entitlement process.

3. Community Facilities Districts (CFD)/Off-Site Village Enhancements

The establishment of a Community Facilities District (CFD) for each Urban Village or closely related group of urban villages is proposed to be one of the elements of the Urban Village implementation framework where appropriate. Where a group of neighboring Villages having similar needs for improvement and perhaps have overlapping improvements that are desired to be used by each of the villages, the viability of a single district to fund some of the mutually desirable improvements could be evaluated, and the special taxes imposed could potentially be pooled to provide a more fiscally viable district and decrease administrative costs. The goal of the CFD and the associated special tax would be to support off-site Village enhancements such as enhanced streetscape improvements, pedestrian enhancements and public place-making needs by providing for long term maintenance funding with some modest additional improvements where feasible. CFDs are not anticipated to be the primary source of funding for significant off-site capital improvements in Urban Villages. Existing City funding mechanisms, grants, and, where applicable, a multi-modal transportation impact fee are anticipated to be the primary funding sources for these off-site improvements.

The formation process for a CFD is generally clearly detailed though it involves a great deal of analysis and cost upfront. The process includes the identification and valuation of the services and/or improvements to be delivered, determination of potential taxable parcels, computation of a maximum tax rate, and the creation of a method of apportionment of the special tax. Once completed, the Council would have two to three separate actions including a resolution of intention to form the district, a public hearing and special election. Up-front formation costs will depend on the complexity of the analysis.

The establishment of existing CFDs in San Jose have largely been initiated by private developers. These districts were formed through a cooperative effort with a 2/3rds vote of the property owners, or registered voters, if more than 12 live within the proposed boundaries of the district. However, because state law does not require that properties within a CFD be contiguous, a CFD may be formed by the owner(s) of the first parcel or parcels that develop in an identified area with properties that rezone to mixed use residential in the future annexing into the CFD when they develop.

As part of the rezoning process to a UVMU zoning district, the first approved mixed use project approved would have to pay for the process of forming the CFD. Alternatively, some other source of funding would need to be defined to fully or partially off-set this cost. Future mixed use residential development would then be required to annex into the District as part of its rezoning and bundled permit application process. Commercial development projects would not be required to participate in the CFD. Staff is exploring ways that the first mixed use development, which currently must bear the cost of CFD formation, could get partial credit towards payment of the base impact fee surcharge discussed above or could be reimbursed in some manner.

C. Working with the Development Community

The proposed approach is intended to provide a simplified, transparent, and predictable mechanism for providing necessary amenities and improvements within Urban Villages as feasible. Rather than attempting to create a single City-wide fee or special tax which would need to be supported by nexus studies, the CFD formation process including an engineer's report and vote, or a tax approved by registered voters in the City, staff believes that the combination of methods suggested address underlying needs, on-site amenities, and off-site improvements and maintenance in Urban Villages that may be funded by property owners who redevelop from commercial land uses to residential mixed uses. Village-appropriate combinations of a pre-determined fee, formulaic development standards, and a CFD for off-site improvements and maintenance provides developers and property owners with considerably more clarity on the fiscal and design implications of residential conversions within Urban Villages. Staff's intent in setting these elements as a predictable, citywide standard will mean that these considerations can be taken into account by developers during their negotiations for the purchase of commercially zoned land for potential mixed-use residential development projects that will require rezoning.

Staff is currently conducting outreach to members of the Development Community. This outreach was initiated but not completed prior to the completion of this memo. Therefore, staff will report verbally on this outreach to Council verbally on June 6th.

D. Implementation Steps and Timeline

Staff's proposed approach requires the establishment of new zoning districts and the creation of associated development standards which must be fully vetted with the development community. While ultimately saving time and reducing uncertainty for developers and property owners, this potentially adds to the current timeline for implementation. To facilitate near-term development, which may need to move forward prior to full implementation of the proposal, staff is proposing a two-step process. As part of the first step staff would bring forward a General Plan Text Amendment that outlines the approach and parameters that will be included in the zoning provisions. Staff would also include the proposed implementation approach as a policy framework within the Implementation Strategies of the individual Urban Village that will be considered by the Council. Both the General Plan Amendments and the Urban Village Plans would provide an expectation of what would be expected of mixed use residential development prior to the implementation framework being codified in the Zoning Ordinance and the adoption by Council of increased fees for such development as explained in this memo.

The timeline for the first step is to bring General Plan Text Amendments to Council this fall, as part of the General Plan Annual Review. Between the Summer and Fall of 2017, staff will be bring to Council the implementation strategies for the East Santa Clara, Stevens Creek, Winchester, and Santana Row/Valley Fair Urban Villages, as well updated strategies for Little Portugal and Roosevelt Park.

For the second step, staff anticipates bringing the proposed new zoning districts to the Council Committee for Community and Economic Development, along the codified requirements for residential mixed use development, in the Spring of 2018. Concurrently, staff would draft

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proposed changes to increase fees as described in this memo for these mixed use residential projects. Staff would then bring the zoning amendments to the full Council in the summer of 2018 along with the proposed fee increases. Staff is identifying outside grant opportunities to provide staffing resources to complete this work, and the timing and amount of grant funds could affect this timeline. As part of this second step, staff would not be proposing the rezoning of individual properties. Rather, this would occur proactively as additional resources are secured by the City, or as individual developments are entitled.

EVALUATION AND FOLLOW-UP

Staff will return to City Council in Fall of this year, during the General Plan Annual Review, and will include the introduction of the Urban Village Implementation Framework as part of that report. Staff will the return to the Community and Economic Development Committee in the Spring of 2018 with the proposed amendments to Title 20, Zoning Ordinance.

PUBLIC OUTREACH

As of the date of this memorandum, staff has begun outreach to the development community to discuss the proposed implementation approach. Initial response has been positive in that developers were in agreement that the proposal provided a transparent and predictable implementation mechanism for the entitlement of new residential mixed use development. Staff will continue outreach and give a verbal report at the June 6, 2017 Council meeting. Additionally, this memorandum was posted on the City's Council Agenda website for the June 6, 2017 agenda.

COORDINATION

The memorandum has been coordinated with the City Attorney's Office, the Department of Public Works, the Housing Department, and the Department of Parks, Recreation, and Neighborhood Services.

COMMISSION RECOMMENDATION

No commission recommendation is associated with this action.

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CEQA

Not a Project, File No. PP10-069 (a), City Organizational & Administrative Activities.

/s/

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/s/

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