



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh
Rosalynn Hughey

**SUBJECT: URBAN VILLAGE
IMPLEMENTATION AND
AMENITY FRAMEWORK**

DATE: May 11, 2018

Approved

Date

5/11/18

RECOMMENDATION

Adopt a resolution approving the Urban Village Implementation and Amenity Framework (Framework) to further the implementation of the Urban Village General Plan Major Strategy and the individual Urban Village Plans, as recommended by staff.

OUTCOME

Should the City Council adopt a resolution approving the Framework, private development within Urban Village areas that have an adopted Urban Village Plan may move forward through a Planned Development Rezoning process consistent with the Framework.

EXECUTIVE SUMMARY

As a part of the preparation of an Urban Village Plan, the General Plan states, “consider financing mechanisms which may be needed to deliver public improvements, affordable housing, amenities, and the like envisioned within the Urban Village Plan.” On December 5, 2017, the City Council provided direction to staff to return to Council in April of 2018 with a further refined Urban Village financing plan. Given this direction, staff is proposing the Framework, which will further implement the Envision San Jose 2040 General Plan Urban Village Major Strategy and the individual Urban Village Plans by: 1) outlining a zoning framework that will provide a more streamlined entitlement process for development consistent with the applicable Urban Village Plan; and 2) providing the community and developers with a simplified, transparent and predictable mechanism to have residential mixed-use projects build or contribute towards payment for the amenities and additional public improvements identified in the Village Plans, for which there are not currently adequate funding mechanisms.

BACKGROUND

The Envision San Jose 2040 General Plan (General Plan), Major Strategy #5 – Urban Villages, is one of the primary strategies to accommodate the City’s 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 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.

The General Plan also provides direction on how to prepare a comprehensive Urban Village Plan prior to the issuance of entitlements for residential development within any of the Urban Village areas. Urban Village Planning Policy IP-5.1 states that the Urban Village Plan should be used to clearly address: Job and Housing Growth Capacity; Boundaries and Land Uses; Building Heights and Densities; Infrastructure; Urban Character; Greenhouse Gas Reduction; Affordable Housing; Implementation; and Financing. Specifically, the General Plan states, “Consider financing mechanisms which may be needed to deliver public improvements, affordable housing, amenities, and the like envisioned within the Urban Village Plan.” High-quality private development will be instrumental to implementing the Urban Village Strategy. As a part of new development, integrating public improvements and amenities will be critical in creating dynamic great places.

The Little Portugal, Roosevelt Park Urban, Five Wounds, and 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 Major Strategy. When Council approved these plans on November 19, 2013, direction was provided to 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 December 5, 2017, the City Council provided direction to staff to return to Council in April of 2018 with a further refined Urban Village financing plan with the following components:

- Ensures the entitlement process for mixed-use residential development is a single conforming rezoning initiated by an applicant, processed in 90 to 120 days, and brought directly to Council for approval
- Exempts Signature Projects
- Does not include the establishment of a Community Facilities District (CFD)

Council also provided direction to complete a total cost of development fee study and directed staff to conduct additional outreach to the community and developers before returning to Council with final recommendations.

The Urban Village Amenity (UVA) program is a part of the Urban Village Implementation (UVI) Framework, which is further defined in the remainder of this memorandum.

ANALYSIS

The proposed resolution with the Framework (attached in full to this memorandum) is intended to provide a transparent and predictable mechanism for providing necessary amenities and improvements within Urban Villages. Setting the elements of the Framework as a predictable, citywide standard will mean that amenities can be considered by developers during their negotiations for the purchase of land for the potential conversion of commercial properties to residential mixed-use development projects.

Urban Village Implementation and Amenity Framework

The Framework approach: (1) outlines a zoning framework that will provide a more streamlined entitlement process for development consistent with applicable Urban Village Plans; and (2) establishes an Urban Village Amenities (UVA) program and methodology to provide amenities and public improvements identified in Urban Village Plans, for which there are not currently adequate funding mechanisms.

The Urban Village Amenities program would only be applied to market rate residential mixed-use development in Urban Villages, with an approved Urban Village Plan, which propose to redevelop existing commercial properties, consistent with the applicable Urban Village Plan. The Framework will not apply to the following:

- Wholly commercial projects;
- 100% deed restricted affordable housing projects;
- Signature Projects, as defined by the General Plan;
- Planned development zonings and discretionary development permits on file prior to adoption of the Framework.

Zoning

The Framework provides direction to develop Urban Village Commercial and Urban Village Mixed-Use zoning districts that further the implementation of the Urban Village Strategy and individual Urban Village plans, as well as requiring conformance with the Framework.

For new residential mixed-use development projects within Urban Villages, the Framework requires a rezoning to the new Urban Village Mixed-Use zoning district. Following the rezoning,

the appropriate development permit application will be required. Through the development permit process, the project will be required to conform to the Framework, including its UVA program.

Urban Village Amenity (UVA) Program

The Framework establishes an UVA methodology and program that is a mechanism to acquire amenities and public improvements from residential mixed-use development, beyond what the City typically requires development to provide.

The Framework provides a calculation for determining the amount of UVAs required and the process for selecting the UVAs. The amount and type of UVAs required of a residential mixed-use project would be a condition of approval in the project's development permit that would need to be acknowledged and agreed to by the permittee. The type of amenities that could be provided by a development are identified in the Framework and include:

- Privately Owned and Maintained/Public Open Spaces
- Commercial Space above and beyond what is required in the applicable Urban Village plan.
- Deed restricted commercial space for “non-formula” employment uses (i.e. mom and pop’s) and community facilities.
- Place making art installations.
- Additional off-site streetscape amenities or improvements above and beyond what is required.
- Contributions towards, or construction of, unfunded projects identified in the applicable Urban Village Plan.
- Construction of additional public open space amenities and park facilities above and beyond the City’s Parkland Dedication Ordinance (PDO) and the Parks Impact Ordinance (PIO) fees and dedication requirements

While the proposed Framework generally identifies the type of amenities that could be provided, the individual Council approved Urban Village Plans provide more direction on which amenities are desired and which are priorities. The amenities identified in each Urban Village Plan were based on community input. As part of the entitlement process, a developer could initially propose the amenities to be provided. Staff would then work with the developer to refine the amenities, referring to the adopted Urban Village Plan for guidance. In addition, a community meeting would be held to seek additional community input. Pursuant to the proposed Framework, the amenities required of a development ultimately would need to be consistent with the applicable Urban Village Plan, incorporate community input, and be appropriate and feasible for the given development.

To encourage the provision of more than one amenity, the proposed Framework precludes all of a development's UVA contribution being allocated to any one amenity, with the exception of streetscape improvements. Given the often significant cost of streetscape improvements the proposed Framework does allow 100% of a UVA contribution to be allocated to these improvements. (See Table 1 of the attached Framework)

Urban Village Amenity Contribution Calculation

The amount of Urban Village amenities that would be required will be based on a percentage of the average total value of the market-rate residential units in a mixed-use project. The Framework would establish a value of market-rate residential units as \$555.00 per net residential square foot. This proposed value is based on an analysis conducted by the City's economic consultant on mid-rise multi-family development in San Jose. Mid-rise multifamily development was analyzed because it is the type of residential development anticipated in the near term in Urban Villages. This analysis (See Attachment D. Keyser Marston Associates, memorandum dated April 23, 2018) identified a range of project values in Urban Villages throughout the City. Staff then identified the average per unit value from the analysis and translated this value into a per square foot value.

The \$555.00 per square foot value would be established as a citywide value. This value generally represents the average per square foot value of the Urban Village sites analyzed by the City's consultant.

As outlined in the Attachment A, Urban Village Implementation Framework, the proposed Village Amenity Contribution (VAC) that should be provided by a residential mixed-use project would then need to equal 2% of the total value of the proposed project, where the value of amenities is generally defined as the cost to provide those amenities. The 2% of total value percentage is proposed because it is sufficiently high enough to result in the provision of amenities without over burdening development with additional requirements.

$$VAC = \text{Average (per square foot) Project Value} \times \text{Total Net Residential Square Footage} \times 0.02$$

As an example of how this formula would work, a project is proposed that includes 270 market rate units with an average unit size of 900 square feet, resulting in a total square footage of residential space of 243,000 square feet (270 X 900). Multiplying 243,000 square feet by \$555 per square foot equals a total project value of \$134,865,000 (or \$499,500 per unit). The required Village Amenity Contribution (VAC) would then need to equal 2% of the total value of \$134,865,000, or \$2,697,300.

To encourage developers to include or build the amenities as part of their project, the proposed Framework provides more credit for building a given amenity than the cost to construct that amenity. (See Table 1 of the attached Framework). A developer could, however, choose to pay the City the full 2% in lieu of building amenities as part of their project. An illustration of how

the credits could reduce the amount of the required VAC is provided in Attachment B, Hypothetical Urban Village Residential Mixed-Use Project.

Implementation Steps

Following the City Council adoption of the proposed Framework, staff would bring forward, for City Council consideration, implementation chapters for approved Urban Village Plans that include a prioritized urban village amenity (UVA) list and a policy requiring residential mixed-use projects to conform to the Council approved Urban Village Implementation Framework document. All future Urban Village Plans will comply with the Framework by including this policy and a prioritized Urban Village Amenity list.

Until such time that the new Urban Village Mixed-Use Zoning District is created, developers proposing residential mixed-use projects will need to process their project through a Planned Development Zoning and a Planned Development permit application.

Conclusion / Recommendation

The proposed Framework reflects the direction provided by the Mayor and Council. The process to develop this Framework included extensive engagement with the development community and community stakeholders, and incorporates much of the input received from this engagement, resulting in a transparent and predictable approach. This Framework is anticipated to evolve over time, to respond to changes in the real estate market, community and City needs and priorities, and changes in state and federal law. Staff also anticipates future modifications to reflect lessons learned through its implementation.

As indicated in the Cost of Development memorandum for the April 26, 2018, City Council Study Session, residential development in most of San Jose is presently facing challenges due largely to the increasingly high cost of development. Only the Urban Villages in West San Jose were identified as currently having market rents high enough to cover rising construction costs. While the Urban Village Framework would add additional requirements for residential mixed-use development, the market analysis conducted by staff and its consultants, with input from developers, concluded that the proposed amenity requirements would not be a deciding factor in development moving forward. High Density mixed-use projects in West San Jose could proceed with or without amenity contributions, and most speculative development in the other Urban Villages would not proceed at this time, with or without this requirement.

It should be noted that most high quality residential mixed-use developments are already providing many of the amenities identified in the proposed Framework, but there is not clarity on what is expected at the beginning of the entitlement process. The Framework would provide a more predictable and transparent process for developers and the community to identify the amenities that will be provided by a development in areas with a Council approved Urban Village Plan.

Staff recommends that Council adopts the attached resolution and Framework to ensure that the City has a process in place to obtain amenities from private development as a required condition of development when commercially zoned property is rezoned to mixed use residential uses in Urban Villages with City Council approved plans.

EVALUATION AND FOLLOW-UP

Staff will return to City Council in fall 2018, during the General Plan Annual Review, to amend existing adopted Urban Village Plans and include the introduction of the Urban Village Implementation (UVI) Framework into the Implementation Chapter of each Urban Village Plan. However, the updated Implementation Chapters for the Little Portugal, Roosevelt Park, 23th and William, and Five Wounds Urban Villages are anticipated to come to Council by September 2018.

PUBLIC OUTREACH

Development Community Input

Staff held an Urban Village Implementation Framework meetings with members of the development community on August 16, 2017 and on March 29, 2018. Each time approximately 25 people participated. At each meeting staff presented and discussed the proposed implementation approach. A detailed account of feedback received at each of these outreach meetings is attached to this memorandum (Attachment C).

The following themes were received from participants at the August 16, 2017 Meeting:

- The Framework should acknowledge the different market conditions of different areas in San Jose. The zoning code and/or policy framework should not require the same level of amenities in areas with relatively weak real estate markets as would be required in areas with stronger markets.
- The Framework should establish an expectation of the per square foot dollar value that would be provided by a development with the provision of amenities; the developer would not write a check to the City for this amount, but would provide amenities equivalent to this dollar amount. Such an approach would provide more clarity for the developer on understanding the financial feasibility of their proposed project and how much they could pay for the land.
- Having developers include amenities as part of their project is preferable to having the developer contribute money towards amenities that would be implemented by the City.

Following the first outreach meeting, adjustments were made to the UVA framework to respond to some of the concerns. The following comments and questions were received from the participants at the March 29, 2018 meeting:

- The Framework should consider the value in different areas of the City.
- In developing the Framework, for-sale units must be considered, and cost per square foot should be used, not cost per unit.
- What is the process for establishing the cost of a given amenity? Are maintenance and land costs included? Who really gets to select the amenity? If it's not the developer, then it's just more uncertainty. Evaluate the language used in the Framework, e.g. "developers propose" versus "developers select". The community will want to know why the developer is getting more credit than the improvement is worth. This should be explained in the Framework.
- Ensure that the Framework requirements stay the same from planning permit through building permits.
- There should be an option for a developer to select the appraisal route, either the base unit value per the Framework or for the developer to produce their own appraisal for unit value.

Community Stakeholders Input

On March 17, 2017 and April 5, 2018, staff held community meetings for community leaders within The Alameda, Little Portugal, Roosevelt Park, West San Carlos, South Bascom, Winchester Boulevard, Santana Row/Valley Fair, Stevens Creek Boulevards, and East Santa Clara Street Urban Village plan areas. At the first meeting approximately 12 people participated and at the second meeting approximately 37 people attended. At these meetings staff presented and discussed the proposed implementation approach.

The following themes were received as feedback from the participants at the March 17, 2017 meeting:

- Include the community in the entitlement process for each development proposal to select which amenities would be provided by that development. Staff and/or the developer should not be selecting which amenities without the community's input.
- Establish a process to revisit an Urban Village plan on a periodic basis to allow the community to update the list of amenities and potentially modify which are priorities.
- General support was expressed with the proposed Framework approach, whereby the City would establish a per square foot expectation of value that a developer would need to achieve through the provision of amenities.

The following themes were received as feedback from the participants at the April 5, 2018 meeting:

- Confirm that the UVA fees are on top of other City fees, such as PDO/PIO.
- Ensure that there is clarity on the process for setting the Urban Village priorities and how the community would be involved in modifying the desired amenities identified in an Urban Village Plan.
- The Framework should encourage/give credit for placing small businesses back into the new development.
- Concern over a developer choosing one amenity instead of spreading their contribution out to other amenities.
- Concerns about having affordable housing as an amenity. A developer could use it to meet their inclusionary obligation and their UVA obligation, and given the cost to provide affordable housing units, there could be little or no UVA obligation remaining to put towards other amenities desired by the community. Most in the meeting indicated that affordable housing as an amenity should be removed from the list.

Other Outreach Efforts

Staff also participated at the Building Industry Association (BIA) South Bay meeting on July 27, 2017, where staff engaged in a robust discussion with members of the BIA. In addition, staff presented the proposed Urban Village Implementation Framework at Developers and Construction Roundtable meetings on August 4, 2017 and November 27, 2017. Planning staff, along with the Office of Economic Development and Housing Department staff, also participated in a developer forum organized by the Mayor's Office on March 29, 2018, to receive feedback on the proposed approach to Urban Village Implementation.

Staff Response to Developer and Community Input

The following is staff's response to the input from residents and developers:

- Recognizing that land values vary by geography in San Jose, the citywide residential project value is proposed to be set at a level that reflects a citywide average, as identified in the work performed by staff's consultant. The Framework proposes that, going forward, this project value will be adjusted and refined annually, using the most current apartment building and condominium sales data, to better reflect the current market conditions of different geographies and product types in San Jose.
- The City has an existing process for establishing the value of public improvements. Establishing the cost of a given Urban Village amenity would fall under the existing process. Cost is initially estimated during the planning development permit process by the appropriate City department (e.g. Public Works, Transportation, Parks, Recreation, and Neighborhood Services). Cost estimates are provided by the developer and reviewed by the City.
- The Framework would require Urban Village amenity improvements to be included as a condition of approval in the development permit for a project. Each condition would be

written based on the type of improvement and would include direction as to when the improvement must be completed e.g. prior to final building occupancy permit, and building permit submittal, etc.

- Staff recommends establishing a citywide residential square foot value as opposed to having each project providing an appraisal to establish this value. Staff does not recommend a process that allows developers to provide their own appraisals of value as this would necessitate the City to contract with outside consultants to review the appraisal, adding time and complexity to the development review process
- To address small business displacement, one of the amenity's that a developer would be able to provide, is including within their project deed restricted commercial space for non-formula (or non-franchise) employment uses.
- To encourage developers to not just choose one amenity, the VAC includes a maximum credit that can be achieved per amenity. Except for street improvements, no one amenity can satisfy 100% of the VAC required.
- staff had previously proposed that one of the amenities that could be provided was the inclusion of affordable housing units within a project instead of paying the in lieu fee. Based on community feedback staff agreed to remove this as a proposed amenity for which a developer could be given credit. Staff recognized that including it as an amenity would allow for a development to receive a double credit, e.g. providing units in a project would satisfy the inclusionary obligation and the UVA obligation.
- The Framework does not propose a formal or regular process to update the priority list of amenities in a given Urban Village Plan, but would rely on community input received through the normal development application process and Council direction. Modifying the amenities within a Plan would require a General Plan Amendment and would be considered by Council at General Plan hearing cycle. The Framework does provide more flexibility however, as the amenities listed in the Framework could be modified by Council resolution. Amenities listed in the Framework, but not identified in a given Urban Village Plan, could then be provided as the plans provide guidance on amenities desired but do not restrict amenities provided to those listed within the Plan.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

/s/
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/s/
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For questions please contact Chris Burton, Deputy Director, at (408) 535-8114, or Michael Brilliot, Division Manager, at 408-535-7831.

Attachments:

- A. Resolution with Urban Village Implementation Framework
- B. Hypothetical Urban Village Residential Mixed-Use Project
- C. Summary of Development Community and Urban Village Stakeholder Input, March through April 2018
- D. Keyser Marston Associates, memorandum dated April 23, 2018