

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

SUBJECT: SEE BELOW

FROM: Planning Commission

DATE: December 7, 2018

**SUBJECT: FILE NO. GPT18-006. CITY-INITIATED GENERAL PLAN TEXT
AMENDMENT TO MAKE MINOR MODIFICATIONS AND CLARIFYING
REVISIONS TO POLICY H-2.9 IN CHAPTER 4 OF THE ENVISION SAN
JOSÉ 2040 GENERAL PLAN.**

RECOMMENDATION

The Planning Commission voted 5-0-1 (Ballard absent) to recommend that the City Council:

- a. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617) and Addenda thereto, in accordance with the California Environmental Quality Act as amended; and
- b. Adopt a resolution approving the General Plan Text Amendment to revise Policy H-2.9 in Chapter 4 of the Envision San José 2040 General Plan.

OUTCOME

If City Council approves the General Plan Text Amendment, Policy H-2.9 in Chapter 4 of the General Plan will be amended to only require residential adjacency on one side, rather than two sides. If approved, the Envision San José 2040 General Plan would be amended to reflect the proposed modifications and clarifying revisions as detailed in the Planning Commission staff report (attached).

BACKGROUND

On November 14, 2018, the Planning Commission held a public hearing to consider the proposed General Plan Text Amendment. Prior to the Planning Commission hearing, Commissioner Yesney submitted a clarifying question to staff via email with regards to the site location section of the staff report. Staff prepared a brief response to clarify the number of sites that could be able

to take advantage of this General Plan change, and highlighted the fact that once staff develops a definition of the term “underutilized,” a more concrete number of eligible sites would be presented to the Commission.

Commissioner Griswold pulled this item from the consent calendar for additional discussion and asked several questions about the item. Commissioner Griswold asked whether there are other policies which would allow affordable housing to move forward within growth areas and urban villages. Staff clarified that 100% deed restricted affordable housing may move forward in Urban Villages regardless of horizon or whether there is an approved Urban Village plan. Commissioner Griswold also asked for clarification of the residential land use designation and whether limiting the adjacent land use designations to only residential would be too limiting. Staff clarified that when the policy was developed, it was in an effort to balance other General Plan goals of discouraging conversion of commercial lands, while still facilitating development of affordable housing.

Commissioner Allen made an additional clarifying comment that the intent of this policy was to provide more opportunities for affordable housing, while simultaneously preserving viable commercial properties for commercial use.

Commissioner Leyba asked if there were any affordable housing projects in the pipeline that would be stalled if the amendment was not approved. Staff stated that currently, there are no submitted projects that would be expedited by this proposed change. There was no further discussion on this item by the Commissioners, and no members of the public spoke on this item.

Commissioner Vora motioned to approve the item and it was seconded by Commissioner Griswold.

The Planning Commission voted 5-0-1 (Ballard absent) to recommend that the City Council approve the General Plan text amendment.

ANALYSIS

For a complete analysis, please see the Planning Commission staff report (attached).

EVALUATION AND FOLLOW UP

If the General Plan Text Amendment is approved, the Envision San José 2040 General Plan will be modified to reflect the revisions detailed in the Planning Commission staff report.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was published in the San José Post Record and on the City's website. The Planning Commission agenda was posted on the City of San José website, which included a copy of the staff report, and staff has been available to discuss the project with members of the public.

COORDINATION

Preparation of this memorandum was coordinated with the City Attorney's Office.

CEQA

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed General Plan Text Amendment is within the scope of the approved Final Program EIR for the Envision San José 2040 General Plan and Supplemental EIR to the Envision San Jose 2040 General Plan EIR, and Addenda thereto, for which findings were adopted by City Council Resolution Nos. 76041 and 77617, respectively, that adequately describe the activity for the purposes of CEQA.

/s/

Rosalynn Hughey, Secretary
Planning Commission

For questions please contact Michael Brilliot, Deputy Director, at 408-535-7831.

Attachment: Planning Commission Staff Report



PLANNING COMMISSION STAFF REPORT

File No.	GPT18-006
Applicant	City-Initiated
Location	Citywide
Council District	Citywide
CEQA	Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617) and Addenda thereto.

APPLICATION SUMMARY:

This is a City-initiated Envision San Jose 2040 General Plan Text Amendment to revise Affordable Housing Policy H-2.9 in Chapter 4 of the Envision San José 2040 General Plan as part of the Housing Crisis Work Plan.

RECOMMENDATION:

Planning Staff recommends that the Planning Commission:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617) and Addenda thereto, in accordance with the California Environmental Quality Act as amended; and
2. Recommend that the City Council adopt a resolution approving the General Plan Text Amendment to revise Policy H-2.9 in Chapter 4 of the Envision San José 2040 General Plan.

PROJECT DESCRIPTION

The proposed General Plan Text Amendment will modify Policy H-2.9 of Chapter 4 in the Envision San José 2040 General Plan as follows in strikethrough/underline format:

Housing Policy H-2.9:

To increase the supply of affordable housing, one hundred percent deed restricted affordable housing developments would be allowed on sites outside of the existing Growth Areas on properties with a Mixed Use Commercial or Neighborhood/Community Commercial land use designation if the development meets the following criteria:

1. The site is 1.5 acre or less.

2. The site is vacant or underutilized.
3. The site has adjacent properties with a residential General Plan Land Use / Transportation Diagram designation on at least ~~two sides~~ one side and the development would be compatible with the surrounding neighborhood.
4. The development would not impact the viability of surrounding commercial or industrial properties or businesses.
5. The site is located within a ½-mile of an existing transit line.
6. The development integrates commercial uses that support the affordable housing project and/or the surrounding neighborhood.
7. Development on properties that contain structures that are on, or are eligible for inclusion on the City of San José's Historic Resources Inventory should adaptively reuse these structures.

Text Reference

Envision San José 2040 General Plan, Chapter 4, "Housing" section, pages 31-32.

Site Location

This text amendment will impact sites citywide. Specifically, approximately 1,000 sites city-wide meet the size and locational requirements specified in Policy H-2.9 when the criteria for the number of sides adjacent to properties with a residential General Plan Land Use/Transportation Diagram designation is reduced from two sides to one side. The number of sites that meet the "underutilized" criteria may vary and will be dependent upon an analysis conducted when a proposed affordable housing project entitlement application is submitted to the City.

Project Background

In his September 28, 2017 memo, *Responding to the Housing Crisis*, the Mayor established a goal of creating 25,000 housing units, with at least 10,000 of those units being for affordable housing. This memo identified work items that could be completed by staff to facilitate the construction of these units. The Council approved this memo on October 17, 2018 Priority Setting Session, and the construction of these units became part of the Council's Priority List. Council's approval of this memo was the impetus for staff's development of the Housing Crisis Workplan. This Workplan identifies several strategies to support and accelerate residential development in San Jose.

One strategy involved amending the "1.5 acre rule", or Housing Policy H-2.9. The specific work item was to identify an objective definition of the words "underutilized" and "viability of surrounding commercial properties" so that developers can take advantage of existing streamlining laws. In addition to defining these terms in Policy H-2.9 staff was given direction by council to further amend the "1.5 acre rule" by reducing the requirement that sites be adjacent to properties with a residential General Plan Land Use/Transportation Diagram designation from two sides to one side. By changing the requirement from two sides to one side, without even considering the underutilized component, there is an increase in the number of available sites from approximately 300 to 1,000 sites city-wide.

Planning staff is currently developing a definition for “underutilized” and intends to return to Council by early Spring to propose a definition for Council consideration. While the “underutilized” definition is not being addressed with this General Plan Text Amendment, the change from two sides to one side will allow more sites for consideration for affordable housing projects. There may be sites where the definition of “underutilized” does not impact the development of the site (the site could be vacant and abandoned), and the only issue is the adjacency of a residential land use designation on multiple sides of the property.

It is important to note that as staff continues to work on developing a definition related to “underutilized”, students from San Jose State University will also be doing research to inform our definition and simultaneously conducting a GIS analysis to locate opportunity sites for potential affordable housing development. In the Mayor’s Housing Crisis memo, he encouraged partnering with external partners, such as SJSU to map and identify these opportunity sites. The students are following the parameters as set forth by Housing Policy H-2.9 to identify properties that are 1.5 acres or less, at least ½ mile from existing transit lines, and adjacent to existing residential uses on at least one side; as well as researching definitions for vacant or underutilized land.

ANALYSIS

The proposed General Plan Text Amendment was analyzed with respect to conformance with: 1) The Envision San Jose 2040 General plan; 2) State affordable housing policies; and 3) the California Environmental Quality Act (CEQA):

Envision San Jose 2040 General Plan

The proposed General Plan Text Amendment to Policy H-2.9 is consistent with the following Affordable Housing Policies listed in the Envision San Jose 2040 General Plan:

1. Affordable Housing Policy H-2.1: Facilitate the production of extremely low-, very low-, low, and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.
2. Affordable Housing Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the *Envision General Plan*.
3. Affordable Housing Policy H-2.3: Conserve viable housing stock through a balanced combination of housing code enforcement and complementary programs such as rehabilitation loans and grants to help maintain the supply of low-priced housing.
4. Affordable Housing Policy H-2.15: Maintain our City’s Inclusionary Housing Policy and Ordinance, and provide technical assistance to the development community to ensure that residential projects conform to it.

Analysis: The proposed changes to H-2.9 will could facilitate the development of affordable housing in San Jose. Adjusting the requirement from two sides of adjacent residential use to only one side, will significantly increase the pool of prospective development sites for affordable housing with varying levels of income. Some of the sites identified through this process may also qualify for the streamlined approval process as established by SB 35.

State Affordable Housing Policies

SB 35 Planning and Zoning: Affordable Housing: Streamlined Approval Process

Senate Bill 35 (SB 35) is a statewide bill passed by Governor Brown on September 29, 2017 that allows for a streamlined permitting process for certain affordable housing developments. The development project must be multifamily housing containing two or more residential units, located on a legal parcel in an urban area that allows for residential development. Affordable housing projects will qualify for the streamlined permitting process if the sites are not located on land in: a coastal zone, prime farmland or farmland of statewide importance, wetlands, very high fire hazard severity zone, hazardous waste site, delineated earthquake fault zone, within a flood plain or floodway, or lands for nature conservation and habitat for protected species. While SB 35 is more restrictive in defining which properties would be eligible, the proposed General Plan text amendment could increase opportunity sites for developers of affordable housing to also employ the use of SB 35. These two policies are not interchangeable, but if used in conjunction with each other, there is opportunity to build more affordable housing throughout the City of San Jose.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77517), in accordance with the California Environmental Quality Act as amended The proposed General Plan Text Amendment does not include any construction, demolition, or other activity that has the potential to negatively impact the environment. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the approved Envision San José 2040 General Plan, and the Final Program EIR for the Envision San José 2040 General Plan and Supplemental EIR to the Envision San Jose 2040 General Plan EIR, for which findings were adopted by City Council Resolution Nos. 76041 and 77517 respectively, that adequately describe the activity for the purposes of CEQA.

PUBLIC HEARING NOTIFICATION

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was published in the San Jose Post Record and on the City's website. The staff report is also posted on the City's website and staff has been available to respond to questions from the public.

Project Manager: Brent Carvalho

Approved by: *M. L. Miller for*, Deputy Director for Rosalynn Hughey,
Planning Director

Date:

Owner:

City of San José
200 East Santa Clara Street
San José, CA 95113

Attachments

Draft Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
JOSE AMENDING POLICY H-2.9 IN CHAPTER 4 OF THE
ENVISION SAN JOSE 2040 GENERAL PLAN PURSUANT
TO TITLE 18 OF THE SAN JOSE MUNICIPAL CODE
Fall 2018 General Plan Amendment Cycle (Cycle 4)**

GPT18-006

WHEREAS, the City Council is authorized by Title 18 of the San Jose Municipal Code and state law to adopt and, from time to time, amend the General Plan governing the physical development of the City of San José; and

WHEREAS, on November 1, 2011, the City Council adopted the General Plan entitled, "Envision San Jose 2040 General Plan, San José, California" by Resolution No. 76042, which General Plan has been amended from time to time (hereinafter the "General Plan"); and

WHEREAS, in accordance with Title 18 of the San José Municipal Code, all general and specific plan amendment proposals are referred to the Planning Commission of the City of San José for review and recommendation prior to City Council consideration of the amendments; and

WHEREAS, on November 14, 2018, the Planning Commission held a public hearing to consider the proposed text amendment to Policy H-2.9 in Chapter 4 of the General Plan , File No. GPT18-006, as specified in Exhibit "A" hereto ("General Plan Amendment"), at which hearing interested persons were given the opportunity to appear and present their views with respect to said proposed amendment; and

WHEREAS, at the conclusion of the public hearing, the Planning Commission transmitted its recommendations to the City Council on the proposed General Plan Amendment; and

WHEREAS, on December 18, 2018, the Council held a duly noticed public hearing; and

WHEREAS, a copy of the proposed General Plan Amendment is on file in the office of the Director of Planning, Building and Code Enforcement of the City, with copies submitted to the City Council for its consideration; and

WHEREAS, pursuant to Title 18 of the San José Municipal Code, public notice was given that on December 18, 2018 at 6:00 p.m. in the Council Chambers at City Hall, 200 East Santa Clara Street, San Jose, California, the Council would hold a public hearing where interested persons could appear, be heard, and present their views with respect to the proposed General Plan Amendment (Exhibit "A"); and

WHEREAS, prior to making its determination on the General Plan Amendment, the Council reviewed and considered a Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77517), in accordance with the California Environmental Quality Act as amended; and

WHEREAS, the Council of the City of San José is the decision-making body for the proposed General Plan Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

SECTION 1. The Council's determinations regarding General Plan Amendment GPT18-006 is hereby specified and set forth in Exhibit "A," attached hereto and incorporated herein by reference.

SECTION 2. This Resolution shall take effect thirty (30) days following the adoption of this Resolution.

ADOPTED this ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

)
) ss
)

I hereby certify that the text amendments to the San Jose General Plan specified in the attached Exhibit "A" were adopted by the City Council of the City of San Jose on _____, as stated in its Resolution No. _____.

Dated: _____

TONI J. TABER, CMC
City Clerk

DRAFT

EXHIBIT “A”

Policy H-2.9 in Chapter 4 of the Envision San Jose 2040 General Plan is hereby amended to read as follows:

“Housing Policy H-2.9:

To increase the supply of affordable housing, one hundred percent deed restricted affordable housing developments would be allowed on sites outside of the existing Growth Areas on properties with a Mixed Use Commercial or Neighborhood/Community Commercial land use designation if the development meets the following criteria:

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Council District: Citywide.

File No. GPT18-006.