



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** May 3, 2019

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**SUBJECT: GPT19-002. CITY-INITIATED GENERAL PLAN TEXT AMENDMENT TO THE ENVISION SAN JOSE 2040 GENERAL PLAN TO ESTABLISH AN ADDITIONAL GENERAL PLAN HEARING CYCLE FOR NON-CITY-INITIATED PUBLICLY FUNDED 100% DEED RESTRICTED AFFORDABLE HOUSING PROJECTS, AND THE CREATION OF A NEW AFFORDABLE PRIORITY PLANNING AREA OVERLAY.**

## **RECOMMENDATION**

The Planning Commission voted (6-0-1; Commissioner Vora absent) to recommend that the City Council approve the General Plan Text Amendment with revisions to the text to remove the word “publicly funded” and add clarifying language to the term “continued affordability” in the Affordable Priority Planning Area (APPA) Overlay. Staff concurs with Planning Commission’s recommendation and the attached resolution reflects the recommended changes.

## **OUTCOME**

Should the City Council approve the General Plan Text Amendment, the Envision San José 2040 General Plan would be amended to reflect the proposed revisions as detailed in “Exhibit A” of the draft Resolution.

## **BACKGROUND**

On May 1, 2019, the Planning Commission held a public hearing to consider the proposed General Plan Text Amendment. The Planning Commission made a recommendation to City Council to adopt a resolution approving the General Plan text amendment, subject to staff revising the language for the Affordable Priority Planning Area Overlay to remove the word “publicly funded” and add clarifying language to the term “continued affordability.”

## **Staff Presentation**

Staff presented a summary of the proposed General Plan Text Amendment, including background and purpose and prior City Council direction. No one from the public appeared to speak on the item.

## **Planning Commission Discussion**

Commissioner Griswold asked staff for clarification regarding the term “publicly funded” in the Affordable Priority Planning Area Overlay (APPA Overlay) and proposed that the APPA Overlay be applied more broadly to all projects that propose affordable housing outside of the special hearing. She also suggested allowing all non-City-initiated amendments to be considered during the proposed additional hearing cycle.

Planning staff clarified that the term “publicly funded” is broad and would include any public subsidies or tax credits. Staff also noted that most affordable housing projects use public funding. Housing Department staff stated privately funded 100% affordable projects are rarely proposed. Staff also noted that, unlike privately funded projects, publicly funded projects have restrictions on affordability through their financing to insure continued affordability. The City Attorney asked if Housing staff reviewed privately funded projects that are not involved with inclusionary housing requirements. Housing staff responded that they did not.

Planning staff added that the term, “publicly funded” was included in the Mayor and City Council’s direction, and staff did not have concern because most affordable projects would use public funding. The City Attorney clarified the procedural process to remove the term “publicly funded” from the proposed text amendment if the Planning Commission chose. Further, referring to the staff memorandum discussion of an additional hearing, the City Attorney stated that certain affordable housing projects do not count towards the City’s limit on General Plan hearings (four per year) pursuant to State law if the City desired to expand the number of hearing for that purpose.

Planning staff explained that only one General Plan Amendment cycle is held each year for non-City-initiated amendments; due to the high frequency of amendments processed under the previous General Plan (General Plan 2020). The General Plan 2020 became known as the “General Plan of exceptions”, in part because of how frequently it was amended. In creation of *Envision San José 2040*, the Task Force and City Council decided to limit the frequency of non-City-initiated amendments to one year to better analyze the cumulative effects of those amendments.

Planning staff also noted that the General Plan included policies to allow 100% affordable housing projects to move forward in Urban Villages regardless of the plan horizon, and on certain Commercial designated sites outside of Growth Areas. Staff emphasized that the General Plan policies and goals are intended to allow affordable housing without General Plan Amendments.

Commissioner Allen questioned if the APPA Overlay was entirely necessary, and stated that it may add more complexity than necessary. Commissioner Ballard asked staff if there was a downside to removing “publicly funded” from the language and asked for clarification if the term was eliminated, would the City be able to ensure they remain affordable for a certain amount of time.

Housing Department staff confirmed that the City would record the deed restrictions for publicly funded affordable housing projects. The City Attorney added that General Plan Amendments are legislative acts cannot be conditioned to require affordability, so staff recommends the APPA Overlay to function as the mechanism that would assure that the 100% affordable project condition could be enforced and made applicable to land use permits for development on the same site.

Housing staff shared that experts have not expressed concerns about “continued affordability” in the APPA Overlay, provided the restrictions were not greater than 80% AMI and no longer than 99 years.

Commissioner Yesney asked what mechanism the City uses to ensure the continued affordability of a privately funded affordable housing project. The City Attorney confirmed that without public funding, the only mechanism available would be the inclusionary housing ordinance which has a lower percentage affordability requirement. Commissioner Yesney also asked staff which properties would not allow affordable housing projects, and staff confirmed that there are a wide range of land use designations that allow affordable housing. Staff also emphasized that it does not anticipate many affordable housing projects needing or using the special hearing process.

Commissioner Oliverio expressed support for the staff recommendation and stated that he has never seen a 100% privately funded affordable housing project. He stated that the APPA Overlay was meant to enforce the continued affordability of General Plan Amendment projects that use the special hearing and agreed with staff’s proposal.

Commissioner Griswold asked if the APPA Overlay could be applied more broadly. She stated that the APPA Overlay would be added insurance in instances where applicants are promising affordable housing. Planning staff confirmed that as written the APPA Overlay would only be applied to projects that use the special hearing outside of the Annual Review. Staff stated that the Planning Commission could recommend that the APPA Overlay could be used during the General Plan Annual Review as well, and applied to sites for which the applicant represents that they will develop affordable housing.

Commissioner Allen stated that the APPA Overlay should be applied to affordable housing projects that are heard at the normal General Plan Annual Review hearing. Commissioner Griswold agreed stating that a General Plan Amendment is of greater value and the City needs assurances that projects adhere to their proposals. Commissioner Yesney agreed and noted that the APPA Overlay would be useful in situations where residential would be otherwise unacceptable unless it was for affordable housing.

Commissioner Oliverio asked staff whether they would be opposed to removing “publicly funded” from the proposed language. Staff responded that the original intent was to keep the special hearing narrow, but could remove “publicly funded” from the proposed text amendment and update the proposed APPA Overlay to reference the definition of affordable housing in the General Plan to clarify the minimum length of time an affordable housing project would need to stay deed restricted. The City Attorney confirmed the language that would be changed and Commissioner Oliverio made a motion to approve staff recommendation with the deletion of the term “publicly funded” and adding a clarification to the APPA Overlay to define “continued affordability.” Commissioner Ballard seconded the motion.

The Planning Commission voted (6-0-1; Commissioner Vora absent) to recommend that the City Council approve the General Plan Text Amendment subject to staff revising the language for the Affordable Priority Planning Area Overlay to remove the word “publicly funded” and add clarifying language to the term “continued affordability.”

### **ANALYSIS**

For complete analysis, please see the Planning Commission staff report (attached). Staff has revised the proposed General Plan text amendment to delete the phrase “publicly funded.” Staff has also updated the proposed APPA Overlay to clarify the term “continued affordability,” and allow use of the overlay in both the General Plan Annual Review hearing and in the proposed additional hearing for non-City-initiated amendments for 100% affordable housing projects. The proposed General Plan text amendment is detailed in “Exhibit A” of the Draft Resolution and the changes proposed by the Planning Commission are highlighted and redlined.

### **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 “Exhibit A” of the draft Resolution including the changes proposed by the Planning Commission.

### **PUBLIC OUTREACH/INTEREST**

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 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 has been coordinated with the City Attorney’s Office.

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**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:

- A) Planning Commission Staff Report
- B) Draft Resolution with proposed changes by the Planning Commission



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Rosalynn Hughey

**SUBJECT:** File No. GPT19-002

**DATE:** April 10, 2019

**COUNCIL DISTRICT:** Citywide

<b>Type of Permit</b>	City-Initiated General Plan Text Amendment
<b>Project Planner</b>	Robert Rivera
<b>CEQA Clearance</b>	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 José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.
<b>CEQA Planner</b>	Robert Rivera

## RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council take all of the following actions:

1. Consider the Determination of Consistency in accordance with CEQA; and
2. Adopt a resolution (Attachment A) approving the General Plan Text Amendment to the Envision San José 2040 General Plan to establish an additional General Plan Hearing cycle for non-City-initiated amendments for publicly funded 100% deed restricted affordable housing projects, and to create an Affordable Priority Planning Area Overlay.

## PROJECT BACKGROUND

The Envision San José 2040 General Plan directs staff to hold one Annual Review hearing for the City Council to review and consider privately proposed General Plan text amendments or site-specific amendments of the Land Use / Transportation Diagram. This policy was adopted so that the City Council could contemplate the cumulative implications of privately proposed amendments considered during a calendar year.

On January 31, 2019 in a memo to the Rules and Open Government Committee, Mayor Liccardo and Councilmember Dev Davis recommended that an additional General Plan Amendment Hearing be held in the spring of each year to expedite the land use approval of publicly funded affordable housing communities. (Attachment B) The memo stated that delays in land use approvals have had a disproportionate effect on affordable housing because financing for affordable housing is dependent on various sources of funding from local agencies that are time sensitive, and may be contingent on approvals of General Plan Amendments. The City Council approved the recommendation at the February 26, 2019 session.

Following the Council's direction to staff, staff reviewed the state law limitations on the number of General Plan amendments per year. Subsections (b) and (c) of Government Code section 65358 state, in relevant part:

- (b) Except as otherwise provided in subdivision (c) or (d), no mandatory element of a general plan shall be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the legislative body. Each amendment may include more than one change to the general plan.
- (c) The limitation on the frequency of amendments to a general plan contained in subdivision (b) does not apply to amendments of the general plan requested and necessary for a single development of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for development, or on another site or sites encompassed by the general plan, in which case the combined total number of residential units shall be considered a single development proposal for purposes of this section.

Government Code section 65358 specifies a limitation of four General Plan amendment hearings per year with some exceptions, including the affordable housing exception specified above, as well as exceptions for court ordered amendments, and amendments to airport land use plans and local coastal plans (San Jose does not have a local coastal plan). This law does not require the Council to waive any application and processing fees and does not affect the Council's discretion to approve or deny applications for a General Plan amendment (Government Code section 65358(a)).

Because General Plan amendments for projects fitting the criteria in Government Code section 65358(c) are not limited to the four-hearing-per-year limitation in Government Code section 65358(b), and the type of affordable projects that Council desired to address are greater than 25% affordable, an additional General Plan Hearing would not count as one of the four annual GP Amendment Hearings to which the City is limited.

The proposed General Plan text amendment would establish one separate General Plan Hearing cycle for non-City-initiated publicly funded 100% affordable housing projects. Additionally, to ensure that affordable housing is the primary use on the affected property, staff also proposes the creation of a new Affordable Housing Priority Planning Area Overlay Designation (Overlay). The Overlay would be applied to applicants' properties using the special hearing for affordable housing projects. The proposed text amendments are detailed below in strikeout/underline format.

1. General Plan Annual Review and Measurable Sustainability Policy IP-3.1 (Text Reference: Envision San José 2040 General Plan, Chapter 7 ("Implementation"), "Implementation" section, page 10)  
~~IP-3.1 Beginning in 2013, the~~ Hold one (1) Annual Review hearing for the Planning Commission and the City Council to review and consider ~~privately non-City~~ proposed amendments to the Envision San José 2040 General Plan and to evaluate its Performance Measures. One (1) separate General Plan hearing may be held for the Planning Commission and the City Council to review and consider non-City proposed amendments for publicly funded 100% deed restricted affordable housing projects.
2. General Plan Annual Review and Measurable Sustainability Policy IP-3.3 (Text Reference: Envision San José 2040 General Plan, Chapter 7 ("Implementation"), "Implementation" section, page 10)

**IP-3.3** Consider only during the Annual Review any ~~privately~~ non-City-initiated General Plan Amendment proposals to modify the Land Use / Transportation Diagram or to make minor modifications to the Urban Growth Boundary or expansion of the Urban Service Area. One (1) separate General Plan hearing may be held to consider non-City-initiated General Plan Amendments for publicly funded 100% deed restricted affordable housing projects. Early consideration for continued processing or denial may be considered outside of the General Plan Annual Review process for projects involving the conversion of employment land to non-employment uses or other projects that are fundamentally inconsistent with the General Plan.

3. General Plan Annual Review Hearing Process Policy IP-4.1 (Text Reference: Envision San José 2040 General Plan, Chapter 7 (“Implementation”), “Implementation” section, page 13)

**IP-4.1** Conduct General Plan Review hearings to consider ~~privately~~ non-City-initiated proposed amendments to the General Plan only once per year, ~~beginning in 2013,~~ to facilitate a comprehensive review of the cumulative implications of proposed amendments. One (1) separate General Plan hearing may be held to consider non-City-initiated General Plan Amendments for publicly funded 100% deed restricted affordable housing projects. To further implement the Major Strategies of the General Plan, comply with existing State and Federal laws, respond to changes in State or Federal law, or correct identified errors, the City Council may consider City-initiated land use and/or text amendments at any time. All amendments to the General Plan are subject to the limitations on the frequency of General Plan amendments in Government Code section 65358.

4. Affordable Priority Planning Area Overlay (Text Reference: Envision San José 2040 General Plan, Chapter 5 (“Interconnected City”), “Special Land Use Designations and Overlays” section, following “Preferred Hotel Site Overlay,” page 25)

#### **Affordable Priority Planning Area Overlay**

The Affordable Priority Planning Area Overlay (APPA Overlay) designation shall be applied to any site for which an application for a non-City-initiated General Plan amendment considered outside the Annual Review has been approved because it was represented to the City that the site would be developed with 100% deed restricted affordable housing as defined in General Plan Policy IP-5.12.

The APPA Overlay does not change the uses or densities otherwise allowed within the base General Plan land use designation. In order to develop residential uses on any site with an APPA Overlay, the project shall record deed restrictions insuring the continued affordability of the project prior to or concurrently with the issuance of a land use permit for the affordable residential project.

## **ANALYSIS**

The proposed General Plan Amendment application is analyzed with respect to conformance with:

- 1) Envision San José 2040 General Plan
- 2) California Environmental Quality Act (CEQA)

### **Envision San José 2040 General Plan Conformance**

The proposed General Plan text amendments are consistent with the following General Plan goals and policies:

**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.



**Affordable Housing Action H-2.19** Explore, analyze, and implement innovative programs, policies, and partnerships that bring new housing solutions and products to San José.

*Analysis: The proposed General Plan text amendments facilitate the development of affordable housing by allowing an additional General Plan hearing cycle for non-City-initiated General Plan amendments proposing publicly funded 100% deed restricted affordable housing projects. The proposed APPA Overlay would be applied to non-City-initiated amendments for affordable residential projects considered outside of the Annual Review to ensure the residential component of development on those sites are developed with affordable housing. The proposed text amendments may also alleviate project cost escalation by shortening the timeframe in which a proposed affordable housing project with an associated General Plan Amendment application must wait to be considered by the Planning Commission and the City Council.*

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José determined that the proposed General Plan Text Amendment is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report (FEIR) for the Envision San José 2040 General Plan, for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental Environmental Impact Report (SEIR) to the Envision San José 2040 General Plan FEIR, for which findings were adopted by City Council through its Resolution No. 77617 on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the EIRs, and for which a determination of consistency was considered and approved by the City Council prior to acting upon or approving the General Plan Text Amendments.

#### **PUBLIC OUTREACH**

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:** Robert Rivera

**Approved by:** Deputy Director for Rosalynn Hughey, Planning Director

#### **ATTACHMENTS:**

Exhibit A: Draft Resolution

Exhibit B: Memorandum on Approval of an Additional General Plan Hearing for Publicly Funding Affordable Housing Projects from Mayor Sam Liccardo and Councilmember Dev Davis, dated January 31, 2019

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE ENVISION SAN JOSE 2040 GENERAL PLAN PURSUANT TO TITLE 18 OF THE SAN JOSÉ MUNICIPAL CODE TO ALLOW ONE ADDITIONAL GENERAL PLAN AMENDMENT HEARINGS FOR NON-CITY-INITIATED AMENDMENTS FOR PUBLICLY FUNDED 100% DEED RESTRICTED AFFORDABLE HOUSING PROJECTS AND ESTABLISHMENT OF AN AFFORDABLE PRIORITY PLANNING AREA.**

**Spring 2019 General Plan Amendment Cycle (Cycle 1)**

**File No. GPT19-002**

**WHEREAS**, the City Council is authorized by Title 18 of the San José 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 José 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 April 10, 2018, the Planning Commission held a public hearing to consider the proposed text amendments to allow one additional General Plan hearing cycle annually in spring for privately-initiated General Plan Amendments for publicly funded affordable housing projects, File No. GPT19-002 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 May 14th, 2019, 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 May 14th, 2018 at 6:00 p.m. in the Council Chambers at City Hall, 200 East Santa Clara Street, San José, 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 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 José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto; 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 File No. GPT19-002 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 \_\_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

STATE OF CALIFORNIA                   )  
   )      ss  
COUNTY OF SANTA CLARA           )

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

Dated: \_\_\_\_\_

TONI J. TABER, CMC  
City Clerk

## **EXHIBIT "A"**

**File No. GPT19-002.** Amendments of the General Plan text to allow one additional General Plan hearing cycle annually in spring for privately-initiated General Plan Amendments for publicly funded affordable housing projects:

1. Chapter 5, entitled "Interconnected City," "Special Land Use Designations and Overlays" section, is hereby amended to add a new Subsection entitled "Affordable Priority Planning Area Overlay" following the "Neighborhood Business Districts" Subsection, to read as follows:

### **"Affordable Priority Planning Area Overlay"**

The Affordable Priority Planning Area Overlay (APPA Overlay) designation shall be applied to any site for which an application for a non-City-initiated General Plan amendment considered outside the Annual review has been approved because it was represented to the City that the site would be developed with 100% deed restricted affordable housing as defined in General Plan Policy IP-5.12.

The APPA Overlay does not change the uses or densities otherwise allowed within the base General Plan land use designation. In order to develop residential uses on any site with an APPA Overlay, the project shall record deed restrictions insuring the continued affordability of the project prior to or concurrently with the issuance of a land use permit for the affordable residential project."

2. Chapter 7, entitled "Implementation," is hereby amended as follows:

- a. "Implementation" section, Policy IP-3.1 is hereby amended to read as follows:

"IP-3.1 Beginning in 2013, ~~the~~ Hold one (1) Annual Review hearing for the Planning Commission and the City Council to review and consider ~~privately~~ non-City-proposed amendments to the *Envision San José 2040 General Plan* and to evaluate its Performance Measures. One (1) separate General Plan hearing may be held for the Planning Commission and the City Council to review and consider non-City proposed amendments for publicly funded 100% deed restricted affordable housing projects.

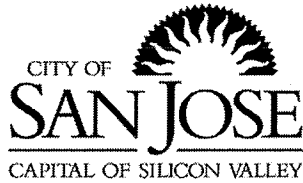
- b. "Implementation" section, Policy IP-3.3 is hereby amended to read as follows:

**“IP-3.3** Consider only during the Annual Review any ~~privately non-City-~~initiated General Plan Amendment proposals to modify the Land Use / Transportation Diagram or to make minor modifications to the Urban Growth Boundary or expansion of the Urban Service Area. One (1) separate General Plan hearing may be held to consider non-City-initiated General Plan Amendments for publicly funded 100% deed restricted affordable housing projects. Early consideration for continued processing or denial may be considered outside of the General Plan Annual Review process for projects involving the conversion of employment land to non-employment uses or other projects that are fundamentally inconsistent with the General Plan.”

c. “Implementation” section, Policy IP-4.1 is hereby amended to read as follows:

**“IP-4.1** Conduct General Plan Review hearings to consider ~~privately non-City-~~initiated proposed amendments to the General Plan only once per year; ~~beginning in 2013,~~ to facilitate a comprehensive review of the cumulative implications of proposed amendments. One (1) separate General Plan hearing may be held to consider non-City-initiated General Plan Amendments for publicly funded 100% deed restricted affordable housing projects. To further implement the Major Strategies of the General Plan, comply with existing State and Federal laws, respond to changes in State or Federal law, or correct identified errors, the City Council may consider City-initiated land use and/or text amendments at any time. All amendments to the General Plan are subject to the limitations on the frequency of General Plan amendments in Government Code section 65358.”

Council District: Citywide.



COUNCIL AGENDA: 2/26/2019

ITEM: 2.8

FILE NO: 18-1921

## Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Toni J. Taber, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** February 26, 2019

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**SUBJECT:** Approval of an Additional General Plan Hearing for Publicly Funded Affordable Housing Projects.

**RECOMMENDATION:**

As recommended by the Rules and Open Government Committee on February 6, 2019, hold an additional General Plan Amendment Hearing in the spring of each year to expedite the land use approval of publicly funded affordable housing communities.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Mayor and Davis)

[Rules Committee referral 2/6/19 - Item G.4]





# Memorandum

**TO:** RULES AND OPEN  
GOVERNMENT  
COMMITTEE

**FROM:** Mayor Sam Liccardo  
Councilmember Dev Davis

**SUBJECT:** SEE BELOW

**DATE:** January 31, 2019

APPROVED:

**SUBJECT: APPROVAL OF AN ADDITIONAL GENERAL PLAN HEARING FOR  
PUBLICLY FUNDED AFFORDABLE HOUSING PROJECTS**

## **RECOMMENDATION**

1. Hold an additional General Plan Amendment Hearing in the spring of each year to expedite the land use approval of publicly funded affordable housing communities
2. Place the item on the February 26, 2019 Council Agenda for action.

## **BACKGROUND**

San José is in the greatest affordability housing crisis to date. Since the State's Regional Housing Needs Allocation ("RHNA") production began in 2014, San José has met 72% of its total market-rate homes but only 7% of its affordable housing goal. The RHNA projects that San José will need to build more than 3,423 new income restricted homes per year for the next 5.8 years to keep up with population growth. If the current housing trends continue, the regional economy may suffer if local businesses cannot attract and retain employees.

Delays in land use approvals have had a disproportionate effect on affordable housing. Unlike the financing for market rate residential developments, financing affordable housing is dependent on various sources of funding from local agencies that are time sensitive, have applications requiring substantial advance preparation and collaboration, and are contingent on approvals of General Plan Amendments. Further, construction activity has hit record levels causing labor shortages and cost escalations of 1-2 percent per month over the last 2 years. A 100-unit affordable housing project with a construction cost of \$39 million in 2017 could cost up to \$45 million one year later in 2018. A project with fixed loan amounts from state and other agencies, such as the Cap and Trade Affordable Housing Sustainable Communities program, that made the project feasible at the earlier cost will no longer be feasible if costs go up.

HONORABLE MAYOR AND CITY COUNCIL

February 6, 2019

Subject: General Plan Hearing for Publicly Funded Affordable Housing Projects

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In addition, the current General Plan hearing process requires environmental studies to be submitted in March to ensure a hearing in November; but if these studies are not turned in on time and requires an update, the project must wait until November of the following year to get a hearing. Local agency loan limits do not keep pace with project cost increases due to project delays. These delays can prevent projects from ever getting built.

### **ANALYSIS**

In our environment of high inflation coupled with fixed government funding sources, the sooner a project is approved and funded, the more likely it is to remain economically feasible and get built. Therefore, approval of this additional spring hearing for publicly funded affordable housing project general plan amendments will help mitigate the high costs of delayed funding and enable more units to be constructed.