



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** April 13, 2020

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**SUBJECT: PP20-009. AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 20.190 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO EXTEND THE APPLICABILITY OF CITY DENSITY DEVELOPMENT INCENTIVES; AMENDING CHAPTER 20.30, CHAPTER 20.40, CHAPTER 20.70, CHAPTER 20.75, AND CHAPTER 20.200, AND ADDING CHAPTER 20.195 TO IMPLEMENT CALIFORNIA GOVERNMENT CODE SECTIONS 65650 ET SEQ, 65660 ET SEQ, AND 65913.4; AND MAKING NON-SUBSTANTIVE CODE CHANGES**

## **RECOMMENDATION**

The Planning Commission voted 7-0 to recommend that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs; and
2. Approve an ordinance of the City of San José amending Chapter 20.190 of Title 20 of the San José Municipal Code to extend the applicability of City density bonus development incentives and to update the City's density bonus ordinance in conformance with state law; amending Chapter 20.30, Chapter 20.40, Chapter 20.70, Chapter 20.75 and Chapter 20.200 to enumerate and add a definition for Permanent Supportive Housing and Low Barrier Navigation Center, and adding Chapter 20.195 to implement ministerial approvals required by California Government Code Section 65650 et. seq., 65660 et. seq., and 65913.4; and making non-substantive code changes.

## **OUTCOME**

Should the City Council approve the ordinance, it would amend the existing Zoning Ordinance to update the City's density bonus provisions in conformance with state law and extend the applicability of density bonus incentives, amend zoning district use tables as required by state law and consistent with the General Plan, and add a new chapter implementing ministerial approvals as required by state law.

## **BACKGROUND**

Between 2017 and 2019, the State Legislature and Governor enacted several bills that expand the State Density Bonus Law and require ministerial review for certain housing projects. State Density Bonus Law amendments enable 100% affordable housing projects to take advantage of further concessions and incentives, height limit increases, and parking reductions in some instances. Affordable housing, supportive housing, and low barrier navigation centers that meet state law requirements now require ministerial review (that is, review without discretion that requires automatic approval if all requirements are met) within specified time limits. These changes require new procedures and amendments to the City's Zoning Ordinance, which this ordinance provides.

## **ANALYSIS**

A complete analysis of the ordinance, including a Determination of Consistency with the General Plan Environmental Impact Report, is contained in the attached Planning Commission Staff Report.

## **CONCLUSION**

Approval of this ordinance will help facilitate the City's implementation of recent state housing reforms and further implement the General Plan by incentivizing affordable housing projects. As more affordable units are built, the City will be able to maintain its status as an economically diverse place to live.

## **EVALUATION AND FOLLOW-UP**

If the ordinance is approved, it would adjust the existing Density Bonus chapter of the Zoning Ordinance to reflect state law changes, adjust the applicability of setbacks incentives, and provide an alternate timing for regulatory agreements. It would also amend use tables and add a new Ministerial Approvals chapter to the Zoning Ordinance that reflects state law and codifies the City's ministerial approvals process.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum aligns with Climate Smart San José energy, water, or mobility goals. It expedites the approval of high-density infill developments.

## **PUBLIC OUTREACH**

Public outreach for this proposal complies with City Council Policy 6-30, Public Outreach Policy, and the Municipal Code. A public hearing notice including the Planning Commission and City Council hearing dates was published in the San José Post-Record and emailed to a list of interested groups and individuals. Staff has posted the hearing notice, staff report, and draft ordinance on the PBCE website and has been available to discuss the proposal with interested members of the public.

Staff presented and overview of the proposed ordinance at a Developer's Roundtable meeting on December 6, 2019 and received input.

## **COORDINATION**

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

## **COMMISSION RECOMMENDATION/INPUT**

On March 25, 2020, the Planning Commission held a public hearing to consider the proposed ordinance, which appeared on the Consent Calendar of the agenda. The item was removed from the Consent Calendar for separate discussion. No members of the public spoke on the proposed project. The Planning Commission voted 7-0- to recommend staff's recommendation to the City Council.

Commissioner Griswold requested clarification on parking requirements for low-barrier navigation centers and supportive housing developments. She also asked staff to articulate to potential applicants that they can take advantage of State Density Bonus Law parking ratios in addition to the parking incentives found in Chapter 20.190 of the Zoning Code.

Since the Planning Commission hearing on March 25, 2020, staff discovered an error in the Planning Commission staff report. On page 3, the first sentence of the second paragraph reads as, "AB 101 establishes low barrier navigation centers – shelters focused on moving formerly homeless occupants into permanent housing while case managers connect them to services – as a use by right in multifamily and in mixed use zones, including nonresidential zones where multifamily uses are permitted." The phrase, "in multifamily and" should be deleted. The sentence should read, "AB 101 establishes low barrier navigation centers – shelters focused on

moving formerly homeless occupants into permanent housing while case managers connect them to services – as a use by right in mixed use zones, including nonresidential zones where multifamily uses are permitted.” This correction does not impact the Planning Commission recommendation.

## **CEQA**

Determination of Consistency with the Final Program Environmental Impact Report (FPEIR) entitled, “Final Program Environmental Impact Report for the Envision San José 2040 General Plan (SCH# 2009072096)” and Addenda thereto. The FPEIR was adopted by City Council Resolution No. 76041 on November 1, 2011 and Supplemental EIR Resolution No. 77617 on December 15, 2015, for the San José General Plan.

/s/

ROSALYNN HUGHEY, Secretary  
Planning Commission

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

Attachment: [Planning Commission Staff Report<sup>1</sup>](#)

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<sup>1</sup> <https://www.sanjoseca.gov/Home/ShowDocument?id=55454>