



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey

**SUBJECT:** PP20-009 – AMENDMENT TO  
TITLE 20 (THE ZONING CODE)

**DATE:** May 15, 2020

Approved

Date

5/16/20

## **REASON FOR SUPPLEMENTAL**

This supplemental memorandum addresses actions taken by the Santa Clara County Airport Land Use Commission (ALUC) on the proposed ordinance. It also provides information in response to the April 24, 2020 memorandum from Councilmember Jimenez and explains a minor correction to the proposed ordinance text.

This item was also discussed at the May 13, 2020 Joint Rules Committee on Open Government. The Council Policy Prioritization Early Consideration Response Form that was submitted for that meeting is attached to this memorandum.

## **BACKGROUND**

### *Santa Clara County Airport Land Use Commission (ALUC)*

On April 22, the ALUC considered a referral from City staff on the proposed ordinance for consistency with the San José International Airport (SJC) and Reid Hillview Airport Comprehensive Land Use Plans (CLUP). The ALUC found the referral consistent with the CLUP policies, subject to the following recommended conditions:

- If a density bonus application is proposed within the Airport Influence Area (AIA) of an airport, it shall be reviewed for safety policy consistency in the applicable airport Comprehensive Land Use Plan.
- If a density bonus application is proposed within the AIA of an airport, it shall be reviewed for height policy consistency in the applicable airport Comprehensive Land Use Plan.

When reviewing development applications, including those with an accompanying density bonus application, staff ensures projects are consistent with the General Plan. This includes Transportation Policy TR-14.3, which requires that in the SJC and Reid Hillview Airport Influence Areas, “land uses and development are consistent with the height, safety and noise

policies” of their respective CLUPs. Because the ALUC’s recommended conditions only codify existing practice to review projects within the AIA for consistency with applicable CLUPs, staff recommends approval with the conditions. The conditions would be inserted in Zoning Ordinance Section 20.190.090, Subsection A, as follows:

“A. General. An application for a Density Bonus, Incentive, waiver or modification of Development Standards shall be acted upon by the Approval Authority. The granting of a Density Bonus or Incentive shall not be deemed approval of the entire project, nor to affect or constrain the exercise of discretion for any subsequent approval that may be required for the project. No application shall be accepted for a Density Bonus for a Site on which a prior Density Bonus has been approved, unless the Applicant waives any right to proceed with the project as approved with the prior Density Bonus. All applications for a Density Bonus within the Airport Influence Area of an airport shall be reviewed for safety and height policy consistency with the applicable airport Comprehensive Land Use Plan.”

#### *Additional Background on State Laws*

The intent of AB 2162 and AB 101 is to streamline and facilitate the approval of specific land uses that have been proven to help people move out of homelessness and into permanent housing. These uses generally have a difficult time achieving approvals due to community opposition. The proposed ordinance complies with and will facilitate the implementation of State Law.

With AB 2162 and regarding Recommendation 2a in Councilmember Jimenez’s April 24, 2020 memorandum, the intent is to treat supportive housing no differently than other residential uses, such as multi-family developments. AB 2162 requires the City to allow permanent supportive housing where multifamily and mixed uses are allowed under the General Plan and existing zoning. Stand-alone multifamily uses are only allowed in the R-M Multiple Residence Zoning District; thus, staff’s recommendation is aligned with the direction from State law. The proposed ordinance also reflects State law by allowing permanent supportive housing as a residential component of a mixed-use development where the General Plan allows residential uses; stand-alone multifamily uses are not permitted in mixed-use zoning districts.

AB 101 requires cities to deem Low Barrier Navigation Centers a by-right use in mixed use zones and in non-residential zones that allow multi-family housing. Since none of the City’s non-residential zones permit stand-alone multi-family uses, it does not apply to those areas. Staff is following the direction from State law and recommending that Low Barrier Navigation Centers be permitted in mixed use zones (CP, CG, CN), as well as in the Public/Quasi-Public, Downtown, and Pedestrian Oriented Zoning Districts. This also responds to Recommendation 2b in Councilmember Jimenez’s memorandum.

Regarding Recommendation 3a in Councilmember Jimenez’s memorandum, staff could incorporate this item into a future zoning code update. Regarding Recommendation 3b, staff are

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concerned that allowing the expansion of existing legal non-conforming emergency shelters in industrial areas could impact the viability of these industrial areas and the businesses that reside within them. Staff will need to investigate the implications of allowing expansion of these shelters and will need to conduct outreach to adjacent industrial businesses to identify a potential approach. Given its current workload, staff does not have capacity to take on this work as a routine zoning code amendment. As such, staff recommends that item 3b be submitted for the next City Council Policy Prioritization session.

In response to Recommendation 4 of Councilmember Jimenez's memorandum, the recent full staffing of the Citywide Planning Housing Team will allow staff to explore additional policy and ordinance amendments that could further streamline and facilitate the establishment of emergency shelters and transitional and permanent supportive housing. The creation of the Housing Team has expedited the review and approval of new affordable housing, including supportive housing. One AB 2162 project was approved in January 2020, and staff is currently reviewing three AB 2162 applications.

*Error Correction*

The April 13, 2020 memorandum from the Planning Commission to the City Council includes an error transmitted in the Planning Commission staff report regarding where AB 101 requires low barrier navigation centers to be a by-right use. This error extended to the ordinance text's definition of low barrier navigation centers in the proposed Zoning Ordinance Section 20.200.705. The correct text (with the error highlighted in red text and strikethrough) should read:

"Low barrier navigation center" means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing as defined in subdivision (a) of Section 65660 of the California Government Code, as the same may be renumbered or amended from time to time, and provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. Low barrier navigation centers ~~shall be treated under this title as a residential use and~~ shall be allowed in commercial, public/quasi-public, and the downtown zoning districts."

/s/

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

For questions, please contact Michael Brilliot, Deputy Director, at [michael.brilliot@sanjoseca.gov](mailto:michael.brilliot@sanjoseca.gov).

Attachment: Council Policy Prioritization Early Consideration Response Form – PP20-009, Amendment to Title 20



# Council Policy Prioritization: Early Consideration Response Form

Department Planning, Building and Code Enforcement  
 Department Rep. Name/Ext. Michael Brilliot | 535-7831  
 Policy/Ord. Subject PP20-009 - Amendment to Title 20 - Item 3.b

Rules Date 05/13/20 Item G.2  
 Council Member Sponsorship Councilmember Sergio Jimenez

## Staff Recommendation

- GREEN The Administration can implement this Nominated Idea under its current workplan
- ALREADY UNDERWAY  MINIMAL WORK LESS THAN 40 HOURS  REQUEST FOR INFORMATION
- YELLOW The Administration recommends Council send this Nominated Idea to the Priority Setting Process (See Complexity Level Below)
- RED The Administration recommends Council not adopt this Nominated Idea
- NEEDS CLARIFICATION OR MORE TIME TO EVALUATE

## Criterion to Determine Scale of Project Complexity

Project complexity is determined by scoring the project in each of the 3 criterions below and then summing the score.

- a. Low Complexity is a sum of 6 or less.
- b. Medium Complexity is a sum of 7 - 9
- c. High Complexity is a sum of 10 or greater.

Total Score = 9

Scoring Criterion	Low Complexity		Medium Complexity		High Complexity	
	<b>Estimated Duration</b>	6 - 9 months <input type="checkbox"/> =1	9 - 18 months <input checked="" type="checkbox"/> =2	More than 18 months <input type="checkbox"/> =3		
<b>Organizational Complexity (Internal)</b>	Can Easily be Absorbed into Existing Workplan <input type="checkbox"/> =1	Planned Work (Future) Have staff with required skillset/ requires moderate research <input type="checkbox"/> =2	Work Not Currently Proposed Do not have staff with required skillset/ requires significant research <input checked="" type="checkbox"/> =3			
	Have staff with required skillset/ knowledge <input checked="" type="checkbox"/> =1	Less than or equal 2 Staff required <input type="checkbox"/> =1	3 - 4 Staff required <input checked="" type="checkbox"/> =2	More than 5 Staff required <input type="checkbox"/> =3		
<b>(External)</b>	1 Additional Departments <input checked="" type="checkbox"/> =1	2 Other Department Involved <input type="checkbox"/> =2	3 or more Depts Involved <input type="checkbox"/> =3			

- DEPT. Required
- Airport
  - Housing
  - CMO
  - OED
  - PRNS
  - PD
  - PBCE
  - CA
  - ES
  - DOT
  - LIB.
  - PW
  - FD
  - EM

## Analysis

Explain the rationale for Staff recommendation, including any mitigating factors that need to be considered (recent legislative action, significant workplan changes, etc). Please address the following as well.

GREEN LIGHT: The Administration can implement this Nominated Idea under its current workplan. Item should be sent to Council to add to Department workplan. Explain how the Idea will be approached.

YELLOW LIGHT: The Administration recommends Council send this Nominated Idea to the Priority Setting Process due to [describe cost implications, workload impacts, or other factors].

Items 2a, 2b, and 2c are recommended to be Green Light, as staff has already conducted the analysis and determined at this time, that no further Zoning Code amendments are necessary to comply with the intent of AB 101 and AB 2162. Staff will include this information in a Supplemental Memorandum to be issued prior to the May 19, 2020 Council

RED LIGHT: The Administration recommends Council not adopt this Nominated Idea due to [describe reason implementation would be difficult if not impossible – conflict with other laws, etc].