



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: October 23, 2020

Approved

Date

10/26/202

SUPPLEMENTAL

SUBJECT: HOUSING CRISIS WORKPLAN UPDATE

REASON FOR SUPPLEMENTAL

This supplemental memorandum includes the recommendations of the Housing and Community Development Commission (“Commission”), and a summary of public comments, on the Housing Crisis Workplan Update (“Workplan”) from the Commission meeting held virtually on the evening of October 21, 2020. This Supplemental memorandum is necessary as the Commission meeting was held too late for this information to be included in the Committee memorandum submitted for the October 26, 2020, Committee meeting date.

ANALYSIS

At its special meeting on October 21, 2020, the Commission received staff’s report on progress implementing the City Council-approved Housing Crisis Workplan. They asked clarifying questions and discussed the following topics.

Two commissioners asked questions about neighborhood business districts: one recommended strong neighborhood outreach regarding integration of housing, and another expressed concern about potential small business displacement. One commissioner expressed support for Accessory Dwelling Units as a strategy but recommended further investigation into how ADUs are being used as part of the housing stock. One commissioner expressed support for taking a longer timeframe to

assess feasibility of market-rate housing, past near-term COVID-19 effects, so that the City's fees are not cut in response to short-term conditions in order to facilitate construction of market-rate housing that may stand empty yet could cause displacement of residents.

One commissioner asked questions about the North San José Area Development Policy status and was interested to understand more about staff's proposed approach, the validity of past Environment Impact Reports (EIRs), advantages and disadvantages of eliminating the Policy, and the possible financial impact on projects.

At least two commissioners expressed strong support for accelerating staff work for General Plan Mobilehome Park redesignations. One commissioner expressed concern over displacement risk for mobilehome parks and has requested staff create a chart with information including all of the City's mobilehomes and their areas' Urban Displacement Project risk ratings. This discussion led to the Commission's only motion on this item:

The Commission voted 6-1-1 (with 2 commissioners absent) to recommend to the City Council that they direct City staff to identify the criteria that would be used to prioritize mobilehome parks for General Plan redesignation to Mobilehome Park.

In addition, there was one member of the public that spoke, Matthew Reed representing SV@Home. His written comments to the Housing and Community and Development Commission concerning the scope and substance of four items in the Housing Crisis Workplan are attached, along with a letter previously submitted on these topics.

/s/
JACKY MORALES-FERRAND
Director, Housing

For more information, call Kristen Clements, Division Manager, at (408) 535-8236 or Jerad Ferguson, Housing Catalyst, at (408) 535-8176.

Attachments

Attachment A – Email: "FW: HCDC - Comments on Housing Crisis Workplan"

Attachment B – Letter: "Re: Commercial Requirements for Affordable Housing and the 1 ½ Acre Rule (Policy H-2.9)"

Subject: FW: HCDC - Comments on Housing Crisis Workplan
Attachments: SVH GP Task Force H 2_9 July 26 2020.pdf

From: Mathew Reed
Sent: Wednesday, October 21, 2020 5:50 PM
Subject: HCDC - Comments on Housing Crisis Workplan

Written comments to Housing and Community Development Commission, 10/21/2020
Mathew Reed – SV@Home
Housing Crisis Workplan Update

Four areas where we feel the need to comment:

North San Jose – Last council voted to revisit standards for residential development in Transit Employment Center land use designation in a way that conforms with recent state laws. This is an essential piece of work as the NSJDP identified areas along North First Street zoned Transit Employment Center as the location of nearly 20% of the 32,000 total units planned for the area, and not a single unit has been built in this transit rich corridor.

Residential cost of development – Our understanding since 2018 was that this item was to both understand the market environment in which development is happening, and the impact of city process and regulations. The desire was to understand the costs which are out of the City's control and those that are. Staff has devoted important efforts to streamline processes, but an analysis of these costs has not been undertaken to our knowledge. These issues were raised again by council during the last presentation on the cost of development

Explore changes to commercial requirements for affordable development -- This item was included in the 2018 HCWP with a recognition that throughout the city ground floor retail requirements stand in the way of building affordable housing. The GP Task Force voted in two votes -- 34-1 and roughly 30-1 -- to eliminate the requirement and work on programs to support and possibly subsidize when it appropriate and feasible.

H2.9 - 1.5 Acre rule – This was not a Four-Year review task force item, but got looped in unfortunately, the Housing Crisis Workplan concern was not about the retail/commercial requirements, although this is important, the issue was clarity on the definition of “underutilized” and “impact on nearby commercial.” The lack of clarity, and subsequent staff discretion, has made this policy largely unworkable and there has been only one project over the years since the policy has been in place. (See attached letter submitted following the discussion at the GP Four-Year Review Task Force.)

Mathew Reed
Policy Manger - Silicon Valley at Home
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Staff

Leslye Corsiglia
Executive Director

TRANSMITTED VIA EMAIL

July 24, 2020

2040 General Plan Four-Year Review Task Force
City of San Jose

Dear General Plan Four-Year Review Task Force Co-chairs, Task Force Members, and
City Staff.

**Re: Commercial Requirements for Affordable Housing
and the 1 ½ Acre Rule (Policy H-2.9)**

I write today to follow up on the conversation at the June Task Force meeting where the
topic was the elimination of commercial space for affordable housing developments.

At the January Task Force meeting, staff brought forward a recommendation to
eliminate the requirement for affordable housing to incorporate ground floor
commercial in Urban Villages. While the Task Force voted to approve the staff
recommendation, it was clarified that the Council direction was broader-- to consider
elimination of the commercial requirements throughout the city. Staff agreed, and
indicated that they would bring the issue back to the future meeting.

At the June Task Force meeting, staff brought forward the recommendation to
eliminate the requirement for ground floor commercial for projects that sought to use
the 1 ½ acre rule. Again, it was clarified that the Council direction was to consider
elimination of commercial requirements throughout the City. The Task Force voted to
approve the staff recommendation as it related to the 1 ½ acre rule policy **and voted to
establish a citywide policy that eliminates a requirement that 100% affordable
housing include commercial space.**

Because the staff had raised this issue in the context of the 1 ½ acre rule, the Task Force
spent a considerable period of time discussing the policy, which was not part of the
original Task Force scope. However, because of the conversation that took place there
was a resulting recommendation relating to that rule.

Specifically, **the Task Force voted that the staff should move quickly to resolve the
issues that have kept the 1 ½ acre rule from being fully implemented.** As the staff
reported, only one project to date has been approved using that rule. The challenge is
the wording in the policy that says that an eligible site must be vacant or underutilized.
The term 'underutilized' has not been defined.

Policy H-2.9 is a policy of the General Plan 2040, which lays out how affordable housing
developments can move forward on small, remnant parcels that are zoned for
commercial use. In previous years, the City had several discretionary alternate use
policies that were intended to provide flexibility as the City sought to provide

additional affordable housing opportunities and encourage infill development. These policies were key components of the City's Housing Element, one of the mandated elements of the General Plan.

One of these discretionary alternate use policies was the 2-acre rule, which enabled affordable housing to move forward on smaller sites. This policy did not include a requirement that the parcel be vacant or underutilized, though in practice the affordable housing developments that successfully used the policy were mostly (if not all) built on sites that were vacant. There was a limit on the number of acres of land that could be converted each year (no more than 10 acres). Many affordable housing projects serving the City's lower-income residents that are successfully operating today were able to take advantage of the 2-acre rule.

When the City approved the Employment Lands Framework in 2007, the 2-acre rule was eliminated as part of the ban on employment land conversion. Nine years later, during the first four-year review in 2016, the 1 ½ acre rule was proposed and included in the updated General Plan. Two years later, changes were made to the 1 ½ acre rule to make it easier to use, however the question of the definition of underutilized was not addressed. When the Housing Crisis Workplan was approved by the City Council in 2018, it was stated that Planning staff would complete a comprehensive review of GP policy H-2.9, including development of an objective definition of "underutilized" and "viability of surrounding commercial properties." It was expected that this work would be completed by the summer of 2019.

In response to Task Force questions about the number of potential parcels that might take advantage of the 1 1/2 acre rule, staff indicated that they had compiled a list of approximately 1,000 potential parcels. It is important to note that this list has not been scrubbed in any way. It is merely a list of commercial parcels in the City that are 1 ½ acre or less in size. If the list were scrubbed to consider current uses and the appropriateness of the site for affordable housing development, the number of potential properties would be considerably lower. It is also important to note that relatively few affordable housing projects move forward each year given the amount of funding available. When the 2-acre rule was in place, projects did use the rule, but it was a small number overall, and as already mentioned there was a limit on the number of acres that could be converted. It is highly unlikely that the 1 1/2 acre rule-- once the definition of underutilized is agreed upon-- would result in wholesale development of small commercial parcels.

It is time to define underutilized. We have an affordable housing crisis that has been made even more dire due to the current health crisis. **We ask that the Planning Department heed the Task Force request that staff arrive at a definition as soon as possible and not wait until the General Plan four-year review process is completed and presented to the City Council.**

We do know the staff has put some thought into this, and hope that with some additional conversation the definition can be agreed upon and brought forward to the City Council. We are happy, as I would assume other members of the affordable housing community would be, to engage in conversations that lead us to an acceptable definition and that make General Plan Policy H- 2.9 a workable alternative as the City seeks ways it can respond to its affordable housing crisis.

Sincerely,



Leslye Corsiglia
Executive Director

c. Mayor and City Council
Dave Sykes, City Manager
Jackv Morales-Ferrand, Director of Housing

