



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Nanci Klein
Jacky Morales-Ferrand
Rosalynn Hughey

**SUBJECT: HOUSING CRISIS
WORKPLAN UPDATE**

DATE: October 9, 2020

Approved

Date

10/15/2020

RECOMMENDATION

- a) Accept the report updating the Committee on progress implementing the City Council-approved Housing Crisis Workplan.
- b) Cross-reference this report to the full City Council for approval to be heard at the November 10, 2020 City Council meeting.

BACKGROUND

On September 28, 2017, the Mayor issued a memorandum entitled “Responding to the Housing Crisis.” The memorandum identified a number of items to address the housing crisis. Many items from this initial proposal were prioritized at the October 17, 2017, Council Priority Setting Session.

On June 12, 2018, staff first brought forward a proposed Housing Crisis Workplan, which proposed strategies and policy actions to enable the facilitation of 25,000 new housing units by 2023 that included 15,000 market-rate units and 10,000 affordable units.

On March 19, 2019, the City Council accepted the staff report providing an update on the Housing Crisis Workplan. The City Council requested that staff report to the Community and Economic Development (CED) Committee with an update on the City’s Affordable Housing Siting Policy by the end of 2019 and directed the City Manager to bring forward a progress report to the City Council on the Workforce Standards Agreement.

On September 24, 2019, the City Council accepted an update to the Housing Crisis Workplan and approved an addendum to the Affordable Housing Investment Plan to a place-based strategy for an upcoming Notice of Funding Availability for financing affordable housing development.

The City Council directed staff to return as soon as possible with the final study and policy proposals for a Commercial Linkage Fee (CLF).

ANALYSIS

The work contained in the Housing Crisis Workplan (Workplan) balances the development of policies and programs that encourage housing development with the need to support the implementation and delivery of housing units. The Workplan contains a variety of projects – some newly-initiated specific to the Workplan and some aligning with other planned or ongoing work. For the purposes of tracking progress, staff is presenting the Committee with an update on the Workplan projects that are completed, in-progress, or waiting to be initiated. Staff is recommending adding and dropping items. A complete summary of all Workplan items is included in **Attachment A**.

Implementation of the Workplan and facilitation of residential development is managed through the Housing Catalyst Team. The team meets on a biweekly basis and is composed of staff from the Office of Economic Development's (OED) Business and Economic Development Team, Planning, Building and Code Enforcement's (PBCE) Citywide Planning Division, the Housing Department's Policy and Planning Team and Residential Production Team, and Parks, Recreation and Neighborhood Services' (PRNS) Planning Team.

Housing Market Context

The real estate market has seen a drastic change since the last update on the Workplan. As outlined in the 2019 Report on the Cost of Residential Development, the housing market was moving forward in late 2019 and early 2020 but was severely hampered by rising construction costs. Although rents have continued to rise to unaffordable levels, in most submarkets in San José, the increase was not at a sufficient level to support new market-rate units due to the high construction costs. This was especially the case for high-rise (Type I) construction.

The current market conditions, following the onset of the pandemic, have seen rents fall in San José. According to the most recent data from Costar, a real estate information service, overall rent has fallen 5.8% in San José compared to the previous year. Rent has fallen most dramatically in Class A multi-family, decreasing by 10.1%. Overall vacancy has increased by 1.9% since the same time last year, for an overall vacancy rate of 7.9%. In some cases, property owners are offering unusually large incentives for new leases, for example, rent packages that include rents below what was charged one year ago, cash incentives, elimination of parking fees, plus one month's free rent, etc. These incentives have not been seen since the last recession. This is positive news for some tenants who may now have more choices of where to live. However, it could also indicate a difficult market for new development to obtain construction financing. There are those in the investment and development community who believe the San José market will recover relatively quickly once the pandemic situation improves. However, the current uncertainty over rents may make underwriting new financing difficult, unless projects have access to alternative financing arrangements. Industry contacts have recently reported that

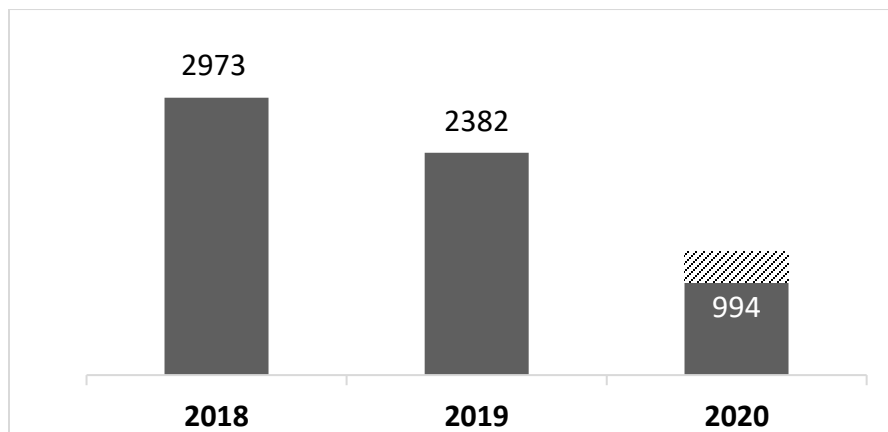
lenders have created additional layers of credit risk review and have been slower to make new commitments than they were pre-pandemic.

Housing Production

Housing production numbers tracked by the Housing Catalyst Team confirm the challenging market conditions discussed previously. A report on housing production is given at every meeting of the Ad-Hoc Committee for Housing Construction and Development Services. The most recent report is included in **Attachment B**. The report tracks housing units in the three phases of development in which the City is involved. These three phases include units receiving planning permits (entitlements), units receiving building permits, and units receiving occupancy.

The latest report shows a significant slowing in production in 2020. Looking at building permits, which typically indicate the start of new construction, the City issued building permits for 2,973 units in 2018, and 2,382 permits in 2019. In Quarter 1 through Quarter 3 of 2020, 994 building permits were issued. If Quarter 4 tracks similarly to the previous quarters, represented below in the chart by the cross-hatched section, roughly 1,300 new building permits would be issued in total for 2020. This is a significant drop from the previous years.

Units Receiving Building Permits



The latest update in **Attachment B** also includes an overall summary of progress toward the goal of 25,000 housing units by 2023 with 15,000 of those units market-rate and 10,000 affordable. The City has made progress toward the market-rate goal with 12,057 market-rate units either receiving planning approval, under construction, or completed from 2018 through Quarter 3 of 2020. With respect to affordable housing, 2,902 affordable units either received planning approval, are under construction, or are completed. The pipeline for affordable housing has been improving with each category in 2020 exceeding 2018 and 2019 levels. Staff will continue to track these numbers and provide regular reports through the Housing Crisis Workplan and to the Ad-Hoc Committee for Housing Construction and Development Services.

Financing Challenges for Affordable Housing Developments

At the same time, several affordable housing developers who already have funding commitments from both the City and County Measure A funds are facing challenges securing financing necessary to move forward with development. In prior years, developers applied either for competitive tax credits through the California Tax Credit Allocation Committee (TCAC) or for a non-competitive allocation of tax-exempt and taxable bonds through the California Debt Limit Allocation Committee (CDLAC) and an automatic allocation of non-competitive tax credits through TCAC. Once an affordable housing development obtains an allocation of bonding authority – determined annually by formula according to State population – an issuer such as the City of San José can issue private activity bonds for the affordable housing development. The bonds are then publicly sold or privately placed, with proceeds lent to finance construction and permanent costs of the project. Unlike in previous years, CDLAC’s bond allocations were oversubscribed Statewide last year, forcing the need to score and rank developments for funding. Demand has increased over time partially due to an increase in the number of existing affordable housing developments seeking allocations to restructure their financing and do rehabilitation.

CDLAC’s scoring criteria provides points for categories such as depth of affordability, leveraging funding sources, development within community revitalization areas, and provision of family housing. Due to the structure of the scoring system, many affordable developments receive the same score, forcing the tiebreaker score to be used to determine awards. The tiebreaker score is based on total development cost, and given the high cost of development in our region, developments from Southern California have been winning allocations ahead of San José developments. For example, the West San Carlos affordable housing development has been unsuccessful twice in obtaining a bond and tax credit award and has now applied a third time to the CDLAC. Considering the oversubscription of the program and the cap on bond volume, it is unclear how many additional San José developments will be funded in s020. This is concerning, as bond financing with non-competitive tax credits has historically been the reliable affordable housing financing structure if no competitive State funding sources were being sought.

Over the past few months, a Statewide working group of affordable housing developers and financing experts convened to develop recommendations for changes to the CDLAC’s scoring criteria. These proposals include limiting the amount of bond allocation available by region, creating set-asides for “homeless” housing, and changing the point allocation for family versus senior housing. Changes in the scoring criteria are expected to be made prior to 2021 allocations. It is critical that San José continue to track this issue and advocate for solutions supporting the types and amount of affordable housing development proceeding in our City. The current limitations on the supply of this vital financing source will negatively impact the pace of development of new affordable housing in San José.

Housing Department staff currently is working with the Office of Intergovernmental Relations and the City’s lobbyists on defining CDLAC program parameters that would be beneficial to the City’s affordable housing development context. Ultimately, the federal government needs to increase the overall supply of bond allocation and needs to increase the amount and value of the 4% federal tax credits awarded with the bond allocation.

Keeping People Housed during COVID-19

The summary of recent City Council policy actions on COVID-19 is available on the [Housing Department website](#). Recent COVID-19 policy actions include the following:

- ***Eviction Moratorium*** – The City of San José was one of the first in the country to establish a moratorium on evictions to immediately provide protections for vulnerable tenants impacted by the COVID-19 pandemic. On March 17, 2020, the City Council approved a moratorium on residential evictions for nonpayment of rent protecting tenants who notify their landlord that they have been financially impacted by COVID-19. The moratorium was extended several times and additional protections were adopted during the course of the moratorium. On May 19, 2020, the Council adopted a rent repayment period allowing affected tenants up to a full year to repay any unpaid rents that accrued during the moratorium. This allows tenants to repay at least 50% of the unpaid rent within six months of the moratorium’s expiration and the remaining 50% balance within 12 months after the moratorium expires. Landlords were prohibited from charging late fees, interest, penalties, or retaliating against impacted tenants. During these extensions and as the ripple effects of the pandemic persisted, California’s Legislature was developing statewide eviction moratorium legislation. On August 31, 2020, the State passed Assembly Bill (AB) 3088, the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 (“Act”), that affect rents owed through January 31, 2021. While the Act effectively replaced local eviction moratoriums, the repayment provisions still remain for San José residents. The Housing Department is continuing its multilingual education and outreach efforts to the tenants, landlords, and property managers on the new Statewide Eviction Moratorium legislation.
- ***Moratorium on Rent Increases*** – Tenants continued to receive rent increases after the adoption of the Eviction Moratorium. The additional rent increases further compounded the impacted tenants’ inability to pay back already accrued past due rent. As a result, on April 28, 2020, the City Council approved a moratorium on residential rent increases effective immediately. The moratorium applies to rent-stabilized apartments covered by the Apartment Rent Ordinance (ARO) and rent-controlled mobilehomes covered by the Mobilehome Rent Ordinance (MHRO). The provisions allowed landlords and tenants to enter into agreements to voluntarily reduce rents during the moratorium. In addition, for Fiscal Year 2020-2021, the City Council approved suspending late charges and waiving maintenance permit fees for ARO landlords. Subsequent amendments to the moratorium on rent increases clarified that ARO landlords retained the right to increase rent up to 5% annually based on the previously charged contract rent, not on the temporarily reduced rent.
- ***Providing Rental Assistance*** – Soon after COVID-19 forced the community to shelter-in-place, Housing Department staff redirected some of its federal funds from the U.S. Department of Housing and Urban Development (HUD) to assist low-income renters struggling to make rent and utility payments. Using both its formula funds from HUD and HUD’s time-limited COVID-19 flexibilities, as well as the City’s Coronavirus Relief

Funds awarded through the CARES Act, the City has committed approximately \$25 million to rental assistance. These rental assistance funds, administered by local nonprofits, are paid to property owners. These funds have stabilized both residents and property financials during this time in which many renters have been unable to pay full rent due to the COVID-19-related economic upheaval.

State Streamlining for Affordable Housing Projects

The California legislature passed two bills intended to spur affordable housing production through the use of ministerial approvals. State Bill (SB) 35 (2017) requires local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for a Conditional Use Permit or other similar discretionary entitlements. Similarly, AB 2162 (2018) requires permanent supportive housing to be considered a use "by right" in zones where multifamily and mixed uses are permitted if the proposed housing development meets specified criteria; it also removes the requirement for CEQA analysis. Since January 2020, the City has entitled 324 deed-restricted units across four projects using SB 35 review. Three projects using AB 2162 have been approved for a total of 302 deed-restricted units. Staff is currently reviewing five streamlining projects for a total of 826 affordable units.

State Housing Legislation Highlights

At the start of 2020, the Legislature put an emphasis on addressing the housing crisis. Dozens of bills related to housing were introduced. The bills covered a wide variety of topics some of which would have meant some significant changes. The pandemic shifted much of focus of the Legislature. Early in the year, staff in PBCE were tracking over 45 bills related to housing and land use, but by the end of the legislative term, just six made it to Governor's desk. Below are a few highlights of bills related to housing.

The following bills have been signed into law by the Governor:

- **[SB 940 \(Beall\)](#)** – Allows the City of San José flexibility in applying upzonings and downzonings when meeting the no net loss requirements of SB 330. The City, with the Santa Clara County Open Space Authority, co-sponsored this bill with Senator Beall.
- **[AB 1851 \(Wicks\)](#)** – Allows a religious institution to develop affordable housing, even if the new housing projects reduce the available parking for the religious use below what is required by the City. This bill relates to Recommendation 9 in the Citywide Anti-Displacement Strategy allowing affordable housing on assembly use sites.
- **[AB 2345 \(Gonzalez\)](#)** – Expands Density Bonus Law to increase the maximum allowable density and increases the number of incentives or concessions a developer can seek.

The following bills were not signed into law:

- [**SB 899 \(Wiener\)**](#) – This bill would have allowed by-right construction of affordable housing on land owned by a religious institution or nonprofit college. Staff followed this bill closely as it is similar to Recommendation 9 in the Citywide Anti-Displacement Strategy allowing affordable housing on assembly use sites. This bill passed the Senate but failed in the Assembly.
- [**SB 902 \(Wiener\)**](#) – This bill would have allowed a city or county to pass an ordinance to zone any property for up to 10 units in certain urban infill sites and would have exempted these ordinances from CEQA review. This bill passed the Senate but failed in the Assembly.
- [**SB 1120 \(Atkins\)**](#) – This bill would have allowed duplexes and lot splits, by right, in single-family neighborhoods. This bill was part of the Senate housing bill package. It passed the Senate and Assembly, but the Senate failed to take it up in time to concur with the Assembly’s amendments late in the final evening of the Legislature’s session.

Housing Crisis Workplan Update

Attachment A is a complete list summarizing all Workplan items with anticipated timelines. The chart is broken into three sections: Work Items Completed, Work Items Initiated or Underway, and Work Items to be Initiated. Key highlights from the Workplan are highlighted below.

Highlights from Completed Workplan Items

- **New Housing Webpage** – Staff from the Housing Department, PBCE, and Office of Economic Development (OED) created a [new webpage](#) on the City’s housing-related policies. The goal was to create a unified resource for tenants, developers, and others, listing all housing-related policies separated into three categories: Production, Preservation, and Protection. Staff will continue to update this webpage as it gets further feedback and with future updates to the policies. Staff also intends to find additional opportunities to promote the webpage and cross-reference it on other department websites.
- **Explore Options for a Commercial Linkage Fee** – The City Council adopted a Commercial Linkage Fee (CLF) on September 22, 2020. As part of the adoption of the CLF, the Council directed staff to explore other policy changes that require additional time to analyze and incorporate into the ordinance where feasible. Since the CLF was adopted, this Workplan item is being moved to the completed items section. A new Workplan item has been added to track the implementation of additional policy changes that the City Council directed staff to complete at the September 1, 2020 meeting. This item is planned to be completed by January 2021, and **Attachment C** outlines the actions and timeline.

- **Explore Interim Housing Options on Caltrans Sites** – City staff was able to successfully work with Caltrans to lease State-owned land for the creation of interim housing for unhoused residents. City staff negotiated terms and conditions to a Right of Way lease agreement with Caltrans for the Bridge Housing Communities site at Felipe Road in December 2019 and executed the agreement in January 2020. These interim housing units are expected to be ready to occupy in early November 2020. Additionally, due to the new standards agreement, the City was able to execute a second lease for an Emergency Interim Housing site at Rue Ferrari near Highway 101 in early June 2020, which is expected to be ready to occupy in October 2020. The Emergency Interim Housing sites will provide non-congregate housing for COVID-19-vulnerable homeless residents while the pandemic lasts and will later transition into non-emergency interim housing. This Workplan item is Complete.

Citywide Anti-Displacement Strategy

On September 22, 2020, the City Council approved all 10 recommendations of the proposed *Citywide Residential Anti-Displacement Strategy*¹ (Strategy) by a 10-1 vote. The Council directed staff to work on the approved Strategy, focusing first on Recommendations 1 to 3, and working on others as resources permit. The first three Recommendations are: 1) Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners; 2) Establish a Neighborhood Tenant Preference for Affordable Housing; and, 3) Explore a Community Opportunity to Purchase Program/Ordinance (COPA). Housing Department staff is beginning to work on all three recommendations and will convene a Working Group on Anti-Displacement to focus first on these three initiatives in late 2020. Pursuant to the City Council's approval, staff will also report to Council Committees quarterly and report to the City Council every six months on progress. Of the other 10 approved recommendations, the following two are related directly to production:

Recommendation 8 - Develop YIGBY Land Use - Yes in God's Backyard. Staff recommends that Recommendation 8 be retitled and included in the Housing Crisis Workplan reporting for tracking purposes, given its clear focus on production. Accordingly, it is described below in the section entitled “*New Items Not Previously Included in the Workplan.*”

Recommendation 9 - Optimize Urban Villages for Affordable Housing Development and Anti-Displacement. This recommendation will result in production and displacement information being incorporated into annual reporting to the City Council, as well as displacement information being incorporated into Urban Village plans and data being disseminated to developers. Recommendation 9 has multiple subtasks and is policy-oriented, involving both Housing and Planning staff, and so will continue to be tracked through the Housing Department's Anti-Displacement reporting. Staff from Housing and Planning expect to begin work on Recommendation 9 in summer 2021, with the first report to Council in fall 2021. Staff expects to implement this approach in the Southwest Expressway/Race Street and Alum Rock East Urban

¹ File number 20-1094, Citywide Residential Anti-Displacement Strategy, September 22, 2020, <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=>

Village Planning processes. These two planning processes are anticipated to be initiated in the summer and fall of 2021, respectively.

Highlights from Ongoing Workplan Items

- **North San José** – On December 19, 2019, the City Council approved staff’s proposed approach for enabling new residential development in the North San José Development Policy Area (Policy). The proposed approach was to abandon the effort to modify the phasing in the existing Policy, continue to implement transportation projects included in the Policy and the existing settlement agreements commensurate with approved development, and return to Council with a path forward that would respond to State legislation and facilitate future development. Simultaneously, staff would negotiate amendments to the settlement agreements with the City of Santa Clara and the County of Santa Clara that are currently tied to Policy phasing. The amendments would look to change the obligations into ones not tied to the Policy phasing that is now invalid due to changes in State law relating to the required shift to the Vehicle Miles Traveled (VMT) standard.

Upon further analysis, staff recommends abandoning the previous approach and taking the necessary steps to formally retire the North San José Development Policy. Staff proposes that, at least in the interim, no new areawide policy be developed to replace the current Development Policy. The land uses associated with the Policy are already incorporated into the City’s General Plan, and the General Plan would become the primary land use document for new development in North San José. Staff would bring forward General Plan amendments to retire the existing Policy and propose additional General Plan amendments. With this retirement, development proposals in North San José would no longer be able to rely on the North San José Environmental Impact Report (EIR) for environmental clearance and a new environmental analysis would need to be completed for each project proposal.

Staff has engaged a consultant to prepare the traffic report necessary to retire the Policy. Staff will bring forward the Council's actions to retire the Policy in 2021 and continue to explore the implications of retiring the Policy with the City of Santa Clara and the County of Santa Clara.

- **Residential Cost of Development** – The first two iterations of the *Report on the Cost of Residential Development* (Report) have been important resources for staff in their continued implementation of the Workplan and facilitation of housing development. Staff intends to conduct a Request for Proposal (RFP) process now to select a consultant to provide regular updates to the Report. The timing of the next report is anticipated in 2021, depending on market conditions.
- **Updated Downtown Residential High-rise Program** – The City Council approved setting the Inclusionary Housing Ordinance (IHO) in-lieu fee to \$0 for high-rise projects in Downtown on August 25, 2020, following initial direction in November 2019. To qualify for the \$0 fee, a project must obtain its building permit by June 30, 2023, and receive its certificate of occupancy by June 30, 2025. The in-lieu fee gradual increases to the full

amount by June 30, 2025.

Time Period	In Lieu Fee for Downtown High-Rises (Rental & For-Sale)
Building permit by June 30, 2021	\$0/SF
Building permit by June 30, 2022	
Building permit by June 30, 2023	
Building permit by June 30, 2024	\$13/SF
Building permit by June 30, 2025	\$23/SF
Building permit after June 30, 2025	Rental: \$43/SF; For-Sale: \$25/SF
<i>Certificate of Occupancy for 80% of dwelling units must be obtained on or by June 30, 2025 for discounted In Lieu Fee rate</i>	

On August 25th, Council further directed staff to explore options for extending the timeline of the high-rise program and applying it to high-rise development outside of Downtown. An updated feasibility analysis by an outside consultant is required for any further fee reduction extension to not be considered a subsidy under Chapter 14.10 of the San José Municipal Code. The City Council directed staff to conduct the previous feasibility study in June 2019. Since no consultant was under contract at the time that could perform the service, the Council authorized the procurement of the consultant as a unique service. At that time, the Council made the necessary findings required to approve a unique service, which does not undergo a normal procurement process. The Council further directed that the City should ensure a competitive process for future consultant selection.

Staff proposes that this effort be combined with the planned update to the *Report on the Cost of Residential Development*. As noted in the previous section, staff will soon initiate a competitive process to select a consultant. The Report already provides an assessment of current market conditions and feasibility for various types of residential development in different submarkets within the City. Staff will ensure that all future Reports are sufficient to allow the City Council to make adjustments to the high-rise program. This better aligns the required work with the existing Workplan and ensures that the City follows a competitive process. Additionally, funding is already allocated in the current budget to update the Report.

- **General Plan Four-Year Review** – The second Four-Year Review of the General Plan was initiated in Fall 2019. Two Housing Crisis Workplan items were included in the scope of work for the General Plan Four-Year Review process:

Explore changes to Commercial Space Requirements for Affordable Developments: This item focused on commercial space requirements for affordable housing projects moving forward under General Plan Policy IP-5.12, which allows affordable developments to move forward in urban villages ahead of an approved village plan; and Policy H-2.9 (the “1.5-acre rule”) that allows projects on certain commercial properties outside of General Plan growth areas. Staff recommended to the General Plan Task Force to reduce commercial space requirements in Policy IP-5.12 from “substantial replacement” to 50% of existing commercial space. The General Plan Task Force recommended to staff to

eliminate the requirement for commercial space for projects under this Policy. For Policy H-2.9, staff and the Task Force recommend eliminating commercial space requirements for affordable developments moving forward under the 1.5-acre rule.

Reimagine Underutilized Business Corridors to allow integration of housing: This item is to consider allowing housing in Neighborhood Business Districts (NBDs) that are not in Urban Villages. Staff and the Task Force recommend allowing residential uses in the Calle Willow, Willow Glen, North 13th Street, and Japantown (Taylor Street only) NBDs, subject to certain criteria.

Policy recommendations from the General Plan Four-Year Review process are anticipated to be considered by Council in Spring 2021; however, staff will bring forward proposed updates to Policy H-2.9 (1.5-acre rule) in early 2021 to establish more objective criteria, which will include recommendations from the General Plan Four-Year Review on commercial requirements. Additionally, staff will conduct outreach to establish appropriate densities and heights allowed for housing projects in the NBDs identified above prior to consideration by Council of the associated policy updates.

- **San José Housing Site Explorer** – The goal of this item has been to develop a data and mapping tool to assist market-rate and affordable developers identify sites for future housing development. An early version of that tool, branded as the San José Housing Site Explorer, was launched in August and can be found at <https://san-jose-housing-ca.tolemi.com/>. The version available now is an initial effort, and the goal is to continue to refine the application by adding more data and analytics to further aid in identifying housing sites. Staff is currently working on these refinements and looking for more opportunities to market this new tool and gather feedback.
- **Allow Infill Housing on Isolated Employment Lands / Identify Non-viable Commercial or Office Sites for Housing** – These two items were added to the first Workplan. The overall goal of each was similar and meant to allow for further opportunities for housing on commercial property. Two General Plan policies, H-2.9 (1.5-acre rule) and IP-5.12, allow new affordable development on 100% commercial properties. The 1.5-acre rule allows 100% affordable projects on sites 1.5-acres or less that are outside of growth areas, e.g., Urban Villages, and meet a set of criteria. Policy IP-5.12 allows 100% affordable developments on commercial sites in an Urban Village without an adopted Urban Village Plan. Recommended changes to both General Plan policies are described above (see General Plan Four-Year Review). Proposed changes to these policies will provide more clarity to developers and will reduce the amount of commercial sites required in the new affordable development. These policy changes will also address these two Workplan items; therefore, staff recommends that these two items be combined with the effort to refine General Plan policies IP-5.12 and H-2.9.

New Items Not Previously Included in the Workplan

- **Apply Mobilehome Park General Plan Designation to Remaining 56 Mobilehome Parks**
– On March 10, 2020, the City Council approved the creation of a new General Plan land use

designation specific to mobilehome parks and applied that new designation to two mobilehome parks determined to be the most at risk of conversion. The City Council further directed staff to apply the new designation to the remaining 56 mobilehome parks in the City. At that time, staff explained that additional staffing resources would be required with the Department of Planning, Building, & Code Enforcement in order the process the 56 General Plan amendments, and consideration of adding these resources would need to come as a part of the FY2020-2021 Budget Process. However, given the difficult budget situation created by COVID-19, the City Council did not choose to allocate new resources towards this effort in the current fiscal year. Staff is recommending adding this item to the Workplan as an item to be initiated with the allocation of additional resources.

- **Allow Affordable Housing on Assembly Use Sites (YIGBY)** – This work plan item is the new title for the Citywide Residential Anti-Displacement Strategy’s Recommendation 8 – “Develop YIGBY Land Use - Yes in God's Backyard.” The new title more accurately describes the intent of this work: to enable any site allowing assembly uses (including but not limited to houses of worship) to allow 100% deed-restricted affordable housing to be developed as a secondary use in conjunction with the primary use of the property for assembly uses. This item would entail amendment of the City’s Public Quasi Public (PQP) General Plan land use designation and zoning district to permit this use. The intention is to expand the number of sites available for affordable housing production and to foster control of affordable housing sites by mission-oriented organizations in conjunction with long-term, low-cost ground leases. Issues to be addressed include the definition of affordability to qualify, residential densities, locations, on-site parking supply, site ownership requirements, and any site transfer restrictions that may apply. Staff recommends adding this item to the Workplan. Staff anticipates that this work could be initiated in the Summer of 2021 following the completion of the Four-Year Review of the General Plan process.

Work Plan Items to be Dropped

- **Explore CFDs for payment of fees** – This workplan item proposed exploring Community Facilities Districts (CFDs) to allow for-sale housing to pay city fees over a longer period of time in a higher aggregate amount, rather than at building permit or certificate of occupancy. Establishment of a CFD would be through the issuance of bonds, which requires a new tax and 2/3^{rds} voter approval. Since the establishment requires a vote, it cannot be a condition of approval for a housing project. This creates issues for implementing it as a strategy to pay the required fees. Based on previous experience, bond issuance is an expensive process, and staff has determined that the break-even point for issuances of bonds is \$10 million. This would generally mean that multiple properties would need to be aggregated to warrant utilizing a CFD. New multifamily housing in San José is primarily infill development within designated growth areas, so there would be limited opportunities where multiple projects could be aggregated. Additionally, although the concept suggests a project paying higher fees overall if it pursues a CFD, it would result in a delay in the City receiving in-lieu fees for affordable housing and parks, limiting the ability of the City use of those fees for new units or facilities. For all these reasons, staff recommends that this item be removed from the Work Plan.

- **Explore allowing mixed-income development ahead of Urban Village Plans through the GP 2040 Four-Year Review** – As part of the Four-Year Review of the General Plan process, staff considered modifying General Plan Policy IP 5-12 to allow projects that included both affordable and market-rate units to move forward prior to the preparation of an Urban Village Plan. Policy IP 5-12 currently allows only 100% affordable developments serving low-income residents at or below 80% of Area Median Income to “jump ahead” of market-rate housing development in Urban Villages that are in Horizon 2 or 3 or do not have a Council approved Urban Village Plan.

As part of the work to develop the City’s Anti-Displacement Strategy, it has become abundantly clear that the need for affordable housing for low-income households is paramount. Given the importance of this focus and given the challenges in meeting the City’s affordable housing goals, staff recommended to the Task Force that Policy IP 5-12 **not** be modified to allow mixed-income projects. The Task Force concurred with staff’s recommendation to keep Policy IP 5-12 focused on 100% affordable housing developments. Staff will bring this and all Four-Year Review recommendations to the City Council for its consideration in spring 2021.

- **Housing Conversions without City Consent** – The purpose of this item was to require an elevated inclusionary housing requirement and necessary mitigation fees where employment lands are converted to residential by the City Council, inconsistent with policies of the General Plan. Staff further assessed this Workplan item. Creating any guidance or requirements for these types of conversions would potentially amount to a tacit approval of such a conversion. Any conversion should be consistent with the City’s General Plan and its policies. New policies within the General Plan can be added if there are specific types of conversions that the Council believes should be allowed. Policy H.-2.9 (1.5-acre rule) is an example of General Plan policy that guides conversion of commercial properties that meet certain criteria. For these reasons, staff recommends this item be dropped from the Workplan.

EVALUATION AND FOLLOW-UP

Policy items from the Workplan that require City Council approval will be brought forward for consideration pursuant to the noted timelines. Staff will also continue to provide semi-annual progress reports on the Workplan to the Community and Economic Development Committee; the next progress report will be in April 2021. Staff also will continue to provide updates on housing production related to the Workplan goal to the Ad-Hoc Committee for Housing Construction and Development Services.

COORDINATION

The report was coordinated with the Department of Parks, Recreation and Neighborhood Services, the Department of Transportation, and the Office of the City Attorney.

October 9, 2020

Subject: Housing Crisis Workplan Update

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COMMISSION RECOMMENDATION/INPUT

This update will be presented to the Housing and Community Development Commission at its special meeting on October 21, 2020. Due to the timing of submission of this memorandum, a summary of the discussion and any actions taken at the Commission meeting will be provided through a supplemental memorandum.

/s/
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/s/
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Building and Code
Enforcement

For questions, please contact Jerad Ferguson, Housing Catalyst, Office of Economic Development, at (408) 535-8176; Rachel Vanderveen, Deputy Director, Housing Department, at (408) 535-8231; Michael Brilliot, Deputy Director, Planning, Building and Code Enforcement, at (408) 535-7831.

Attachments:

Attachment A – Housing Crisis Workplan Summary Chart

Attachment B – Housing Production Report

Attachment C – Further Implementation of Commercial Linkage Fee Summary and Timeline