



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Raul Perez
Councilmember Sergio Jimenez

SUBJECT: SEE BELOW

DATE: February 5, 2021

Approved by:

Date: 2/5/2021

Sergio Jimenez

SUBJECT: CITY-INITIATED GENERAL PLAN TEXT AMENDMENT TO UPDATE POLICY H-2.9 WITH OBJECTIVE STANDARDS AND MAKE CLARIFYING REVISIONS TO THE NEIGHBORHOOD/COMMUNITY COMMERCIAL LAND USE DESIGNATION

RECOMMENDATION

Direct staff to make changes to the following items of Policy H-2.9:

1. Modify criteria b.3 to “if the FAR is greater than .2, the building must also have been 2/3 vacant for five years or more, and shall have no individual tenants that have been in occupancy for five or more years. A building that has been completely vacant for three or more years shall also be deemed underutilized.”
2. Replace criteria d with, “The residential use of the site shall be consistent with established existing limits on residential land use designations proximate to HI, LI, CIC, or IP as determined by the general plan.”

BACKGROUND

In 2016, the General Plan Task Force approved policy H-2.9 as a tool to help spur affordable housing development in San José. This allowed underutilized commercial properties under 1.5 acres to be developed into affordable housing. However, within the last five years of this policy being enacted, we have only seen one development move forward, a project located in District 3 on 4th and Younger. Staff prioritized updating this

policy in the Housing Crisis Work Plan, to clarify the site eligibility criteria to allow for streamlined approval, and because it was an underutilized resource in our response to the housing crisis. We thank staff for the amount of work that has been put into providing clarity to the definitions. However, we are concerned that some of the criteria will not further the goals of this policy.

Determining that a site is underutilized should not be defined as a structure with zero occupancy over five years. In the current General Plan policy language, one of the criteria for development is that “the site is vacant or underutilized”. The now more restrictive definition conflates vacant with underutilized. This excludes potential sites that have experienced chronically low vacancies. Raising the threshold to $\frac{2}{3}$ vacancy more accurately reflects the original policy’s intent and purpose. Similarly, a building that has been completely vacant for three years provides little benefit to the City, producing no jobs and potentially incurring costs to the City should it attract graffiti and blight. Three years allows sufficient time for a property owner who is serious to market the building for a jobs-producing use – and even then, they are not required to sell the property to an affordable housing developer if they do not wish to do so.

Under the $\frac{2}{3}$ vacancy definition, there are reasonable concerns about the possible impact on small businesses that may be long term tenants of an underutilized property. In our recent discussions of anti-displacement efforts, Council has acknowledged that as neighborhoods change the risks of displacement extend beyond families to small businesses as well. The vulnerability of small businesses has never been as acute as it is today in the midst of the COVID 19 pandemic, and we know that City Staff have been working hard to provide them with support. To prevent the displacement of small businesses that may be impacted by this policy, if there is at least one tenant that has been a tenant at the site for five or more years, the property will no longer qualify to be redeveloped.

We appreciate the challenges of finding the balance between our need to create more opportunities for affordable housing, and our need to preserve important jobs generating uses, current and potential. We are concerned, however, that the criteria presented by staff related to buffers from a variety of industrial uses are unnecessarily restrictive. They are extremely broad (1000 ft is over three football fields, significantly longer than most city blocks), are not reflective of any currently existing land-use zoning standards that regulate the proximity of industrial and residential uses, and will limit the policies effectiveness in making quality sites newly available for affordable housing.

In the latest Regional Housing Needs Allocation (RHNA) report, San José has only met 18% of its affordable housing goals in the 2014-2023 cycle, while almost meeting its market rate goals at 94%. We are falling short of our goals and needs. When we committed to the Housing Crisis Work Plan, we knew this meant doing more and going further, because the need for affordable housing in our city is dire. Council’s aim in clarifying the criteria for this policy was to make it both less subjective, and more effective in expanding opportunities for affordable housing development. We believe these recommendations reflect this intent.