



COUNCIL AGENDA: 08/10/2021

ITEM: 8.1

FILE NO: 21-1715

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: August 10, 2021

SUBJECT: Housing Crisis Workplan Status Report

Recommendation

As recommended by Community and Economic Development Committee on May 24, 2021, accept the report on progress implementing the City Council approved Housing Crisis Workplan. CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, annual Reports, and Informational Memos that involve no approvals of any City action. (Economic Development/Housing/Planning, Building and Code Enforcement)
[Community and Economic Development Committee referral 5/24/2021 – Item (d)4]
[Deferred from 6/22/2021 Item 8.1 (21 1473)]



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Nanci Klein
Jacky Morales-Ferrand
Chu Chang

**SUBJECT: HOUSING CRISIS
WORKPLAN UPDATE**

DATE: May 12, 2021

Approved

Date

5/17/21

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 June 22, 2021 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).

On November 10, 2020, the City Council accepted the staff report providing an update on the Housing Crisis Workplan. This report noted the significant unplanned housing policy work undertaken related to COVID-19. It also highlighted the significant increase in affordable housing production in 2020 over previous years.

ANALYSIS

The items contained in the Housing Crisis Workplan (Workplan) balances the development of policies and programs that encourage housing development with the need to support the delivery of housing units to achieve the goal of 25,000 housing units by 2023. The Workplan contains a variety of action items. Some staff work items are newly-initiated specific to the Workplan and some align with other planned or ongoing work. A complete summary of all Workplan items is included in **Attachment A**. This summary indicates if the work is in-progress, complete, or to be initiated.

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 and Residential Production teams, and Parks, Recreation and Neighborhood Services' (PRNS) Strategic Planning Team.

Housing Market Context

The last report on the Workplan noted the significant impact of the pandemic on the rental housing market in San José. Rents declined sharply, especially in Class A apartments, at the outset of the pandemic. However, rents began to level off at the end of 2020 and have seen modest increases in the first quarter of 2021. Vacancy rates have followed the same trend. Currently, rent is down 6.1% in Q1 2021 compared to the previous year with an overall vacancy rate of 7.8% down from 8.5% at the end of 2020. These trends may indicate the start of some return to normalcy as the region and country emerge from the pandemic; however, the current environment may still prove difficult for new market-rate multifamily projects to start construction in the near-term. The high cost of construction, which was an impediment prior to the pandemic, will likely continue to impact the feasibility of new construction. Additionally, other new challenges have emerged such as the high cost of lumber. According to a report in March 2021 from the National Association of Home Builders, lumber prices over the past year have added nearly \$36,000 to the cost of a new single-family home and almost \$13,000 to the price of an average new multifamily home. Staff will continue to track market trends to better understand what role the City can play to facilitate new market-rate housing production to meet

the goals of the Workplan.

Housing Production Report

Attachment B, the Housing Production Report, provides an update on the City's housing production between 2018 through the first quarter in 2021. The trends noted in the previous Workplan update appear to have continued through the end of 2020 and into the first quarter of 2021. The affordable housing pipeline had its best year in 2020 (out of the years tracked). Market-rate housing did not fare as well in 2020. Uncertainty around the pandemic, construction stops and slow downs, declining rents, and high-vacancy rates were contributing factors that slowed down new construction. There were 717 building permits issued in 2020 for market-rate housing, with the majority of those permits being accessory dwelling units (ADUs). However, 2,660 market-rate units received planning approval in 2020 and could commence quickly once conditions improve. As a part of the Workplan, the City intends to update its analysis to produce a third *Report on the Cost of Residential Development* in fall 2021 to better understand current/post-pandemic market conditions, and the City's role in the facilitation of housing production.

In addition to overall housing production, ADU data is also included in **Attachment B**. This data was previously reported in regular updates to the Ad Hoc Committee on Housing Construction and Development Services but will now be included in the Workplan update as the Ad Hoc Committee on Housing Construction and Development Services was dissolved in 2021. There were 376 ADUs permitted in 2020, which is only slightly behind the 416 units permitted in 2019. This reduction was due to decline in permitting at the start of the pandemic in Q2 of 2020. There were 109 permits issued in Q1 of 2021. PBCE has continued its work to improve the ADU approval process by improving the ADU application instructions, launching a new online virtual appointment system in March 2021, and continuing to expand the pre-approved ADU program which now consists of ten pre-approved vendors with 20 different approved plans. Other improvements are also in the pipeline such as an ADU video series to help customers understand the process and requirements, proposing three positions to assist with ADU application intake and plan review, and creating an ADU public dashboard to show real-time ADU permit application data.

Continued Financing Challenges for Affordable Housing Development

While 2020 was the best year for affordable housing production tracked by the Workplan, regional challenges around affordable financing have emerged that have made it very difficult for affordable developments in San José to compete for Statewide funding. In the latest round of bond allocations by the California Debt Limit Allocation Committee (CDLAC), the Bay Area region applications represented 29% of Statewide demand for bonding authority but received only 17% of the Statewide allocation. Only one project in the region's three major cities of Oakland, San Francisco, and San José was awarded an allocation in CDLAC's first round this year. This problem, caused significantly by revised regulations, will stall some 3,000 affordable housing units in those three cities. Mayor Liccardo and the Mayors of San Francisco and

Oakland wrote a joint letter to state officials in April that successfully advocated for changes in future allocation rounds that would give the three cities, and the region, greater opportunity to receive funding. CDLAC agreed in late April to increase the Bay Area's allocation from 17% to 21%. However, the continued competitiveness and undersupply of CDLAC bonding authority will continue to impede many affordable developments that need to move forward in San José. City staff will continue to work with partners to advocate for changes that help San José's affordable housing awards, as CDLAC and the Tax Credit Allocation Committee are expected to propose more extensive regulatory changes in 2022.

Housing Crisis Workplan Update

Attachment A, the Housing Crisis Workplan Summary Chart, summarizes all Workplan items with anticipated timelines. The chart is broken into three sections: Workplan Items Completed, Workplan Items Initiated or Underway, and Workplan Items to be Initiated. Key highlights from the Workplan are highlighted below.

Highlights from Completed Workplan Items

- **Refine General Plan Policy H-2.9 (the “1.5-acre rule”)** – On February 9, 2021, the City Council approved revisions to General Plan Policy H-2.9 (the “1.5-acre rule”). This policy allows 100% deed restricted affordable housing developments on sites 1.5-acres or less that are adjacent to existing residential, located outside of an Urban Village or growth area, and have an existing General Plan land use designation of Neighborhood/Community Commercial or Mixed-Use Commercial. The revisions removed the requirement for replacement commercial space in the development as recommended by the General Plan Four-Year Review Task Force. Additionally, to add clarity the revisions defined the terms in the policy of “vacant,” “underutilized,” and “viability of surrounding commercial and industrial properties.”
- **Updates to Inclusionary Housing Ordinance (IHO)** – On February 23, 2021, the City Council approved changes to the City's Inclusionary Housing Ordinance. There were several significant changes including changing the in-lieu fee structure from a per-unit basis to a per-square-foot basis, and varying the fee based on strong and moderate market areas. There were also new compliance options added to encourage production of affordable units.
- **Parks Credit for Moderate Income Housing satisfying IHO** – On March 2, 2021, the City Council adopted changes to the Parkland Dedication and Park Impact ordinance to allow a 50% per unit parkland fee credit for moderate income housing units that are provided to satisfy the IHO.

Highlights from Ongoing Workplan Items

- **North San José** – As discussed in the previous Workplan update, staff is taking the necessary steps to formally retire the North San José Development Policy (Policy). Staff

recommends that, at least in the interim, no new areawide policy be developed to replace the 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 has engaged a consultant to prepare the necessary traffic report to retire the policy. Staff is also moving forward with outreach and developing General Plan amendments and zoning updates related to the Policy retirement. Staff anticipates bringing forward the necessary actions to retire the policy in summer of 2021. Additional work will be done as part of the Housing Element Update process to expand the opportunities for housing within North San José to facilitate the area's remaining General Plan capacity of 24,000 housing units. Staff is continuing to explore the implications of retiring the Policy with the City of Santa Clara and the County of Santa Clara.

- **Commercial Linkage Fee Implementation** – On September 1, 2020, the City Council approved the Commercial Linkage Fee (CLF) that would charge a fee on commercial development to fund affordable housing. For most types of commercial development (hotels, residential care facilities, warehouses, and office and industrial with less than 100,000 square feet), the CLF is due prior to issuance of certificate of occupancy. For offices and industrial 100,000 square feet and above, the Council approved two fee options. The first option is to pay a reduced rate after construction and at the time the building receives its certificate of occupancy. The second option is to pay a higher rate in two phases, the first portion paid at the building shell certificate of occupancy and the second portion paid at the time there is certificate of occupancy for tenant spaces/improvements.

As staff has reviewed the direction received from City Council on implementation, it has become clear that amendments to the ordinance and resolution will need to be brought to the City Council to address the following:

- **Timing of Payment:** For projects that have two options for payment, clarify the points in the process at which payment would be required that align with established City milestones.
- **Recordation of CLF Payment Obligation:** Ensure that CLF collection incorporates clear communication of applicability of fees through the life of the project since introduction of the multiple points for payment can shift responsibility of fee from developer to tenant.
- **Credits for Various Priorities:** Staff reviewed the recommendations made by the City Council to provide credits towards payment of the CLF including creating affordable housing, on-site historic preservation, or utilizing sustainability standards in the development.

The City Council also directed staff to look at other policy options that include credits and incentives in-lieu of fee payment, among other items relating to the future feasibility study. **Attachment C** is a summary and status of these additional items. Staff plans to return to City Council with these updates in Fall 2021.

- **San José Housing Site Explorer** – The tool is publicly accessible at: <https://san-jose-housing-ca.tolemi.com/>. The goal of this Workplan item has been to develop a data and mapping tool to help assist market-rate and affordable developers find sites suitable for new housing development. Staff has continued to revise San José Housing Site Explorer and add additional functionality. One recent feature added a short description for every parcel in the City with information about whether housing is allowed on it. If housing is allowed, the short description also provides the allowed density and other information such as if the parcel is in an Urban Village. Users can also view properties eligible for General Plan Policy H-2.9 (the “1.5-acre rule”). Staff is working on further features and improvements such as predefined filters that will allow users to identify potential properties for future housing development. Such filters would include whether the property is included in the City’s Housing Element inventory or whether affordable housing would be supported under General Plan Policy IP-5.12, which allows affordable housing in Urban Villages before an Urban Village Plan is complete.
- **Affordable Housing Siting Policy** – Staff is working to develop an Affordable Housing Siting Policy to guide decisions related to the location of new affordable housing developments funded by the City. The Affordable Housing Siting Policy is intended to help the City affirmatively further fair housing consistent with federal and California fair housing laws while delivering much needed affordable housing. Priorities while completing this research were to consider the long-term success and stability of low-income households living in future affordable housing, listening to the community and stakeholders to understand multiple perspectives, and using data to develop a policy that may be tracked and evaluated over time. The policy and recommendations will be brought to the City Council for consideration in June 2021.

New Items Not Previously Included in the Workplan

- **Housing Element Update** – Since 1969, California has required local governments to adequately plan to meet the housing needs of everyone in their communities through the State Housing Element Law. The Bay Area is heading into the sixth Regional Housing Needs Allocation (RHNA) cycle, which will last from 2022 to 2030. The sixth cycle is the first to include policy changes to the Housing Element Law passed in 2017 and 2018 that increase total RHNA and increase requirements for local housing elements. The California Department of Housing and Community Development (HCD) approved the Association of Bay Area Government’s (ABAG’s) RHNA methodology in April 2021 which means San José will be allocated 62,202 units. Staff will launch a website and online resources in late May 2021 and will continue work on identifying adequate sites to meet the City’s RHNA allocation and incorporate fair housing principles. The City has until January 1, 2023 to approve and submit a compliant Housing Element to HCD. Maintaining a compliant Housing Element allows the City to remain eligible for important State and regional funding for housing, transportation, and parks.

- **Assessment of Fair Housing (AFH)** – Staff is creating draft strategies with other City departments, VTA and the Santa Clara County Office of Education in development of the AFH Plan. Staff will hold public outreach on the strategies in summer 2021. In fall 2021, a draft AFH Plan including both findings and strategies will go to the Housing and Community Development Commission, Neighborhood Services and Education Committee and the City Council. Staff then will refine and select findings and strategies of the AFH Plan to include in the City’s forthcoming sixth cycle Housing Element Strategies for 2023 to 2031, which the City Council will approve.

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 fall 2021.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

This update will be presented to the Housing and Community Development Commission at its meeting on June 10, 2021.

/s/
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Director of
Economic Development

/s/
JACKY MORALES-FERRAND
Director, Housing

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COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

May 12, 2021

Subject: Housing Crisis Workplan Update

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Attachments:

Attachment A – Housing Crisis Workplan Summary Chart

Attachment B – Housing Production Report

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