



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** August 31, 2021

Approved 

Date  
08/31/21

## SUPPLEMENTAL

**SUBJECT: APPROVE THE AFFORDABLE HOUSING SITING POLICY**

### REASON FOR SUPPLEMENTAL

The reason for this supplemental memorandum is to address questions/recommendations that have risen regarding the methodology used to define the neighborhood categories in the Affordable Housing Siting Policy (Siting Policy) and a recommendation to potentially override policies and/or barriers to affordable project developments in Category 1 areas on a case-by-case-basis. Additional information is provided on the following issues:

- Thresholds used in the research to define highest violent crime areas;
- Potential implications to changing the methodology to broaden Category 3 neighborhoods;
- Additional steps necessary and time needed to fully analyze alternative thresholds;
- Authority to override policies and/or administrative barriers to affordable project developments in Category 1; and
- Revising the Affordable Housing Siting Policy document.

### ANALYSIS

#### Definition of Highest Violent Crime Areas

The definition for highest violent crime areas in the Siting Policy report uses census tracts identified as highest violent crime if they ranked above the 95<sup>th</sup> percentile in violent crime rate per 1,000 people in San José from 2018-2020 for the four violent crime categories tracked by the San José Police Department. These crimes include rape, homicide, robbery, and aggravated assault, which align with the Federal Bureau of Investigation's Uniform Crime

Reporting (UCR) program and most studies examining the association between violent crime and resident outcomes.

### *Use of Census Tracts Versus Census Block Groups*

A question regarding the use of a census tract versus a census block group for this analysis has been raised. The following explains why the methodology is based on data from census tracts:

- **Reliability of Crime Data** – Violent crime data is most commonly reported with a location tied to a block rather than a specific address. Breaking down the data into a census block level may result in inaccuracies in the data due to the difficulty in providing an exact location for the crime. Using the census tract level data is more likely to provide more accurate violent crime rate data within a specific geography.
- **Consistent with Other Indicators** – The Siting Policy uses tract-based indicators which draw from academic literature and work published by institutes on how neighborhoods affect resident outcomes to categorize San José’s neighborhoods, including the index for measuring resource-rich areas for defining Category 1 neighborhoods and high poverty rates used to define Category 3 neighborhoods. All of these measures use census tracts as the scale for determining the neighborhood category. Using the same geographic scale for identifying neighborhoods with highest rates of violent crime would ensure methodological consistency across the Siting Policy.

In conclusion, the census tract remains the strongest and most practical threshold measure due to the increased reliability of crime data and consistency with how neighborhoods are defined in the literature, including in studies informing categorization of neighborhoods in the Siting Policy.

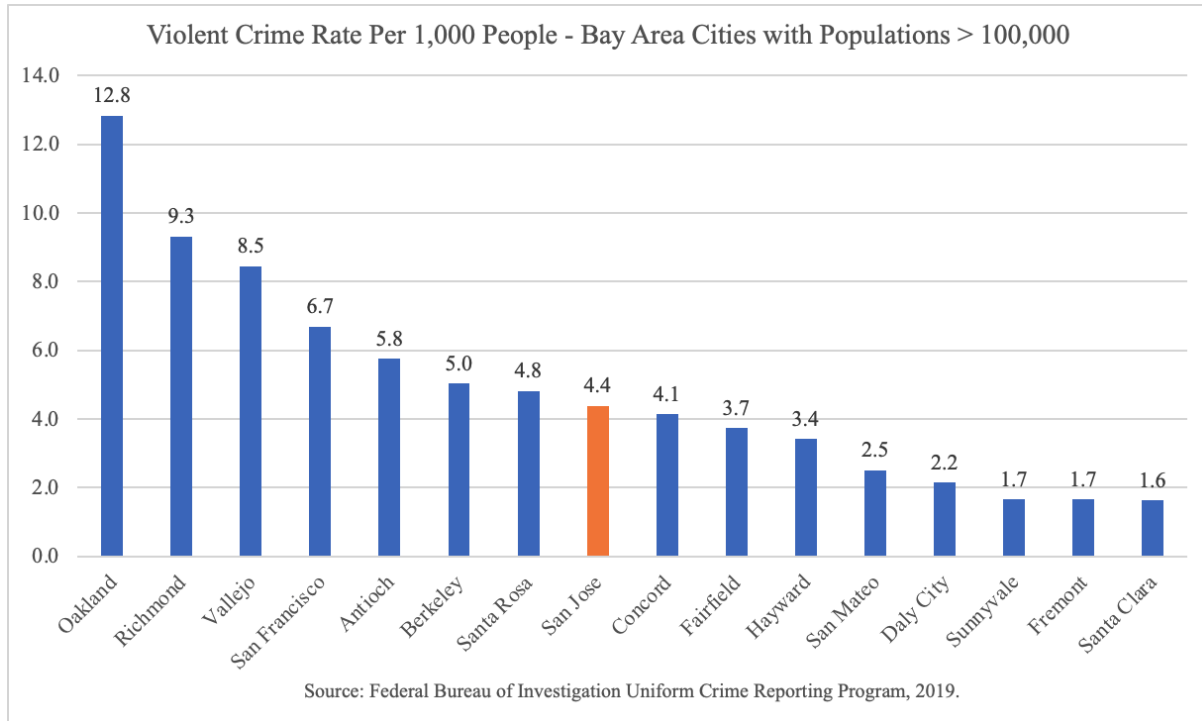
### *Use of the 95<sup>th</sup> Percentile Versus the 90<sup>th</sup> Percentile Census Tracts*

The second threshold used in the methodology to define highest violent crime areas was the difference in violent crime rates between the census tract and the average citywide rate of violent crime. Those census tracts that tracked above the 95<sup>th</sup> percentile were included as “highest rates of violent crime” areas. The primary reason for selecting the 95<sup>th</sup> percentile as the threshold for highest violent crime was that the violent crime rate among census tracts reporting at the 95<sup>th</sup> percentile rate were substantially higher than at the 90<sup>th</sup> percentile rate, while the difference in violent crime rates between tracts five percentage points apart in the citywide distribution (e.g., 50<sup>th</sup> percentile violent crime rate tracts compared to 45<sup>th</sup> percentile tracts) was modest and represented incremental change, up to the 90<sup>th</sup> percentile.

Additionally, it is important to note that San José’s overall crime rate is very low for a major city. As shown in Figure 1, San José ranks well below many other Bay Area cities with populations above 100,000 in the rate of violent crime per 1,000 residents. As a large city, San José ranks below both Oakland and San Francisco. Considering how San José ranks in violent crime regionally, selecting the 95<sup>th</sup> percentile is a reasonable threshold for identifying areas

where the City should reduce the future share of affordable housing due to concerns about exposing residents to potential harms from particularly high rates of violent crime exposure.

**Figure 1: Bay Area City Violent Crime Rates**



### **Potential Impacts to the Siting Policy**

Redefining the definition of Category 3 neighborhoods to include census block areas changes the underlying analysis that was used to create the Siting Policy and its high-level goals. If the thresholds for violent crime are changed, and additional census blocks are included in Category 3 neighborhoods, additional research would have to be completed to understand:

- The new distribution of Category 3 census tracts across the City – determining the redistribution of population by neighborhood categories
- The distribution of existing affordable housing developments based on the new neighborhood definitions
- Reconsider the distribution of future affordable homes to be funded in order to rebalance the distribution of affordable housing across the neighborhood categories

### **Additional Steps and Time Needed to Fully Analyze Alternative Thresholds**

Additional analysis on the methodology used to define the neighborhood categories in the Siting Policy will require significant work resulting in additional time and funding for the consultants

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for this project. Based on preliminary estimates, the research will take four weeks to complete and up to \$10,000 in additional funds. If requested, once the research is completed, the Housing Department staff will review the information and prepare an updated memorandum for City Council's consideration in late October or early November. Please note that a delay in implementation of the Siting Policy will result in a delay in releasing funds under the City's upcoming Notice of Funding Availability.

### **Authority to Override Policies or Barriers to Affordable Housing**

A recommendation made was to grant the City Manager authority to override policies and/or administrative barriers to affordable housing project developments in Category 1 neighborhoods on a case-by-case basis. Staff needs additional time to explore this recommendation and provide the City Council with recommendations on what policies are discretionary and what further steps are needed to implement this direction. If staff is directed to return to the Council, staff will provide additional details and recommendations related to the implementation in the Spring Housing Crisis Workplan Update.

### **Clarifications to the Siting Policy**

The Siting Policy document has been updated to provide language clarification and corrected formatting errors in the Siting Policy document. The updated Siting Policy is included as Attachment A to this supplemental memorandum.

### **COORDINATION**

This supplemental memorandum was coordinated with the Department of Planning, Building and Code Enforcement and the City Attorney's Office.

/s/

JACKY MORALES-FERRAND  
Director, Housing Department

For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

**Attachment A** – Affordable Housing Siting Policy

# AFFORDABLE HOUSING SITING POLICY

## 1.0 POLICY

The purpose of the Affordable Housing Siting Policy (“Siting Policy”) is to align affordable housing siting patterns in San José with affirmatively furthering fair housing (AFFH) principles, including increasing access to higher opportunity neighborhoods, mitigating displacement, and reducing disparities in resources between communities. The Siting Policy applies to all restricted rents 80% Area Median Income and below housing in the City of San José.

## 2.0 APPLICABILITY

The Siting Policy applies to the location of new permanent deed-restricted affordable housing financed by the City of San José, except acquisition and rehabilitation of existing deed-restricted affordable homes. For the purposes of policy evaluation (Section 6), the evaluation will include all permanent deed-restricted affordable housing in the City of San José restricted rents at 30% of 80% AMI and below, regardless of how it was financed.

The Siting Policy would does not apply to the acquisition and rehabilitation of existing deed-restricted affordable homes; temporary shelters or to affordable homes created through the City’s inclusionary housing ordinance (except in cases where the developer elects to build this housing off-site).

## 3.0 OBJECTIVES

- 3.1 The policy’s objective is to promote the long-term success and stability of low-income households residing in affordable housing developments in San José. Research shows that increasing access to affordable housing is the most cost-effective strategy for reducing childhood poverty and increasing economic mobility in the United States.

The four primary Siting Policy Objectives are:

1. Aligning with Federal and State AFFH laws and obligations;
2. Increasing affordable housing availability in opportunity areas;
3. Mitigating displacement of low-income residents; and
4. Creating a Siting Policy that is easily administered by City staff and understood by everyone

### 3.2 Neighborhood Categories

The Siting Policy identifies three neighborhood categories organized according to their characteristics. They are listed from highest-to-lowest in terms of positive outcomes for residents.

**Category 1** Neighborhoods are resource-rich areas identified as High or Highest Resource Areas in the Tax Credit Allocation Committee (TCAC)/Housing and Community Development (HCD) Opportunity Map. The criteria for Opportunity Areas in the TCAC/HCD Opportunity Map have characteristics associated with upward mobility, educational attainment, physical and mental health, and other positive outcomes, especially for children.

**Category 2** Neighborhoods do not meet the criteria for resource-rich areas, but they are neither high-poverty nor highest rates of violent crime. Diridon Station Area growth area is included in Category 2 despite a portion of this area falling within census tracts that currently meet the criteria for Category 3 due to anticipated substantial investment in transit infrastructure, housing development, and office and commercial development in the coming years.

**Category 3** Neighborhoods are high-poverty, experience the highest rates of violent crime, or both. High poverty areas are defined as census tract areas where more than 20% of the households living in the area fall below the federal poverty line. Highest Violent Crime Areas are neighborhoods where exposure to violent crime is especially high relative to the rest of the San José. Areas are defined as highest violent crime if they rank above the 95th percentile in violent crime rate per 1,000 people in San José. The portion of census tracts that meet the highest-crime and/or high-poverty criteria but overlap with the Diridon Station Area growth area is proposed to be categorized as Category 2.

## 4.0 SITING POLICY GOALS

4.1 The goal of the Siting Policy is to evenly distribute affordable housing units across all three neighborhood categories at the same rate as consistent with the share of census tracts within each neighborhood category area. The long-term goal of the Siting Policy is to achieve a distribution of affordable housing units as follows:

Category 1 Neighborhoods	34% of affordable units
Category 2 Neighborhoods	59% of affordable units
Category 3 Neighborhoods	7% of affordable units

4.2 In order to achieve this goal, the Siting Policy incentivizes the distribution of affordable housing units in Category 1 and 2 neighborhoods over time. The policy is broken into two phased periods where “Phase One” is the first three-years of the policy (September 2020 to June 30, 2024) and “Phase 2” is the following five-year period (July 1, 2024 to June 30, 2029). After the completion of Phase, the targets will continue using the Phase Two distributions, in five-year time frames, unless modified by the City Council. Phase One – During the initial three-year period, the Siting Policy will allocate funding based on the distribution of affordable units as follows:

Category 1 Neighborhoods	30% of affordable units
Category 2 Neighborhoods	50% of affordable units
Category 3 Neighborhoods	20% of affordable units

4.3 Phase Two – During the second five-year period, the Siting Policy will allocate funding based on the distribution of affordable units as follows:

Category 1 Neighborhoods	60% of affordable units
Category 2 Neighborhoods	30% of affordable units
Category 3 Neighborhoods	10% of affordable units

For Phase 1 and 2 of the Siting Policy, the goals should be met at the end of each phases and do not need to be met on an annual basis.

**5.0 LIMITED FUNDING FOR NEW AFFORDABLE HOUSING DEVELOPMENTS IN HIGH- CONCENTRATION NEIGHBORHOODS**

5.1 The City will consider limiting funding allocation for future affordable housing developments in census block groups where 50 percent or more of existing homes are deed-restricted affordable and the census block group contains 200 or more affordable housing, unless:

- The block group is located within a Displacement and Exclusion Risk census tract, which is defined as a tract where low-income people could struggle to remain (or move in) without the benefit of new affordable housing; or
- The block group overlaps with a Growth Area, where new housing production could reduce affordable housing’s share of the overall housing stock over time.
- In these cases, affordable housing should continue to be allowed in the portion of block group that overlap with a Growth Area, and the City should in the meantime assess the capacity and feasibility of future affordable and market-rate development within the Growth Area.

Exceptions under the conditions for any new affordable housing developments receiving City funding in high concentration neighborhoods will be required to obtain City Council approval.

**6.0 IMPLICATIONS FOR THE INCLUSIONARY HOUSING ORDINANCE**

6.1 The Inclusionary Housing Ordinance includes an option for market rate developers to meet their obligation under the ordinance by developing affordable housing through the offsite construction option (Municipal Code Section 5.08.510). This option allows the developer to provide 20% of the number of market rate homes as affordable inclusionary housing homes on an offsite location. The Inclusionary Housing Ordinance requires these to be in located in the same “Opportunity Area” as the market rate homes. The criteria for meeting that obligation under the Inclusionary Ordinance shall mean that offsite location must be in the same or lower neighborhood category as defined by the Siting Policy. For example, if the market rate housing development was built in a Category 2 neighborhood, the offsite affordable housing development must be built in either a Category 2 or a Category 1 neighborhood to comply with the Siting Policy.

**7.0 POLICY EVALUATION**

7.1 The City will track the performance indicators listed below on an annual basis and

periodically adjust the Siting Policy based on the results. In addition, the City will commission an evaluation of the Siting Policy's transition phase (Phase One) before Phase Two begins to assess progress and recommend changes in implementation changes in order to achieve its high-level goals during the second phase.

Performance indicators to track on an annual basis will include, but are not be limited, to the following:

- High-level goals: Progress toward high-level Siting Policy goals for each neighborhood category;
- Affordable housing populations: Representation of each affordable housing development type (family, senior, special needs, other) in each neighborhood category, noting where affordable housing populations are over- or under-represented;
- Costs: Use of development costs in Category 1 neighborhoods relative to costs in other parts of San José;
- Race and ethnicity: Tenancy data to determine whether homes across the city are serving residents who reflect San José's racial and ethnic demographics;
- Non-City funded developments: Location of developments that do not require funding from the City, so that the City can adjust its funding priorities in accordance with high-level Siting Policy goals for each neighborhood category; and
- Map changes: Substantial changes to the Siting Policy map resulting from data updates reflecting neighborhood-level changes.

An evaluation of the Siting Policy's interim phase (Phase One) will be commissioned before Phase Two begins. The purpose of the evaluation is to assess all progress and recommend changes in implementation in order to achieve the Policy's high-level goals during the second phase.

## **8.0 MAPS**

- 8.1 The initial Siting Policy Maps, attached hereto as Exhibit A, are incorporated in this policy. The Siting Policy will be updated periodically when neighborhood-level data changes or becomes available that may result in census tracts changing categories requiring updated Siting Policy Maps.

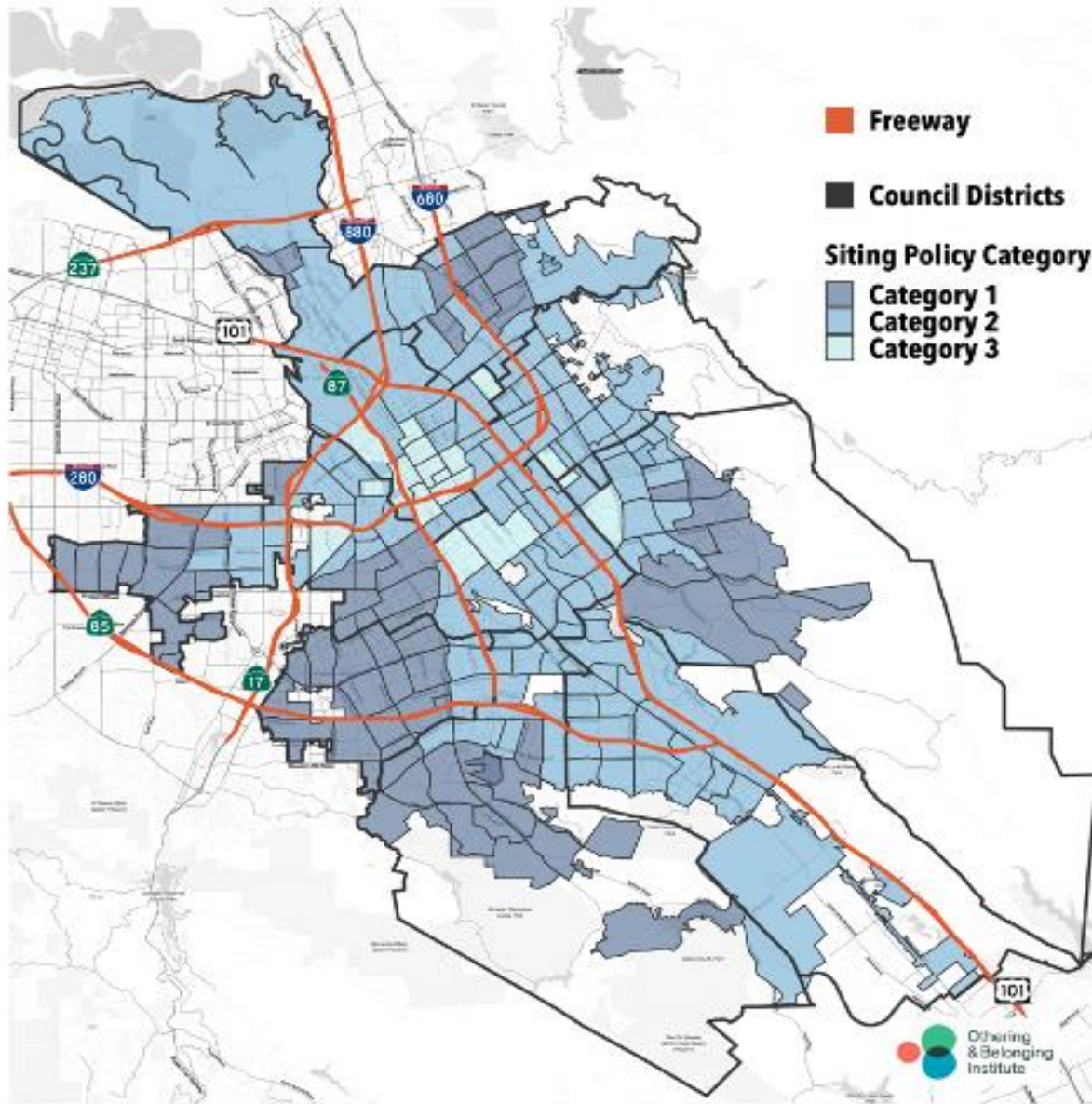
## **9.0 CHANGES TO THE POLICY**

- 9.1 The Director of Housing may update the Siting Policy maps and post the updated maps on the Housing Department website. Any changes to the Siting Policy will be made by resolution of the City Council.



AFFORDABLE HOUSING SITING POLICY MAPS

**FIGURE 1.** Siting Policy Map Showing All of The Diridon Station Area Plan as Category 2



**FIGURE 2.** Census Block Groups with High Concentration of Affordable Housing

