



# Memorandum

TO: RULES AND OPEN  
GOVERNMENT COMMITTEE

FROM: Mayor Sam Liccardo

SUBJECT: *RESPONDING TO THE HOUSING  
CRISIS*

DATE: September 28, 2017

Approved

Date

9-28-17

## RECOMMENDATION

Direct the City Manager to:

1. Return to Council with a workload assessment identifying which of the items below can be implemented immediately, which require additional resources and prioritization at the October 17<sup>th</sup> priority setting session and which would consume undue staff time, public cost, or risk that would outweigh the likely benefit.
2. Prepare an implementation workplan for those items within staff resources to move forward now (“green light”);
3. Identify and recruit partners, in collaboration with the Mayor’s Office of Strategic Partnerships, including San Jose State University’s Planning Department, SPUR, Housing Trust Silicon Valley, the San Jose Downtown Association, and various foundations interested in affordable housing development (e.g., Chan Zuckerberg Initiative, Silicon Valley Community Foundation, Ford Foundation and others) to provide talent, professional skills and financial resources to help in these efforts.

### **I. Accelerating Housing Construction at All Income Levels:**

- A. **Citywide: Establish a goal of 25,000 homes--and at least 10,000 affordable homes--** completed, under construction, or approved by 2022. This effort should build upon work already performed through the RHNA process, but should specifically (a) identify barriers that should be eliminated for implementation, and (b) concentrate housing development in previously approved “growth areas” under the 2040 General Plan. While the City’s inclusionary requirements would enable development of at least 3,750 affordable homes with a 25,000 aggregate unit target, thousands more affordable units can be financed with public funds resulting from impact & inclusionary fees, Measure A, or state SB2/SB3 dollars, and potentially through public-private financing mechanisms, as discussed in greater detail below.

- B. Downtown and San Jose State University:** Focus resources and staff to enable the construction or approval of 12,500 new units Downtown by 2022, by completing the update of the program-level EIR, speeding permitting approvals, and identifying obstacles (such as fee burdens and OEI height constraints) that inhibit development of high-density projects. Consult with the developer community, and return to Council within 90 days with a proposed workplan for accelerating high-density housing Downtown, with a specific focus on enabling projects in the current development pipeline to break ground.
- i. Through the Downtown Zoning Code update, implement height minima and eliminate parking requirements throughout the Downtown core, to encourage density and reduce development costs. Explore partnerships between private owners of Downtown parking garages and housing developers to share parking during offsetting times of the day.
  - ii. Expand the geographic boundaries of the Downtown Core (“DC”) form-based land-use designation throughout the Downtown frame areas to accelerate development and increase housing densities, while remaining sensitive to existing single-family neighborhoods. All parcels included in the DC district should have minimum densities (e.g. 80 DU/AC), with some mandate for ground-floor retail, restaurant, or active use if located on a street with sufficient visibility or foot traffic.
  - iii. Working with the Planning Department of San Jose State University, identify opportunities to accommodate more housing for students, University staff, and the community focusing: (a) along key corridors around the University, such as William Street and South 10<sup>th</sup> Street, (b) where deteriorating, seismically-unsafe apartment buildings currently exist in the South University, Horace Mann, and Northside neighborhoods, and (c) parcels to which zoning is expanded (see above). Innovative planning approaches, such as time-limited upzoning, can encourage property owners to aggregate parcels and redevelop them, with appropriate protections to avoid displacement of existing residents. The SJSU Planning Department has expressed a willingness to partner in this effort, such that students and professors could engage in community outreach, parcel-by-parcel analysis, and “best practices” research.
- C. North San Jose:** Complete environmental work and bring to Council any policy amendments necessary to move forward with 4,000 housing units, including 2,400 affordable units, in excess of the Phase I “cap” of 8,000 units. The environmental study should take advantage of the State transition from “level of service” to “vehicle miles travelled” basis for evaluating traffic impacts. Focus allowed development along existing transit corridors, requiring ground-floor retail

and mixed-use concepts, leveraging the housing to incentivize more retail, restaurants, and amenities.

- D. **Urban Villages:** We can identify opportunities for several thousand more housing units in market-ready urban villages if we clear the regulatory path to approval of these projects. Return to Council this year with a Urban Village Financing Plan that ensures a straightforward, predictable means for developers to determine fees prior to investment.
- E. **Finish Work Already Underway:** Continue to prioritize completion of the following mission-critical, foundational projects that are already underway, and that enable housing growth under the provisions of the General Plan:
- i. Complete the Downtown EIR update;
  - ii. Develop the Urban Village Implementation and Amenities Program;
  - iii. Bring forward the transition from Level of Service to Vehicles Mile Travelled as a threshold for CEQA analysis; and
  - iv. Complete the environmental analysis for the West San Jose Urban Villages and complete the Multi-Modal Transportation Improvement Plan to facilitate new development in West San Jose.
- F. **Aligning Fees to Encourage Housing Construction:**
- i. Complete study on Park Development Ordinance/PIO Fees to align fees on a “square footage” rather than a “per unit” basis, and return to Council with recommendations about those fees, as well as whether the City should similarly recalibrate other development fees.
  - ii. Consider deferring payment of impact fees on GP2040-compliant housing construction until the building’s receipt of its temporary certificate of occupancy or certificate of occupancy, to enable payment streams to align with project revenues.
  - iii. Explore implementation of Community Facilities Districts (CFD’s) or similar financing mechanisms that could enable for-sale housing projects to pay fees over time—at higher aggregate amounts than currently—but reduce the up-front burden.
  - iv. Solicit private sector developer partners to fund a regional fee study that fairly assesses the aggregate cost of impact, regulatory, and processing fees in jurisdictions throughout the Valley, and enables comparisons of those fees for apples-to-apples projects. Utilize a consultant with credibility in developer community to perform the work.

**G. Regional Approach – Encouraging Neighboring Cities to Step Up:** Working through the newly-formed CASA—along with other regional partners, such as the Valley Transportation Authority, the Association of Bay Area Governments, and the Metropolitan Transportation Commission - support regional efforts to incentivize jobs-heavy suburban cities to bear their share of responsibility for housing production. Working with the Mayor’s Office and Councilmember Jones, support efforts to create a Santa Clara County “sub-region” for purposes of allocating units under the Regional Housing Needs Assessment, that will allow cities to “trade” housing allocations for transportation dollars, and to allocate regional impact fees in a manner that spurs cities to build more housing.

**H. Teacher Housing:**

- i. Report to Council regarding the response of school districts to the City’s efforts to offer City help in funding affordable housing development on school district land for teachers and school staff, and enlist Mayor and Council in identifying and advocating with supportive districts to launch pilot efforts.
- ii. Work with San Jose State University to explore City-funded enhancements of potential SJSU educator-focused housing projects to supply additional units for school district teachers.

**2. Better Identifying Existing Housing Opportunity Sites:**

**A. Better Identifying Housing Sites:** Starting with the already-existing on-line Envision 2040 map ([www.sanjoseca.gov/index.aspx?nid=2086](http://www.sanjoseca.gov/index.aspx?nid=2086)), create a visually simple means to enable affordable and market-rate developers and investors to readily identify the many existing vacant, underutilized, or blighted residentially-designated parcels where housing developers can build roughly 50,000 units of infill housing without a General Plan Amendment. The process should also identify small sites, surrounded by housing on two sides, that qualify for affordable housing development, per Chapter 4 H-2.9 under the affordable housing policies section of General Plan 2040. Work with the Mayor’s Strategic Partnerships and Innovation teams to identify community partners, such as Silicon Valley Talent Partnership or Code for San Jose, to crowdsource identification efforts, and to create a searchable database of such parcels.

**B. Reimagining Underutilized Business Corridors:** Consider a General Plan policy and zoning framework that could allow mixed use residential development to be integrated into those Neighborhood Business Districts that are not currently Urban Village growth areas. Examples of such corridors where there could be opportunities to integrate residential uses include the 13th Street/Luna Park, Story Road, and Willow Street. Such a

framework should enhance the commercial vitality and success of these districts. Staff's assessment of this opportunity should also consider the availability of residential capacity within the General Plan and, if necessary, from which growth areas, residential capacity would need to be reallocated to allow of the integration of new housing in these neighborhood business districts.

**C. Align Zoning with General Plan Land Use Designations: "One Color on the Map":**

Because General Plan land use designations, not zoning districts, determine what can be developed on a site, aligning the zoning districts of properties with those General Plan land use designations, and creating new zoning districts with land use designations would reduce delay, cost, staff work, and make land use decisions more transparent. By aligning zoning and land use designations, land owners and builders will face only development permit review and approval, and the City's planning process will better resemble the systems implemented in other large cities, where the zoning code clearly dictates land use. We appreciate that a comprehensive zoning code update requires no small amount of work, such as elimination of "legal non-conforming" zonings. Return with a work plan assessment for prioritizing amendments to the zoning code (such as parcels that were given a new land use designation during the 2011 General Plan Envision 2040 process) that streamline the planning approval process, working with Mayor's Office of Strategic Partnerships to identify grant funding for consultants and staff support. Target completion within the current four-year General Plan review cycle.

**D. Complete Work from General Plan Update:** Perform the work originally directed by Council on April 14, 2015, and again directed by Council in December of 2016, to:

- i. **Opportunity Sites:** Identify discrete housing infill opportunity sites for targeted upzoning with housing and more dense mixed-use development, where such sites appear (a) the focus of frequent reports of drug dealing, prostitution, and other nuisance activity, such as corner markets and liquor stores, bail bonds, pot shops, massage parlors, and motels, and (b) isolated from other employment-focused uses, so that a conversion would not adversely impact adjacent operations. Partner with external partners, such as SJSU's Planning Department and local neighborhood associations, to map and identify these opportunity sites.
- ii. **Realign Urban Village Horizons:** Accelerate development of those Horizon II or III areas that already have fixed-rail transit or bus rapid-transit—such as along North 1<sup>st</sup> Street, Alum Rock, or Capitol—into the first horizon, to accelerate development where existing infrastructure supports that development.
- iii. **Existing Commercial Parcels:** Identify any commercial parcels which do not appear viable for long-term continued commercial or office use due to being completely surrounded on all four sides by residential uses.

**3. Responding to the Affordable Crisis:**

**A. Leveraging Private Dollars to Finance Affordability for the “Missing Middle”:**

Support current efforts by the Mayor’s Office, Housing Trust Silicon Valley, and other non-profits, foundations, and companies to explore the creation of a funding mechanism to streamline financing of affordable, rent-restricted housing for the “missing middle” – residents earning between 60% and 120% of area median income (AMI)—by combining private capital combined with modest public subsidy. The financing approach— a tradable security or other debt instrument—should provide a low but reliable rate of return, sufficient liquidity, and sufficient simplicity of structure to avoid the costs and delays of the current multi-layered, tax credit-dependent financing approaches. Report to CED Committee the status of these and other efforts consistent with Council’s June 6, 2017 direction for staff to pursue a moderate income housing strategy.

**B. Secondary Units:** Return to Council by February 2018 with an update on the Accessory Dwelling Units (ADU’s) and Garage Conversion Ordinance Update. Bring forward policy options to further relax ADU regulations for Council to consider. Work with the Mayor’s office and Housing Trust Silicon Valley to support the Housing Trust’s pilot accessory dwelling unit program. Work could include relevant organizations, such as Santa Clara County Association of Realtors (SCCAOR), to publicize and encourage property owners to utilize the Housing Trust’s pilot accessory dwelling unit program.

**C. Preservation and Displacement:** Staff should further explore policies, programs and target investments to preserve existing residential communities. Return to Community and Economic Development Committee with an update on the City’s Dispersion Policy to protect current tenants without discouraging creation of additional housing. As previously directed, Housing staff is working on updating the City’s dispersion policy as part of their work furthering fair housing. This is important work, particularly in areas targeted for growth. Work should be completed on identifying potential preferences such as work, live, and neighborhood preferences to ensure that everyone has an opportunity to participate and benefit from development. As directed by Council on June 6, 2017, staff should deliver a baseline analysis of existing affordable housing stock in urban villages and return to Community and Economic Development Committee with tools and strategies to address equitable growth in urban villages.

**D. Empty Home/ Empty Parcel Fee Generating Funds for Affordable Housing:**

Increasingly, we hear of investors acquiring condos and other housing in the Valley for speculation and investment, but declining to rent those units. It remains unclear whether such a practice has become widespread or merely anecdotal, however. Evaluate legal and policy justification for an “empty home” fee, similar to the city of Vancouver, British Columbia, to incentivize expansion of rental housing supply, and to generate dollars for

affordable housing. Similarly consider fees for undeveloped, in-fill parcels with residential land use designations to spur construction.

- E. Housing Conversions without Consent of City Staff or Council:** Where any employment lands, public/quasi-public, or other similar land use designations are converted to residential without City staff certification, amend the General Plan or applicable ordinances to require an elevated inclusionary mandate (i.e., at least at the 50% level) to maximize the affordable housing developed on that site. Mandate fees necessary to mitigate for transportation, parks, and fiscal impacts, as well.
- F. CalTrans Sites for Homeless:** After additional communication, the Mayor's Office has recently received several potential sites on CalTrans property for the development of micro housing for the homeless. Include an assessment on the safety and viability of those sites within the "Bridge Housing" analysis that the Housing Department will bring back to Council in the next month.
- G. State Advocacy for Tax Increment Financing for Affordable Housing:** Our concerted efforts to advocate for legislative action for affordable housing funding, in such bills as SB 2, SB 3, and SB 35, have borne fruit in this session, as a result of the leadership of members of our Bay Area delegation, including Senator Jim Beall, Assemblymembers David Chiu, and Ash Kalra. Working with them, and through the Big 11 City Mayors, advocate for a permanent restoration of tax-increment financing for affordable housing, to gradually supplant dollars lost through the elimination of redevelopment agencies.

### **BACKGROUND**

The lack of adequate housing at all income levels vexes every city in the Bay Area, including its largest city of San Jose. The Housing Department, with Council approval, has implemented many measures in the last two-and-a-half years to improve affordability of housing including: implementing a citywide inclusionary policy, impact fees, tightening rent control, reducing fees on high-density development, supporting a County housing bond, and strengthening tenant protections. However, forces more powerful than City Hall drive housing costs here, namely supply and demand. Job growth—especially outside of San Jose—vastly exceeded regional housing production for the last half-decade. While San Jose routinely out-produces its neighbors in expanding annual housing supply, it's a "low bar" to leap. The resulting shortage of housing affects San Joseans across the income spectrum, from the homeless to our high-tech workforce.

We cannot ignore a countervailing, and compelling additional fact: San Jose remains the city with the worst jobs-housing ratio of any major city in the nation. It remains fiscally irresponsible and environmentally unsustainable for San Jose to exacerbate its imbalance. Our residents pay a dear price for our status as the bedroom community for fast-growing suburban job centers elsewhere, in the form of traffic-clogged daily commutes, inadequately funded public safety, and

shortfalls of other basic services. San Jose has the most thinly staffed City Hall of any major US city, and our residents feel the impacts of that reality daily.

Our Envision 2040 General Plan—approved unanimously in 2011, with input of more than 5,000 residents, and updated and approved in 2016—explicitly recognizes this tension. It attempts to strike a balance to retain its existing employment capacity, but allows for the development of more than 50,000 units of housing without a General Plan Amendment, and tens of thousands more through the phasing of new urban villages. Nonetheless, we can do more to take advantage of existing sites to build housing more densely, and to find new sites that do not exacerbate our existing jobs-housing imbalance.

Through the work outlined above, I've set a goal of creating 25,000 units of housing, including 10,000 affordable, in San Jose over the next 5 years. That rate of housing production would substantially exceed any previous half-decade in the City's history. Achieving this goal will not be easy, and will require a concerted effort to eliminate regulatory and bureaucratic obstacles to development.

SPUR's recent report contains several good suggestions for City reforms to accelerate housing production. This memorandum incorporates several of those, particularly with regard to the streamlined planning process, density minimums, fee deferrals, and expansion of form-based zoning (i.e., "DC" zoning). Several of the report's other recommendations already align with existing City policy or actions, and appear targeted at other jurisdictions throughout the South Bay. We have also benefitted from the input of affordable and market-rate housing developers, and advocates, and thank them for their input.

Finally, recommendation 3a refers to action taken by the City Council on June 6, 2017, giving staff direction to focus limited City housing funding for affordable housing on low-income (LI) and very low income (VLI) demographic categories, given the focus of the great preponderance of 2016 Measure A funding on (ELI) homeless housing. To align our efforts with this focus on the working poor and those families with modest incomes, we recognize a need to expand financing for rent-restricted housing serving moderate income residents of our community. We have begun conversations with the private sector and several foundations to explore a private-public partnership that would substantially accelerate affordable and moderate income housing development, and will need staff support to carry those efforts forward.