

District 1 — Vacant
District 3 — Barry Del Buono
District 5 — Ruben Navarro
District 7 — Victoria Partida
District 9 — Julie Quinn
Mayor — Nhi Duong

Alex Shoor — District 2
Shavell Crawford — District 4
Andrea Wheeler — District 6
Huy Tran — District 8
Roberta Moore — District 10
(C) Martha O’Connell — CAAC MR
(VC) Ryan Jasinsky — CAAC ML

Commissioners are appointed by corresponding Councilmembers, but do not need to reside in the Council District.

SPECIAL MEETING AGENDA

4:30 PM

October 21, 2020

Virtual [Zoom Link](#)
Web ID: **978 6539 2896**
888-475-4499 (Toll Free)

*** COVID-19 NOTICE ***

Consistent with the California Governor’s Executive Order No. N-29-20, the Housing & Community Development Commission (HCDC) meeting will not be physically open to the public, and Commission members will be teleconferencing from remote locations.

HCDC is meeting via teleconference from remote locations in accordance with State and local orders and measures taken as a result of the COVID-19 pandemic. Members of the public may view and listen to the meeting by following the instructions below. Additional instructions are provided below to those members of the Public who would like to comment on items on the agenda.

How to attend the Housing & Community Development Commission Meeting:

- 1) **Electronic Device Instructions:** For participants who would like to join electronically from a PC, Mac, iPad, iPhone, or Android device, please click this URL: [Zoom Link](#).
 - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Chair calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.
- 2) **Telephone Device Instructions:** For participants who would like to join on their telephones, please dial **888-475-4499 (Toll Free)** and when prompted, enter meeting Webinar ID: **978 6539 2896**. You may also **press *9 to raise a**

hand to speak.

- 3) **Public Comments prior to meeting:** If you would like to submit your comments prior to the meeting, please e-mail viviane.nguyen@sanjoseca.gov or contact **408-975-4462**. Comments submitted prior to the meeting will be considered as if you were present in the meeting.

Commissioners are strongly encouraged to log on 15 minutes prior to the start time to ensure there are no technical difficulties – thank you!

**APPROX. AGENDA ITEM
TIME**

*Note that the times for items shown below are approximate and intended only to notify the Commission of the approximate amount of time staff expects each item might take.
Please note that items may be heard before or after the times shown.*

- 4:30 I. Call to Order & Orders of the Day**
A. Review logistics for Zoom meetings
- 4:35 II. Introductions**
- 4:40 III. Consent Calendar**
A. Approve the Minutes for the Meeting of October 8, 2020
ACTION: Approve the October 8, 2020 action minutes.
- 4:45 IV. Reports and Information Only**
A. Chair
B. Director
C. Council Liaison
- 4:50 V. Open Forum**
Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak during Open Forum; however, the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate due to a large number of speaker requests.
- 5:00 VI. Old Business**

VII. New Business

5:00

A. Housing Crisis Workplan Update

(R. VanderVeen, Housing Department and J. Ferguson, Office of Economic Development)

ACTION: Receive the report on progress implementing the City Council-approved Housing Crisis Workplan and make possible recommendations.

5:45

B. Update on Inclusionary Housing Ordinance Proposed Revisions

(R. VanderVeen, Housing Department)

ACTION: Provide feedback to staff and possible recommendations to the City Council on proposed amendments to the Inclusionary Housing Ordinance with four of the remaining outstanding items from the November 5, 2019, City Council direction:

- (a) Extend the period of affordability to 99 years with voluntary demolition after 55 years and relocation benefits for residents of the inclusionary units;
- (b) Apply the Inclusionary Housing Ordinance to developments with 10 units or more and set the fee at a lower rate for projects with less than 20 units that provide at least 90% of the density allowed on-site;
- (c) Encourage innovative partnerships in order to maximize affordable housing through adding a Clustering compliance option and an SB 35 Streamlining option; and,
- (d) Allow streamlining of Inclusionary Housing Ordinance compliance requirements for 100% affordable housing developments.

6:45

VIII. Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak during Open Forum; however, the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate due to a large number of speaker requests.

6:50

IX. Meeting Schedule

The next regular Commission meeting is scheduled to be held on **Thursday, November 12, 2020, at 5:45 p.m.** online. Items expected to be heard are:

- Draft Diridon Affordable Housing Implementation Plan
- Formation of Ad Hoc Subcommittee on Bylaws

7:00 X. Adjournment

You may speak to the Commission about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the Commission. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during Open Forum. Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the Commission unless listed on the agenda, which has been posted not less than 72 hours prior to meeting. Agendas, Staff Reports and some associated documents for the Commission items may be viewed on the Internet at <http://www.sanjoseca.gov/hcdc>. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.

Correspondence to the Housing & Community Development Commission is public record and will become part of the City's electronic records, which are accessible through the City's website. Before posting online, the following may be redacted: addresses, email addresses, social security numbers, phone numbers, and signatures. However, please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the Housing & Community Development Commission, will become part of the public record. If you do not want your contact information included in the public record, please do not include that information in your communication.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk, 200 East Santa Clara Street, 14th Floor, San José, California 95113, at the same time that the public records are distributed or made available to the legislative body. Any draft resolutions or other items posted on the Internet site or distributed in advance of the commission meeting may not be the final documents approved by the commission. Contact the Office of the City Clerk for the final document.

On occasion, the Commission may consider agenda items out of order.

The Housing & Community Development Commission meets every second Thursday of each month (except for July and sometimes December) at 5:45pm, with special meetings as necessary. If you have any questions, please direct them to the Commission staff. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

To request translation or interpretation services, accommodation, or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events, or printed materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

Please direct correspondence, requests, and questions to:

City of San José Housing Department
Attn: Viviane Nguyen
200 East Santa Clara Street, 12th Floor
San José, California 95113
Tel: (408) 975-4462

Email: viviane.nguyen@sanjoseca.gov

Para residentes que hablan español: Si desea mas información, favor de llamar a Theresa Ramos al 408-975-4475.

Tiếng Việt: Xin vui lòng liên lạc Viviane Nguyen tại 408-975-4462.

對於說華語的居民: 請電 408-975-4450 向 Ann Tu 詢問詳細事宜。

Para sa mga residente na ang wika ay tagalog: Kung kinakailangan pa ninyo ng inpormasyon, tawagan si Shirlee Victorio sa 408-975-2649. Salamat Po.

**HOUSING & COMMUNITY DEVELOPMENT COMMISSION
MEETING ACTION MINUTES**

October 8, 2020

MEMBERS PRESENT:	Martha O’Connell	Chair (MR)
	Ryan Jasinsky	Vice Chair (ML)
	Alex Shoor	Commissioner (D2)
	Barry Del Buono	Commissioner (D3)
	Shavell Crawford	Commissioner (D4)
	Ruben Navarro	Commissioner (D5)
	Andrea Wheeler	Commissioner (D6)
	Victoria Partida	Commissioner (D7)
	Julie Quinn	Commissioner (D9)
	Roberta Moore	Commissioner (D10) <i>Arrived 5:50 PM</i>
	Nhi Duong	Commissioner (Mayor)
MEMBERS ABSENT:	District 1 – VACANT	Commissioner (D1)
	District 8	Huy Tran (D8)
STAFF PRESENT:	Helen Chapman	Councilmember Liaison
	Kristen Clements	Housing Department
	Viviane Nguyen	Housing Department
	Rachel VanderVeen	Housing Department
	Shasta Greene	City Attorney’s Office
	Christopher Alexander	City Attorney’s Office

(I) Call to Order & Orders of the Day

A. Review logistics for Zoom meetings

Chair Wheeler called the meeting to order at 5:45 p.m.

(II) Introductions – Commissioners and staff introduced themselves.

(III) Consent Calendar

A. Approve the Minutes for the meeting of August 13, 2020.

ACTION: Approve the August 13, 2020 action minutes.

Commissioner Quinn made the motion to approve the minutes for September 10, 2020, with a second by Commissioner Navarro. The motion passed 10-0.

Yes: O’Connell, Jasinsky, Shoor, Del Buono, Crawford, Navarro, Wheeler, Partida, Quinn, Duong (10)

No: None (0)

Absent: Tran, Moore (2)

(IV) Reports and Information Only

- a. **Chair:** Chair O'Connell thanked Viviane Nguyen, Kristen Clements, Commissioner Wheeler, and Vice Chair Ryan Jasinsky for helping to prepare her to chair the zoom meeting. Chair O'Connell asked that Commissioners check their HCDC emails twice a day on the day before the meeting as well the meeting date because emails with additional documents, such as presentation slides, are typically released on those two days. She additionally asked that Commissioners submit their questions, as much as possible, before the meeting. Staff will try and answer them and send their replies to all Commissioners which will help move the meetings along.
- b. **Director:** Ms. Kristen Clements provided an update on upcoming City Council items.
- c. **Council Liaison:** Ms. Helen Chapman shared that Councilmember Jimenez visited the Bridge Housing community at Monterey and Bernal and was impressed with the well-designed project and work of the Housing Department.

(V) Open Forum

(VI) Old Business

(VII) New Business

A. Approval of Measure E Spending Plan (R. VanderVeen, Housing Department)

ACTION: Accept staff report and a spending plan for the Measure E Property Tax Revenue, review the plan, and provide comments for transmittal to the City Council.

Commissioner Navarro made the recommendation to accept the recommendations with contingency plan that if there is a large increase in evictions due to events beyond tenants' control such as COVID-19, to reallocate up to 20% of year's revenues funds for rent relief and utility payments paid directly to rental providers and utility companies to prevent homelessness. To the extent that the Council does not think this recommendation is consistent with the spending priorities, the Commission recommends that the Council amend its priorities. The motion was seconded by Commissioner Moore. The motion was approved 8-2-1.

Yes: O'Connell, Jasinsky, Shoor, Crawford, Navarro, Wheeler, Partida, Moore (8)

No: Del Buono, Duong (2)

Abstain: Quinn (1)

Absent: Tran (1)

Commissioner Wheeler made the motion to replace #4 on the spending plan "ADU Program" with a "Program to be developed by Housing staff and reviewed by HCDC to address rental and for-sale housing for moderate-income households," with a second by Chair O'Connell. The motion passed 7-2-1.

**Yes: O’Connell, Jasinsky, Del Buono, Navarro, Wheeler, Partida, Moore (7)
No: Shoor, Crawford (2)
Abstain: Quinn (1)
Absent: Tran (1)
Not available: Duong (1)**

Chair O’Connell made the motion to reopen the prior motion to allow Commissioner Duong to vote. Commissioner Duong had technical issues during roll call and was unable to vote. The motion was seconded by Commissioner Moore. The motion was approved 11-0.

**Yes: O’Connell, Jasinsky, Shoor, Del Buono, Crawford, Navarro, Wheeler, Partida, Quinn, Duong, Moore (11)
No: None (0)
Absent: Tran (1)**

The prior motion was reopened to consider Commissioner Wheeler’s motion to replace #4 on the spending plan "ADU Program" with a "Program to be developed by Housing staff and reviewed by HCDC to address rental and for-sale housing for moderate-income households," with a second by Chair O’Connell. The motion passed 9-1-1. *Note: Commissioner Crawford requested to change her vote from “no” to “yes” from the prior motion approved.*

**Yes: O’Connell, Jasinsky, Del Buono, Crawford, Navarro, Wheeler, Partida, Duong, Moore (9)
No: Shoor (1)
Abstain: Quinn (1)
Absent: Tran (1)**

B. Update on the Affordable Housing Siting Policy (R. VanderVeen, Housing Department)

ACTION: Receive a status report and provide feedback to City staff on its workplan to create an Affordable Housing Siting Policy for the location of subsidized restricted-affordable housing developments.

Commissioner Del Buono made the motion to accept the staff report with the Commission’s recommendations, with a second by Commissioner Quinn. The motion passed 11-0.

**Yes: O’Connell, Jasinsky, Shoor, Del Buono, Crawford, Navarro, Wheeler, Partida, Quinn, Duong, Moore (11)
No: None (0)
Absent: Tran (1)**

**Housing & Community Development Commission
DRAFT Minutes Regular Meeting – October 8, 2020
Item III-A**

(VIII) Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.

Commissioner Wheeler made the motion to agendaize at an upcoming meeting to discuss and possibly make recommendation to City Council to provide an option to both commissioners and members of the public to participate in the Housing and Community Development Commission by video conferencing for all future Commission meetings. The motion was seconded by Chair O'Connell. The motion was approved 11-0.

Yes: O'Connell, Jasinsky, Shoor, Del Buono, Crawford, Navarro, Wheeler, Partida, Quinn, Duong, Moore (11)

No: None (0)

Absent: Tran (1)

Commissioner Wheeler made the motion to agendaize at an upcoming meeting to choose tentative dates for second meetings in each month for special HCDC meetings. If the meeting goes long, the meeting can be continued at that second special meeting date. The motion was seconded by Commissioner Navarro. The motion was approved 11-0.

Yes: O'Connell, Jasinsky, Shoor, Del Buono, Crawford, Navarro, Wheeler, Partida, Quinn, Duong, Moore (11)

No: None (0)

Absent: Tran (1)

(IX) Meeting Schedule

A special meeting in October will be held on October 21, 2020 at 4:30 p.m. online.

The next regular Commission meeting is scheduled to be held on Thursday, November 12, 2020, at 5:45 p.m. online.

(X) Adjournment

Chair Wheeler adjourned the meeting at 8:35 p.m.



Memorandum

TO: HOUSING & COMMUNITY
DEVELOPMENT COMMISSION

FROM: Nanci Klein
Jacky Morales-Ferrand
Rosalynn Hughey

**SUBJECT: HOUSING CRISIS
WORKPLAN UPDATE**

DATE: October 9, 2020

Approved

Date

RECOMMENDATION

Receive the report on progress implementing the City Council-approved Housing Crisis Workplan and make possible recommendations.

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.

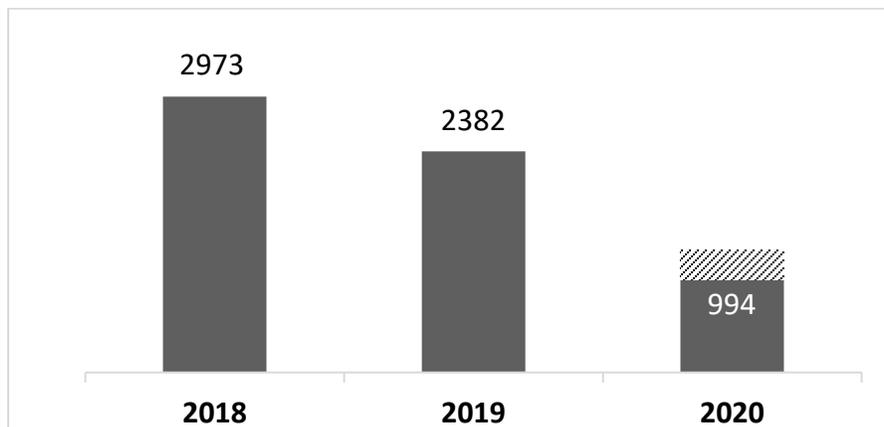
The current market conditions, following the onset of the pandemic, have seen rents fall in San José. According to the most recent data from Costar, a real estate information service, overall rent has fallen 5.8% in San José compared to the previous year. Rent has fallen most dramatically in Class A 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 that 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 2020. 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 Workplan 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.

Workplan 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 Workplan.

- **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 Housing & Community Development Commission, as capacity permits, and to City Council’s 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 City Council’s Ad-Hoc Committee for Housing Construction and Development Services.

/s/
NANCI KLEIN
Director,
Economic Development

/s/
ROSALYNN HUGHEY
Director,
Planning, Building and Code
Enforcement

/s/
JACKY MORALES-
FERRAND
Director, Housing

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

ATTACHMENT A

Housing Crisis Workplan Summary Chart

<i>I. Work Items Completed</i>				
	Item	Lead Department	Month Completed	Status Update
1.	Transition Traffic Analysis from LOS to VMT	DOT/PBCE	Feb 2018	Completed
2.	Continue to implement Urban Villages: a. Implementation Framework: b. Move Horizon II Light Rail Villages into Horizon I	PBCE/OED PBCE	May 2018 Dec 2018	Completed
3.	Update the Accessory Dwelling Unit and Garage Conversion ordinance	PBCE	Jun 2018	Completed
4.	Complete the Downtown Vision and EIR	PBCE	Dec 2018	Completed
5.	Move-up Tri-Village Urban Villages to Horizon I	PBCE	Dec 2018	Completed
6.	Engage CASA on regional housing production – CASA Compact Report https://mtc.ca.gov/sites/default/files/CASA_Compact.pdf	Housing	Jan 2019	Completed
7.	Co-living Ordinance	PBCE	Feb 2019	Completed
8.	Created a Cross-departmental Housing Catalyst Team and Established Biweekly Team Meetings	OED/PBCE/ Housing/ PRNS	Nov 2019	Completed
9.	New Housing Webpage	PBCE/OED / Housing	Aug 2020	Completed (link)
10.	Explore Options for a Commercial Linkage Fee	CMO/OED/ Housing	Sep 2020	Completed
11.	Develop Anti-Displacement Strategy	Housing	Sep 2020	Completed
12.	Explore Interim Housing Solutions on Caltrans Sites	Housing	Jun 2020	Completed

II. Work Items Initiated and Underway

	Item	Lead Department	Planned Completion	Status Update
13.	Updated Downtown Residential High-rise Program	OED/ Housing	Partially Completed Aug 2020	High-rise IHO in-lieu fee reductions until June 2025 adopted in August 2020. Further direction from Council to assess options to extend exemption beyond 2025.
14.	Make Additional Residential Units Available in North San José	DOT/OED/ Planning/ Housing	Summer 2021	Anticipate returning to City Council in 2021 with necessary actions to formally retire the North San José Development Policy to enable new housing construction.
15.	Amend the Zoning Ordinance to allow for 100% Affordable	PBCE	Partially completed Spring 2021	Staff will bring forward updates to the Zoning Ordinance to allow 100% affordable mixed-use projects in the Commercial Pedestrian and Commercial Neighborhood Zoning districts in Urban Villages with a Site Development Permit, rather than a Special Use Permit or Conditional Use Permit.
16.	Develop an Affordable Housing Siting Policy	Housing	Spring 2021	Staff has issued the consultant RFP, selected the consultant, work is underway. Staff will give an update to CEDC in October 2020 and will bring a proposed Siting Policy to CEDC and the City Council in spring 2021.
17.	Update Downtown Zoning requirements to establish minimum height and density and eliminate parking requirements	PBCE	Summer 2021	Through the American Cities Climate Challenge (ACCC), staff is comprehensively evaluating parking requirements particularly in Downtown and other areas around transit. In early 2021, staff will also evaluate establishment of minimum densities in Downtown.
18.	Refine General Plan Policy H-2.9 (the "1.5-acre rule")	PBCE/ Housing	Partially Completed winter 2020	Staff will bring forward further recommendations in Winter 2021 to refine the policy, including recommendations on Policy H-2.9's commercial replacement requirement from the GP Four-Year Review.

II. Work Items Initiated and Underway

	Item	Lead Department	Planned Completion	Status Update
19.	Explore changes to Commercial Space Requirements for Affordable Developments	OED/ PBCE/ Housing	Spring 2021	This item is being considered through the GP Four-Year Review. Updates to Policy IP-5.12 that allows affordable housing in Urban Villages ahead of an Urban Village Plan are recommended to reduce the replacement of commercial space required by the policy.
20.	Housing Land Acquisition Sites Database and Mapping Tool	Public Works/ PBCE/ Housing/ OED	In progress	San José Housing Site Explorer launched in August 2020. Staff is working to refine and improve the tool. https://san-jose-housing-ca.tolemi.com/
21.	Explore the creation of a Land Trust	Housing	In progress	In spring 2020, the City was awarded a two-year Challenge Grant Fellow through the Partnership for the Bay's Future and the San Francisco Foundation. The Fellow is developing affordable housing Preservation strategies, including technical assistance to and a community land trust feasibility study for the newly-formed South Bay Community Land Trust, and related resident-focused affordable housing preservation strategies.
22.	Further implementation of Commercial Linkage Fee	Housing/ OED	Jan 2021	See Attachment C for complete timeline and changes.
23.	Align Zoning with the General Plan	PBCE	In progress	New urban village and mixed-use zoning districts to facilitate mixed-use residential development will be completed in early 2021 (Phase 1). City-initiated rezonings will follow to align properties' zoning and General Plan land use designations (Phase 2).
24.	Reimagine Underutilized Business Corridors to allow the integration of housing	PBCE	In progress Spring 2021	As a part of the GP Four-Year Review, staff has recommended allowing additional housing in certain Neighborhood Business Districts not currently in Urban Villages.

II. Work Items Initiated and Underway

	Item	Lead Department	Planned Completion	Status Update
25.	Explore the City’s impact on the cost of residential development, including: <ul style="list-style-type: none"> • the deferral of fees payment to Certificate of Occupancy • the appropriate level of fees and the use of incentives • the impact of permit and entitlement timelines • the predictability and transparency of City development 	OED	Ongoing	OED plans to initiate a new RFP process to select a consultant for a future update to the Cost of Residential Development. Last updated and presented to Council in November 2019.
26.	Advocate for State legislation that supports housing development	CMO/ Housing	Ongoing	
27.	Encourage private, public, and nonprofit investments	Housing	Ongoing	
28.	Leverage private dollars for affordable housing	Housing	Ongoing	

III. Work Items To Be Initiated

	Item	Lead Department	Planned Initiation	Status Update
29.	Complete the PDO/PIO Fee Study	PRNS/CMO	Fall 2020	PRNS to post for consultant selection in fall 2020; workplan to be presented at CED Committee in spring 2021.
30.	Modify Martha Gardens Specific Plan	PBCE	Spring 2021	The Martha Gardens Specific Plan predates the current General Plan and needs to be updated to reflect current development standards including height and density. This may also include exploring expanding the boundaries of the Plan area.

III. Work Items To Be Initiated

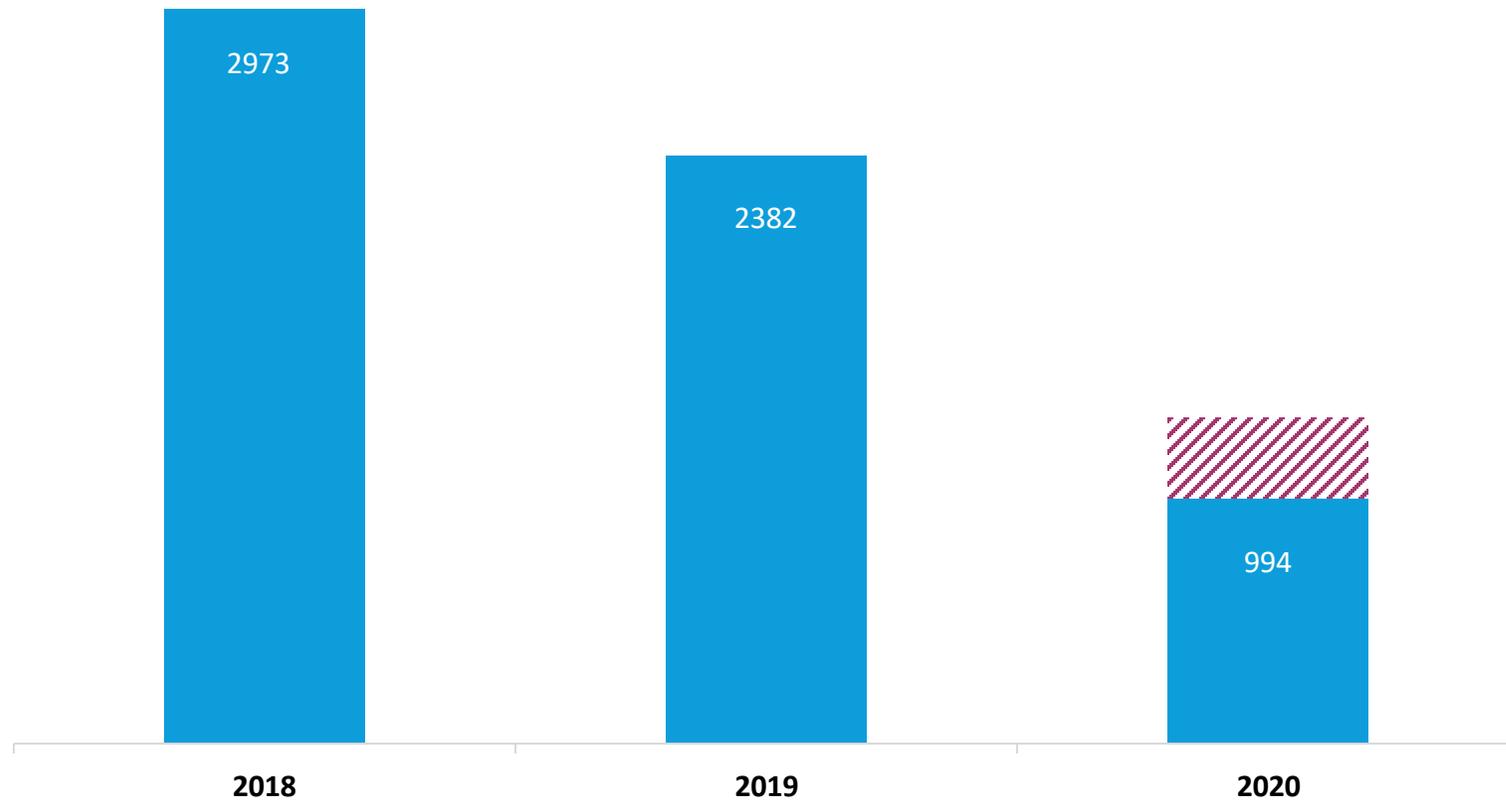
	Item	Lead Department	Planned Initiation	Status Update
31.	Explore Opportunities for High-density Residential Development in Areas Surrounding San José State	PBCE	Summer 2021	Significant outreach is needed for this item and it is not anticipated to result in many new residential units. However, staff will explore how this item may be partially integrated into the alignment of zoning with the General Plan work (Housing Crisis Workplan item No. 23).
32.	Explore the Creation of a Land Acquisition Loan Fund	Housing	Summer 2021	Creating a source for rapid acquisition financing for sites (potentially including existing buildings on them) is part of the Citywide Residential Anti-Displacement Strategy's Recommendation 3, Explore a Community Opportunity to Purchase Program/Ordinance (COPA). Staff expects to start this analysis in mid-2021.
33.	Allow Affordable Housing on Assembly Use Sites	PBCE/ Housing	Summer 2021	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. Council directed staff on September 22, 2020 to work on this as resources become available as part of its Citywide Residential Anti-Displacement Strategy (Recommendation 8).
34.	Apply the Mobilehome Park Land Use Designation through City-initiated General Plan Amendments to the Remaining 56 Mobilehome Parks	PBCE	To Be Initiated	Council directed staff to initiate these additional General Plan amendments on March 10, 2019. However, staff resources were not allocated by Council in the 2020-21 budget process.
35.	Explore Public/Private Parking opportunities	OED	To Be Initiated	
36.	Pursue changes to the GP to allow Infill on Problem Properties	PBCE	To Be Initiated	

Housing Production

ATTACHMENT B

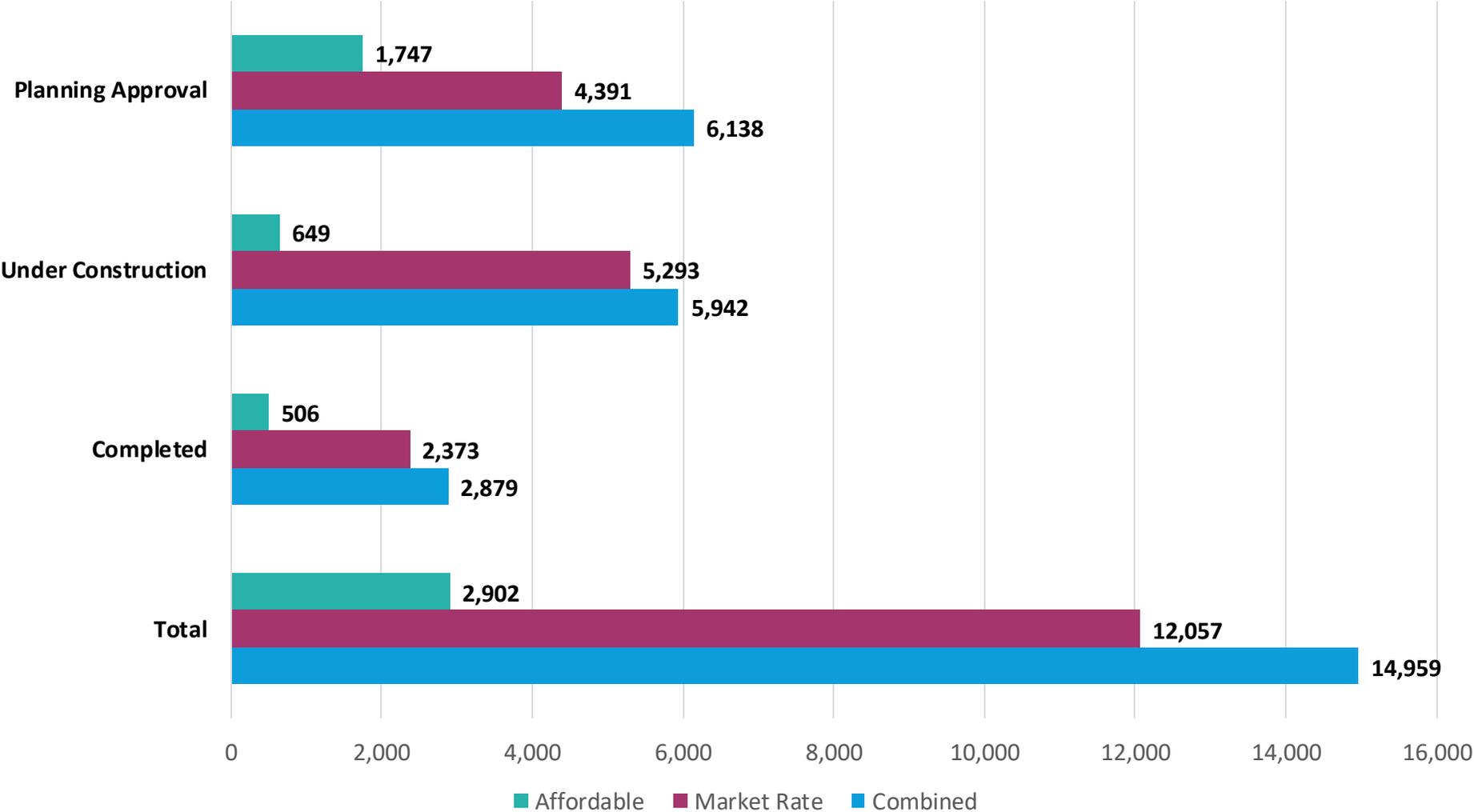
	Capacity Made Readily Available Through Policy Work	Units Receiving Development Planning Approvals	Units Receiving Building Permits	Units Receiving Occupancy	
2018	14,255	Market Rate: 361 Affordable: 81	Market Rate: 2,827 Affordable: 146	Market Rate: 797 Affordable: 30	2018  2023
2019	2,800	Market Rate: 2,864 Affordable: 702	Market Rate: 2,248 Affordable: 134	Market Rate: 620 Affordable: 217	
Jan-Sept 2020		Market Rate: 1,299 Affordable: 964	Market Rate: 625 Affordable: 369	Market Rate: 956 Affordable: 259	
Total	17,055	<i>Market Rate:</i> 4,524 <i>Affordable:</i> 1,747 6,271	<i>Market Rate:</i> 5,700 <i>Affordable:</i> 649 6,349	<i>Market Rate:</i> 2,373 <i>Affordable:</i> 506 2,879	

Residential Building Permit Progress



Overall Progress

25,000 Housing Units by 2023
Entitled, Under Construction, or Completed
15,000 Market Rate Units
10,000 Affordable Units



Attachment C

Further Implementation of Commercial Linkage Fee Summary and Timeline

Topic Area	#	Item Summary	Timeline
Credits and Incentives	1	Explore credits for on-site historic preservation, or sustainability at the NetZero standard, not to exceed 20%. The credit could apply directly to this fee or be applied against the total fee calculation.	January 2021
	2	Explore allowing incentives in the form of fee reductions for projects (office, hotel, or industrial) that build new affordable housing, or purchase built units and apply deed-restrictions, in parallel with its commercial development.	January 2021
	3	Explore allowing incentives in the form of fee reductions for projects that implement quantifiable and comparable sustainability measures.	January 2021
Subsequent Feasibility Study	4	Conduct a new feasibility study to be undertaken no more than two years from fee adoption. If new leasing comps are not available, use other available data to assess commercial market dynamics such as availability rates and absorption. This work will be done consistent with the Mitigation Fee Act.	These items will be incorporated into the next feasibility study that would be conducted no later than 2022.
	5	Explore the creation of a different fee structure for projects above 1 million square feet.	
	6	Explore the inclusion of geographic regions similar to those included in the first feasibility analysis.	
Special Needs Populations	7	Examine how to address similar projects that solely serve disabled residents and projects that include low-income units.	January 2021
Threshold Review	8	Review the \$0 fee for the first 40,000 square feet of office projects less than 100,000 square feet by exploring increasing this threshold to 50,000 square feet.	January 2021



Memorandum

TO: HOUSING AND COMMUNITY
DEVELOPMENT COMMISSION

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: October 14, 2020

Approved

Date

SUBJECT: UPDATE ON INCLUSIONARY HOUSING ORDINANCE PROPOSED REVISIONS

RECOMMENDATION

Provide feedback to staff and possible recommendations to the City Council on proposed amendments to the Inclusionary Housing Ordinance with to address several of the remaining outstanding additional consideration items from the November 5, 2019, City Council direction:

- (a) Extend the period of affordability to 99 years with voluntary demolition after 55 years and relocation benefits for residents of the inclusionary units;
- (b) Apply the Inclusionary Housing Ordinance to developments with 10 units or more and set the fee at a lower rate for projects with less than 20 units that provide at least 90% of the density allowed on-site;
- (c) Encourage innovative partnerships in order to maximize affordable housing through adding a Clustering compliance option and an SB 35 Streamlining option; and,
- (d) Allow streamlining of Inclusionary Housing Ordinance compliance requirements for 100% affordable housing developments.

BACKGROUND

The City of San José currently implements two affordable housing programs that are dependent on the development of market-rate housing: an Inclusionary Housing Ordinance (IHO) program that applies to rental and for-sale residential developments of twenty units or more, and an Affordable Housing Impact Fee (AHIF) program that applies only to rental residential developments of 3 to 19 units (“small” rental projects). For-sale residential projects of 19 units or less (“small” for-sale projects) are not covered under either program. Table A summarizes the current Affordable Housing Programs.

Table A: Current Affordable Housing Programs for new projects based on project size

Project Size	For-Sale	Rental
20 units or more	Inclusionary Housing Ordinance: Multiple compliance options to choose from	Inclusionary Housing Ordinance: Multiple compliance options to choose from
3 to 19 units	Affordable Housing Impact Fee: Does not apply	Affordable Housing Impact Fee: The impact fee applies on a per square foot basis as the sole option

On November 5, 2019, the City Council approved staff recommendations for proposed amendments to the Inclusionary Housing Ordinance but directed staff to return in early 2020 with additional analysis, outreach, and proposals.

The approved staff recommendations for proposed amendments to the Inclusionary Housing Ordinance were as follows:

- a) Accept the staff report and direct the City Attorney to return with an ordinance amending Chapter 5.08 of the San José Municipal Code ("SJMC"), including the following changes as described in the staff memorandum:
 1. Apply the Inclusionary Housing Ordinance on developments with five units or more;
 2. Serve a wider range of incomes for rental housing to 5% at 100% of the Area Median Income (AMI), 5% at 60% of the AMI, and 5% at the 50% of the AMI;
 3. Restructure the in-lieu fee option to apply the fee on a square foot basis and change the amount to \$43 per square foot for rental development and \$25 per square foot for for-sale developments;
 4. Encourage rental developments to choose on-site compliance option by setting the in-lieu fee to \$18.26 per square foot where at least 5% of the units are provided on-site and allowing affordable units to be located in a separate building on-site;
 5. Update the requirement to locate offsite units within the same redevelopment area to areas of opportunity;
 6. Ensure units remain affordable as long as practical by extending the period of affordability to 99 years;
 7. Adjust affordability requirements for co-living units to 90% of studio rents; and
 8. Update program administration to allow recertification every two years.
- b) Direct the Director of Parks, Recreation and Neighborhood Services to explore an amendment to the Park Fees Ordinance (SJMC 14.25) to clarify that on-site deed-restricted 100% AMI rental units qualify for a 50% per unit credit towards the payment of park impact in-lieu fees.

- c) Direct staff to develop geographic market areas to phase in the in-lieu fee adjustments over time.

At the November 5, 2019, City Council meeting, a motion was made to approve staff's recommendations and to include the memorandums from Mayor Liccardo, Vice Mayor Jones and Councilmember Arenas. Those memorandums directed for staff to return to the City Council after additional consideration and analysis of the following:

- How to incentivize density for small projects;
- Impacts on financing by extending period of affordability to 99 years and consider "life of the project;"
- Flexibility for the City Manager/Housing Director to approve offsite affordable housing plans that do not meet the minimum standard for contribution if the project incorporates innovative partnerships with affordable housing developer;
- Explore an option for developers that meet the following measures: under SB 35 requirements for land purchase, entitling the land with the City of San José and giving the entitled land to the City of San José (which the City would then solicit to developers to build a 100% affordable project); and
- Keep applying the Inclusionary Housing Ordinance to 20 or more units, or apply to developments of 15 or more units, or consider exempting infill developments that have been identified in the planning process to have special circumstances such as significant environmental mitigation required, additional substantial environmental or traffic fee requirements, significant exceptional site infrastructure needs, or other significant development obstacles.

As directed by the City Council, staff has studied these additional considerations and provides alternative proposals within the Analysis section below.

ANALYSIS

In reviewing the City Council's direction, the Housing Department recommends the following:

1) Recommendation: Extend Period of Affordability to 99 years with voluntary demolition after 55 years and relocation benefits for residents of the inclusionary units;

The Housing Department held multiple public outreach meetings to discuss with stakeholders extending the Period of Affordability to 99 years and consider life of the project. Staff also researched the potential impact of a 99-year restriction on financing for the market rate development. The feedback was supportive of including the life of project concept and financing was not raised as a potential concern.

As a result, staff's recommendation is to extend the Period of Affordability to 99 years but to provide that the City would rescind the affordability restriction in connection with the

granting of a demolition permit for the whole residential development, also known as end of the life of the building. This would include voluntary demolition of the entire residential development after 55 years and the voluntary demolition would require relocation benefits for residents of the IHO units.

Additionally, in response to the City Council’s direction on impacts of extending the period of affordability to 99 years, staff analyzed other jurisdictions to determine how long their affordability restriction were in place for and if there were any financing challenges. In Table B, there are four different jurisdictions, their affordability requirement and a summary of staff’s conversation on if there were any concerns or financing challenges with the period of affordability. All jurisdiction has shown no evidence or concerns of financing challenges.

Table B: Sampled Jurisdictions

Jurisdiction	Affordability Requirement	Summary of Discussion
San Francisco	Permanent	No evidence of financing challenges
City of West Hollywood	Life of the improvements	Never received concerns about requirement
City of Berkeley	In perpetuity	Never received concerns about requirement during the tenure. Requirement active since 1990s.
City of Cupertino	99 years	Never received concerns about requirement. Requirement active since 1990s.

2) Recommendation: Apply the Inclusionary Housing Ordinance to developments with 10 units or more and set the fee at a lower rate for projects with less than 20 units that provide at least 90% of the density allowed on the site.

During the City Council discussion, there was concerned about unique circumstances faced by some small projects that impact feasibility. According to the [Keyser Marston Associates \(KMA\) report](#), lower density projects were the most profitable building types. Small for-sale single-family home and townhome developments have profit margins that allow for them to satisfy the Inclusionary Housing Ordinance and generate profits between 10% and 15%. Small rental projects between 3 to 19 units are currently subject to the Affordable Housing Impact fee of \$18.26 per square foot.

The City’s prior Inclusionary Housing Policy applied to all new residential developments with 11 or more units build within redevelopment project areas. Staff recommends to start the minimum threshold for the Inclusionary Housing Ordinance to be 10 or more units.

Incentivizing Density for Small Projects

The City Council requested staff to consider methods for incentivizing density in small projects when considering whether to include 5-19 unit projects in the Inclusionary Housing Ordinance.

The recommendation is to apply the ordinance to developments of 10 or more units and would allow developments between 10 to 19 units that build enough units to meet 90% of the allowed density in the General Plan to be charged at half the rate of the in-lieu fee. Projects that do not achieve that level of density would pay the full Inclusionary Housing Ordinance in lieu fee (\$43 in high cost areas and \$18.26 in moderate cost areas) and projects that meet the 90% of allowed density would be at half the rate. In some cases, this incentive may encourage developers to build larger projects on a given site. In other cases, the development may be redesigned to accommodate a larger number of units in order to achieve the 90% threshold. This could increase the total number of housing units produced. Table C illustrates the in-lieu fees for projects with 10 to 19 units.

Table C: Proposed in-lieu fees for projects with 10 to 19 units

Project Size	Rental	For-Sale
20 units or more	\$43 per square foot (psf)	\$25 psf
10 to 19 units without 90% Density	\$43 psf	\$25 psf
10 to 19 units with 90% Density	\$21.50 psf	\$12.50 psf

3) Recommendation: Encouraging innovative partnerships in order to maximize affordable housing through Clustering compliance option

In response to the City Council's direction, the Inclusionary Housing Ordinance allows developers to choose from a menu of compliance options to meet the affordable housing obligation. In order to encourage innovative partnerships between market rate developers and affordable developers, developers have an existing option to provide an Alternative method compliance option under Municipal Code Section 5.08.610.F.

Under the current ordinance, the developer may propose an Alternative method of meeting inclusionary housing requirements that does not strictly comply with the requirements of the Inclusionary Housing Ordinance. The City Manager may approve such an alternative if it is determined, based on substantial evidence, and which determination shall be specified in the affordable housing plan, that the alternative will provide as much or more affordable housing at the same or lower income levels, and of the same or superior quality of design and construction, and will otherwise provide greater public benefit, than compliance with the express requirements of the Inclusionary Housing Ordinance and the guidelines.

The Department is proposing the addition of a Clustering option to encourage innovative partnerships. The Clustering option would apply 15% on-site affordability requirement to projects that appropriately cluster affordable units on the same site or on another site immediately adjacent, provided that: the two sites are contiguous parcels as defined under

Municipal Code Section 5.08.160 (touching or across the street with no other parcels in between); project amenities, location and other design characteristics in the affordable projects are comparable to the market rate. In order to access affordable housing financing through the Notice of Funding Availability for the 100% affordable development, the developer of the market rate project must demonstrate a meaningful financial contribution to the clustered affordable project.

The proposed amendments to the Ordinance will also encourage innovative partnerships by including a new SB 35 option consistent with the memorandum from Councilmember Jones that was adopted on November 5, 2019.

3) Recommendation: Streamlining Inclusionary Housing Ordinance compliance requirements for 100% affordable housing developments

To encourage more affordable housing production, staff recommends amending the procedures for the Inclusionary Affordable Housing Agreement to be streamlined for 100% affordable housing developments that will also be recording Density Bonus, SB 35, or other state mandated regulatory agreements. Currently, the ordinance does not allow and there has not been a process established to allow the Affordable Housing Agreement to be combined with the state mandated regulatory agreements affordable developments in order to minimized additional burden. To streamline the process, staff proposes to add more flexible language regarding the Affordable Housing Agreement allowing it to be incorporated into a State Density Bonus or State streamlining regulatory agreement and add implementing procedures to the Inclusionary Guidelines and to provide for potential merged monitoring. This will allow condensing of the requirements for affordable housing into one recorded regulatory agreement.

OUTCOME

Review of the recommended actions will provide staff with feedback on these outstanding items in order to help facilitate the development of both market rate and affordable housing.

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION

October 14, 2020

Subject: Inclusionary Housing Ordinance Proposed Revisions

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FOLLOW UP/NEXT STEPS

The proposed Inclusionary Housing Ordinance revisions will return to City Council in November 2020.

/s/

JACKY MORALES-FERRAND

Director, Housing Department

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