

**TO: Envision San José 2040
4-Year Review Task Force**

FROM: Jared Hart

**SUBJECT: July 30, 2020
TASK FORCE MEETING**

DATE: July 23, 2020

This memorandum provides information to assist you in preparation for the July 30, 2020 Envision San José 2040 Task Force meeting. Links to the referenced documents and other resource materials (e.g., reading materials and correspondence) are posted on the Envision San José 2040 4-Year Review website (<http://www.sanjoseca.gov/generalplanreview>).

The following is a summary of agenda items for the July 30, 2020 Task Force meeting:

Agenda Item 2 – Approval of February 27, 2020 & June 25, 2020 Meeting Synopses

The Task Force will vote to approve the meeting minutes for the February 27th and June 25th Task Force meetings.

Agenda Item 3 – Recap & Refinements on Opportunity Housing

Staff will present a brief synopsis and refinements to their recommendation on Opportunity Housing from the February 27, 2020 Task Force meeting. Task Force members will be given an opportunity to discuss, provide input, and ask questions about staff recommendations. Members of the community will be provided with an opportunity to address the Task Force. Task Force members will then vote on staff recommendations on Opportunity Housing.

Staff has developed a conceptual map of the potential areas throughout the City that could qualify under Opportunity Housing and a list of frequently asked questions in response to Task Force and public queries (See Attachments A and B).

Recommendation Summary

Staff recommends establishing a conceptual Opportunity Housing policy framework and work plan through the General Plan Four-Year Review process. The conceptual policy framework would be used as a starting point for further research on Opportunity Housing as part of the work plan. The work plan would involve short-term and long-term tasks including, but not limited to, completing public outreach, a Cost Effectiveness Study, a Displacement Risk Assessment, General Plan amendments, Zoning Code updates, and design standards (see pages 2 and 3 for the complete list). As stated in the [General Plan Four-Year Review Scope memorandum](#), “If this proposal receives a favorable recommendation from the Task Force, much more work would need to be done to create a robust policy along with design guidelines.”

The conceptual policy framework, completed short-term tasks, and the list of long-term next steps will be presented to the City Council for approval in spring 2021. If approved, staff will proceed with the studies and changes listed in the long-term next steps. Once the long-term tasks are complete, staff will finalize the policy framework and return to City Council to present a complete Opportunity Housing Implementation Framework. Opportunity Housing would be allowed to develop only after all the long-term tasks are completed and only if the Implementation Framework is approved by City Council.

The conceptual policy framework that staff recommends includes an Opportunity Housing Overlay and associated policy text that allows up to four units on properties with a Residential Neighborhood land use designation if they:

1. Fall within the Opportunity Housing Overlay, generally defined by a half-mile walkshed from transit corridors and stations in transit oriented Urban Villages.
2. Share a property line with a property with a Mixed-Use Neighborhood, Urban Village, Transit Residential, Urban Residential, or Downtown General Plan land use designation, or with existing residential development with greater than two units where residential uses are allowed, if they fall outside of the Opportunity Housing Overlay.
3. Are not qualifying properties under the Apartment Rent Ordinance.
4. Have not been occupied by renters within the last seven years.
5. Have had no units that were withdrawn from the market on the site through the Ellis Act Ordinance in the last 15 years.
6. Adaptively reuse structures that are on or are eligible for inclusion on the City of San José's Historic Resources Inventory.
7. Are for purchase or limited to long-term rentals (90 days or more).

The Displacement Risk Analysis identified in the long-term steps should identify sites within disadvantaged communities at risk of displacement and should develop a plan for implementation that minimizes displacement including, but not limited to additional policies and/or phasing of Opportunity Housing. Additionally, staff will explore an incentive for on-site deed-restricted affordable units. The Cost Effectiveness Study identified in the short-term plan would help inform and create a feasible incentive to provide more affordable units as part of the long term tasks.

Unchanged Parameters of the Opportunity Housing Recommendation

Most parameters for Opportunity Housing presented in the February 27, 2020 Task Force [memorandum](#) remain unchanged. Criteria 3 through 6 listed above are identical to the original recommendation.

Staff intends to proceed with the following short-term and long-term next steps to advance Opportunity Housing in San Jose:

- a) Short-term steps are items to be included with the package of General Plan Four-Year Review recommendations considered by City Council (Spring 2021).
 - i. *General Plan Amendments* to incorporate an action item to direct staff to further study Opportunity Housing, establish an Opportunity Housing Overlay and policy, and to create an Implementation Framework (see long-term steps below).

- ii. *Cost Effectiveness Analysis* to determine if Opportunity Housing is viable to build and at what income levels.
 - iii. *Environmental Analysis* under the California Environmental Quality Act (CEQA) to evaluate the environmental effects of the conceptual policy framework.
- b) Long-term steps include additional work items to be completed prior to City Council consideration of the Opportunity Housing Implementation Framework.
- i. *Public Outreach* to seek public input on the conceptual Opportunity Housing policy framework recommended by the City Council and input on the Implementation Framework, including General Plan amendments, Zoning Code updates, and design standards.
 - ii. *Displacement Risk Analysis* to identify disadvantaged communities that would be most impacted by Opportunity Housing and identify strategies to address potential displacement.
 - iii. *General Plan Amendments* to establish an Opportunity Housing Overlay and policy to define where and how Opportunity Housing would be allowed and to update policy and land use designation changes to allow and better facilitate Opportunity Housing.
 - iv. *Zoning Code Updates* to establish development standards and the permit process for Opportunity Housing.
 - v. *Design Standards* to establish design standards that would provide for Opportunity Housing with architectural integrity.
 - vi. *Environmental Analysis* of the Opportunity Housing Implementation Framework including a final Opportunity Housing recommendation/locational extent, General Plan amendments, Zoning Code updates, design standards, and other associated changes.

Refinements to the Opportunity Housing Recommendation

Staff explored refinements to the previous Opportunity Housing recommendations including changes to the conceptual policy framework, options for location parameters, and recommendations for additional parameters to address issues with short term rentals, impacts to disadvantaged communities, and incentives to provide affordable housing.

Staff recommends that a General Plan Opportunity Housing Overlay be established as part of the long-term Implementation Framework. A Land Use Overlay provides clarity on which sites could be eligible for Opportunity Housing. Under the previous recommendation, staff proposed a General Plan policy that would only include the parameters of Opportunity Housing through policy text. Establishing a Land Use Overlay in addition to policy text would help provide transparency to staff and to the public on which properties would qualify for the initial screening for eligibility under Opportunity Housing.

The scope of work directed staff to allow Opportunity Housing on parcels:

“...proximate to transit-oriented Urban Villages or immediately adjacent to residential parcels with existing medium-density building types, e.g., duplexes or triplexes”

Based on the concept of a gradual transition from Transit Urban Villages, staff refined the methodology to define Opportunity Housing areas to be measured as a walkshed, using transit corridors and light rail and heavy rail stations as the point of origin. This differs from the previous staff recommendation which defined Opportunity Housing areas using a straight “as the crow flies” radius with the Transit Urban Village boundary as the point of origin. Staff recommends using the walkshed methodology because it uses the existing sidewalk and street network for a more accurate depiction of walkability to transit corridors and stations and serves as better metric of walkable access to transit, retail, and services.

In the previous staff recommendation, staff interpreted “proximate to transit-oriented Urban Villages” as a half-mile radius from Transit Urban Villages; however, staff appreciates that there may be multiple ways to interpret “proximate” and have analyzed an additional option that meets the transit-oriented development (TOD) criterion. The [General Plan Four-Year Review Scope memorandum](#) from Mayor Liccardo and Councilmembers Jimenez, Peralez, and Arenas discusses the background and intent behind Opportunity Housing that:

“...there remains a need for medium density "opportunity housing" that includes duplexes, triplexes, or fourplexes. Other major cities including Portland, Seattle, Minneapolis, and Vancouver have made, or are considering, similar changes. As we have seen recently with the increase in construction of Accessory Dwelling Units (ADUs) citywide following the changes made last summer, there is a clear demand for this type of housing. In our creation of Urban Village plans throughout the City, there is a constant challenge in finding the right balance in transitioning from high-density Urban Villages to low-density single-family home neighborhoods. By allowing medium-density adjacent to Urban Villages, it would provide a more gradual transition.”

Given that proximate is subjective and could have multiple interpretations, staff has developed and analyzed quarter-mile (0.25 mile) scenario for Task Force consideration and discussion. Consistent with staff’s previous recommendation, staff recommends using a half-mile distance to generally define the Opportunity Housing Overlay. However, staff analyzed both a half-mile (0.5 mile) and a quarter-mile (0.25 mile) walkshed for the Opportunity Housing TOD criterion. These walksheds served as a base to create conceptual Opportunity Housing areas. Staff then applied natural and human-made boundaries that separate neighborhoods (e.g., freeways and creeks) and neighborhood boundaries or streets to further refine these areas. The half-mile boundary would include approximately 30,000 qualifying sites, while the quarter-mile boundary would include approximately 20,000 qualifying sites. There would be an approximately 30% difference in qualifying sites between the two scenarios. Since the February 2020 Task Force meeting, staff has updated data sources to be more accurate and applied more quality control by excluding sites such as mobilehome parks and other unsuitable sites that were captured in the general policy language of the first recommendation.

Staff interpretation of the second part of the location description in the scope of work, “immediately adjacent to residential parcels with existing medium-density building types” will remain unchanged from the previous recommendation. Outside of areas proximate to transit-oriented Urban Villages, to qualify for Opportunity Housing, a site must share a property line with existing multi-family (two or more) residential development where residential uses are allowed or has a General Plan land use designation of Mixed-Use Neighborhood, Urban Village, Transit Residential, Urban Residential, or Downtown. Because it is not possible to ground-truth all sites adjacent to existing multi-family residential uses, staff recommends the locational criterion outside of areas proximate to transit-oriented Urban Villages be implemented through a General Plan policy rather than an overlay.

Equity & Displacement

In exploring the two scenarios described above, staff analyzed data from public sources for impacts to disadvantaged communities at risk of displacement. Staff found that many of San José’s disadvantaged communities are located near the boundary of Transit Urban Villages, particularly in East San José. The general trend between the two walksheds (half-mile and quarter-mile) showed that when the boundaries of Opportunity Housing areas are pulled in closer to the Transit Urban Village boundary, the number of housing Opportunity Housing sites in higher resource areas¹ is reduced. Higher resource areas are generally located further away from transit. In areas around certain Transit Urban Villages, such as villages along the West San Carlos Street corridor and along East Capitol Expressway, the half-mile walkshed captures moderate to highest resource areas further from the Transit Urban Village; therefore, by shrinking the radius closer to the Transit Urban Village boundary there will be less qualifying sites in moderate to highest resource areas. Decreasing qualifying Opportunity Housing sites in higher resource areas would provide less opportunity for lower income households to live in higher resource areas and could potentially increase displacement pressure in lower income communities.

The Displacement Risk Analysis recommended by staff as part of the long-term steps to implement Opportunity Housing would identify areas at risk for displacement and establish ways to implement Opportunity Housing that could minimize the impact of displacement on disadvantaged communities. For example, this could include additional policies applied to areas of high displacement risk, adjustments to the Opportunity Housing Overlay, and/or a delay in implementation of Opportunity Housing in disadvantaged areas at risk of displacement. Staff also recommends exploring an affordable housing incentive to create more deed-restricted affordable housing. The Cost Effectiveness Study will help inform the research into an affordable housing incentive that would be created as part of our long term tasks. The Cost Effectiveness Study will take place before Spring 2021 and could identify the financial hurdles to building market rate and affordable Opportunity Housing. An incentive could resemble the affordable housing density bonus in Portland, Oregon’s Opportunity Housing-equivalent program. In Portland, floor area ratio (FAR) bonuses are extended to Opportunity Housing developments that provided at least one affordable housing unit at a moderate income level (80 percent of area median income).² Other cities have incorporated density bonuses for affordable units; however, staff believes that the density bonus or affordable housing incentive should be modeled based on issues specific to San José. Finally, staff also recommends limiting Opportunity Housing to long-term rentals of 90 or more days to prevent new affordable-by-design housing stock to be listed for short-term rentals that exacerbate the current housing crisis.

State Legislation Related to Opportunity Housing

Recent proposed State laws have attempted to or are proposing land use changes statewide that would facilitate the concept of Opportunity Housing. Other past bills, including well-known Senate Bill 50 (SB 50) failed to pass the Senate, but newly proposed legislation that involve Opportunity Housing have been proposed:

- **SB-1120:** This bill would allow duplexes and lot splits (two equal sized lots of no less than 1,200 square feet) citywide in any single-family zoning district through a ministerial (no public hearing) permit. Development allowed under this bill would limit demolition of existing structures to 25 percent of exterior walls, unless local ordinance indicates otherwise or vacant for three or more years. Properties in historic districts or are designated a historic landmark or property would not be ministerially approved under this bill. Other exclusions to this bill include rent-controlled units, income-restricted units, units occupied by renters within the last 3 years, and parcels where the Ellis Act has been used in the past 15 years.
- **SB-902:** This bill would allow cities to adopt zoning to allow up to 10 units per parcel, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, and such zoning ordinance will be exempt from CEQA.
- **AB-3040:** This bill would allow cities to include properties with single-family homes as part of the Regional Housing Need Allocation (RHNA) inventory in its General Plan Housing Element if it is allowed four dwelling units by right. Cities would have to adopt a resolution or ordinance that establishes that the four units may be developed by right on the site.

Next Meeting

The next meeting is scheduled for August 20, 2020 at 6:00 p.m. This meeting will discuss Coyote Valley and shifts of Planned Growth Capacity.

If you have any questions, please contact either myself or Kieulan Pham. I can be reached by phone at (408) 535-7896 or by email at: Jared.Hart@sanjoseca.gov. Kieulan can be reached by phone at (408) 535-3844 or by email at: Kieulan.Pham@sanjoseca.gov.

Jared Hart
Division Manager

Attachments:

- Attachment A: Conceptual Opportunity Housing Areas Map
- Attachment B: Opportunity Housing Frequently Asked Questions

¹ Resource Areas are established annually by the California Fair Housing Task Force in the TCAC/HCD Opportunity Map, including factors such as income, educational outcomes, employment, environmental quality, low concentrations of race and poverty, etc. Higher Resource Areas typically have the characteristics of minimal residential segregation, less income inequality, quality primary schools, greater social capital, and greater family stability. They provide access to certain amenities or community attributes that are believed to increase economic mobility for their residents.

² City of Portland (2020, February 13), Residential Infill Project Potential Amendment Concepts, https://www.portland.gov/sites/default/files/2019-12/8-pager_recommended_draft_8.5x11_updated_090519.pdf, Page 6.