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Leslye Corsiglia  
*Executive Director*

**TRANSMITTED VIA EMAIL**

November 18, 2020

2040 General Plan Four-Year Review Task Force  
City of San Jose

Dear Task Force Chairs, Members, and City Staff,

**Re: Summary of Task Force Recommendations**

We write today to request a number of changes to the Summary of Task Force Recommendations contained in Attachment F to ensure that the recommendations accurately capture and record the substance and intent of the Task Force's work. We appreciate the significant work and investment made to this process by City Staff and our fellow Task Force members. We would like to especially acknowledge the work of Co-chairs Pandori and Alvarado, who have shepherded us through this process as we endeavored to engage in complex and challenging policy questions in extraordinary times.

Our primary concern relates to the work item, "Explore changes to commercial space requirements for affordable housing developments," which we believe is the only item from the Task Force's Workplan that was never explicitly agendaized. This significant policy issue was included in the Housing Crisis Workplan in 2018 - #19 in the latest update of work items - and referred to the Task Force for deliberation and recommendations.

Over the course of the Task Force's work we have written or co-written three letters (attached below), and shared numerous oral comments, voicing concern that the work item was not being discussed, or was being integrated in limited ways into other items not originally part of the Task Force's scope of work. Other members of the Task Force, including Task-Force member Ray Bramson of Destination: Home, Co-Chair Pandori, Director Hughey, Councilmember Davis, and Councilmember Arenas, raised similar concerns that the item was not agendaized or was not being fully considered in the way intended by the City Council.

Nonetheless, the Task Force took two votes to recommend eliminating commercial requirements for 100% affordable housing.

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Re: Summary of Task Force Recommendations

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- The first was on January 29<sup>th</sup>, when the Task Force (with a single no vote) supported a motion from member Bramson to eliminate the requirement within Urban Villages regardless of whether there was an existing Council adopted Urban Village Plan. We do not believe that this was accurately represented in the summary of Task Force recommendations.
- The second was at the June meeting, where a motion similarly passed with a single no vote, and was reflective of the original workplan item to remove these requirements **citywide**. This vote is also not accurately represented in the summary, as it is mistakenly included under General Plan Policy H-2.9.

We know that city staff has long had misgivings about this policy issue. It is entirely reasonable for staff to decide they do not support a specific recommendation of the task force, and to explain their reasoning to the City Council when the recommendations are delivered. It is nonetheless staff's obligation to accurately report what the Task Force's recommendations were. In this case we believe the record does not accurately reflect the recommendations of the task force, despite continued efforts to clarify the scope of work we were charged with as it pertained to commercial space requirements for affordable housing developments.

We have three additional concerns. Unfortunately, the recordings have not been made available for the two most recent meetings, so it is difficult to tell if the concerns stem from a lack of clarity in the motions, or a misunderstanding of the motion as recorded for the synopsis. Nonetheless, our hope is that they can be incorporated into the record as clarifications of intent.

- The first relates to the "Opportunity Housing" recommendation. It is our memory that this policy would address opportunities for both renters and homeowners. We believe this should be stated clearly in the recommendations.
- The second is regarding "The jobs/housing imbalance" listed among the friendly amendments to the motion to accept Staff Recommendations on Updates to Vehicle Miles Traveled (VMT) Policies (9/21/2020). We raised this issue and included the request that this consideration include "jobs/housing fit," which is a common measure of the ratio between the number of low-paid jobs and the number of homes that would be affordable to those workers. (For example, in 2015 Cupertino had 13.7 low-paid jobs for every affordable home, and San Jose had 4.5 low-paid jobs for every affordable home.) This measure is an important indicator of workers who are either commuting from other jurisdictions, are significantly rent-burdened, or are living in overcrowded or substandard conditions. At two points in the meeting synopsis there is mention of the need to incorporate this measure along with the more commonly used jobs/housing imbalance metric. We ask that consideration of the jobs/housing fit be added to the recommendations, as we know that lower wage workers are increasingly priced out of San Jose and commute back into work from areas with lower housing costs or more affordable housing.

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Re: Summary of Task Force Recommendations

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- Finally, we have a concern related to the recommendations regarding jobs and housing capacity shifts (redistribution of planned growth) from the last meeting (10/29/2020). The summary of recommendations lists “With every four year review, provide the opportunity to explore housing.” The intent of the motion was to acknowledge that the residential capacity shifted to the Downtown Core and Station Area would be insufficient over the long term, and that the review include a standing item to assess where residential capacity limits may be preventing or discouraging housing production.

Once again, we appreciate all the time and energy that has been invested in this process. Our intent here is to ensure that all this work is well represented. Thank you all for consideration of these concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leslye Corsiglia".

Leslye Corsiglia  
Executive Director



## TRANSMITTED VIA EMAIL

January 29, 2020

2040 General Plan Four-Year Review Task Force  
City of San Jose

Dear Task Force Chairs, Members, and City Staff.

**Re: Commercial Requirements in 100% Affordable Developments**

We are pleased that the commercial/retail requirements for 100% affordable developments is a part of the scope of work for the Task Force. The City Council made this a priority in the Housing Crisis Workplan (#22), and staff proposed to include it in the Four-Year Review process.

This is an important issue—requirements for commercial space in affordable developments pose significant challenges, **largely because affordable housing funds cannot be used to finish the commercial space and prepare it for occupancy.**

First, we must express our concern that the policy solution proposed by staff applies only to affordable housing developed in Urban Villages and not citywide. The original staff proposal, adopted by the City Council through the Housing Crisis Workplan in January, 2018, was not limited to Urban Villages. Nor was this item listed as an Urban Village Policy item in the Scope of Work, or the initial agenda provided to the Task Force ahead of the November meeting. This is a broader policy discussion that both staff and the Council intended to apply to the city as a whole.

Secondly, we do not believe that the staff recommendation adequately addresses the challenges faced by affordable housing developers. The examples included in the letter signed by Destination: Home and developers of Permanent Supportive Housing in the City clearly illustrate the challenges.

We are not the only ones expressing concern. The City staff itself raised concerns in the Housing Crisis Workplan – “There are three issues that consistently arise with the ground floor commercial requirement for an affordable housing development: 1) Commercial interior spaces sometimes remain unimproved which adds additional risk to the affordable housing development; 2) ground floor commercial space is sometimes difficult to rent once it is completed, and rents derived are frequently low; and 3) ground floor commercial space reduces the number of affordable apartments that can be created which in turn increases per unit subsidy requirements.”

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**Staff**

Leslye Corsiglia  
*Executive Director*

General Plan Task Force Chairs, Members, and City Staff.

January 29, 2020

Re: Commercial Requirements in 100% Affordable Developments

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In response, we offer the following policy recommendations:

- Ground floor retail/commercial requirements should be eliminated
- In cases where nonprofit developers and city staff have agreed that integrating ground floor retail/commercial is both desirable and feasible, the city should:
  - Identify a fund to pay for the construction and build out of the space
  - Support ground floor uses for service and programming needs of the new residents
  - Actively promote these spaces for use by nonprofit community, childcare and arts organizations

While we know that the issue of commercial space and market-rate housing is not on the list of Task Force topics, we also believe there is a need to adopt best practices guidelines for ground floor commercial development in market-rate residential buildings. The nature of retail is changing, and this should be acknowledged and creative solutions should be embraced.

We ask that the City consider the following policy recommendations for market-rate residential development:

- Incentives should be in place that allow developers to reduce the amount of retail/commercial required when additional on-site affordable units are proposed.
- Community uses should be allowed to fill ground floor sites until the local market can support retail/commercial.
- Commercial FAR requirements should not result in the need for a development to add retail/commercial space to a second or mezzanine level.
- Conduct an analysis of current best practices to determine where retail is successful, including the viability of retail/commercial based on its distance from major intersections.

Thank you for the opportunity to express our concerns and provide our policy solutions.

Sincerely,



Leslye Corsiglia  
Executive Director

TRANSMITTED VIA EMAIL



June 24, 2020

2040 General Plan Four-Year Review Task Force  
City of San Jose

**Re: Agenda for the June 25<sup>th</sup> General Plan Four-Year Review Task Force**

Dear General Plan Four-Year Review Task Force Co-chairs, Task Force Members, and City Staff.

We are writing to the Task Force today to express concern about the agenda for tomorrow's meeting. The Task Force was notified on June 9<sup>th</sup>, that "(t)he topic is Commercial Requirements for Affordable Housing Citywide, a follow-up item from the January Task Force meeting. The agenda and overview memo will be coming soon." Unfortunately, this is not the topic listed on tomorrow's agenda. Instead staff is presenting a much more limited modification to another isolated policy area that does not address the problems posed by commercial/retail requirements for affordable housing developments citywide.

Prior to the January meeting each of our organizations [wrote expressing concern](#) about both the widely acknowledged impact that commercial/retail requirements have on making affordable housing difficult if not impossible to build, and the fact that the council direction was to review these policies "citywide." Much to our frustration, and the frustration of many task force members in attendance, the discussion and vote taken at that meeting were limited to removing the commercial and retail requirements for affordable housing in Urban Villages. At that time Director Hughey confirmed that the item was intended to apply "citywide," and that the item would need to be brought back for an additional vote.

**We respectfully ask that the Task Force be given the opportunity to vote on a recommendation that removes the requirement for commercial and retail space for 100% affordable housing citywide, as intended following our January meeting.**

We would further ask that the Task Force consider supporting a recommendation that city staff begin work on a program to subsidize the integration of ground floor, retail/commercial uses in cases where nonprofit developers and city staff have agreed that this is desirable and feasible.

We believe this program should: Identify a fund to pay for the construction and build out of the space; support ground floor uses for service and programming needs of the new residents; and, actively promote these spaces for use by nonprofit community, childcare and arts organizations

These are policy issues central to the viability of 100% affordable projects throughout the city.

Leslye Corsiglia  
SV@Home

Ray Bramson  
Destination: Home

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**Staff**

Leslye Corsiglia  
*Executive Director*

**TRANSMITTED VIA EMAIL**

July 24, 2020

2040 General Plan Four-Year Review Task Force  
City of San Jose

Dear General Plan Four-Year Review Task Force Co-chairs, Task Force Members, and  
City Staff.

**Re: Commercial Requirements for Affordable Housing  
and the 1 ½ Acre Rule (Policy H-2.9)**

I write today to follow up on the conversation at the June Task Force meeting where the  
topic was the elimination of commercial space for affordable housing developments.

At the January Task Force meeting, staff brought forward a recommendation to  
eliminate the requirement for affordable housing to incorporate ground floor  
commercial in Urban Villages. While the Task Force voted to approve the staff  
recommendation, it was clarified that the Council direction was broader-- to consider  
elimination of the commercial requirements throughout the city. Staff agreed, and  
indicated that they would bring the issue back to the future meeting.

At the June Task Force meeting, staff brought forward the recommendation to  
eliminate the requirement for ground floor commercial for projects that sought to use  
the 1 ½ acre rule. Again, it was clarified that the Council direction was to consider  
elimination of commercial requirements throughout the City. The Task Force voted to  
approve the staff recommendation as it related to the 1 ½ acre rule policy **and voted to  
establish a citywide policy that eliminates a requirement that 100% affordable  
housing include commercial space.**

Because the staff had raised this issue in the context of the 1 ½ acre rule, the Task Force  
spent a considerable period of time discussing the policy, which was not part of the  
original Task Force scope. However, because of the conversation that took place there  
was a resulting recommendation relating to that rule.

Specifically, **the Task Force voted that the staff should move quickly to resolve the  
issues that have kept the 1 ½ acre rule from being fully implemented.** As the staff  
reported, only one project to date has been approved using that rule. The challenge is  
the wording in the policy that says that an eligible site must be vacant or underutilized.  
The term 'underutilized' has not been defined.

Policy H-2.9 is a policy of the General Plan 2040, which lays out how affordable housing  
developments can move forward on small, remnant parcels that are zoned for  
commercial use. In previous years, the City had several discretionary alternate use  
policies that were intended to provide flexibility as the City sought to provide



additional affordable housing opportunities and encourage infill development. These policies were key components of the City's Housing Element, one of the mandated elements of the General Plan.

One of these discretionary alternate use policies was the 2-acre rule, which enabled affordable housing to move forward on smaller sites. This policy did not include a requirement that the parcel be vacant or underutilized, though in practice the affordable housing developments that successfully used the policy were mostly (if not all) built on sites that were vacant. There was a limit on the number of acres of land that could be converted each year (no more than 10 acres). Many affordable housing projects serving the City's lower-income residents that are successfully operating today were able to take advantage of the 2-acre rule.

When the City approved the Employment Lands Framework in 2007, the 2-acre rule was eliminated as part of the ban on employment land conversion. Nine years later, during the first four-year review in 2016, the 1 ½ acre rule was proposed and included in the updated General Plan. Two years later, changes were made to the 1 ½ acre rule to make it easier to use, however the question of the definition of underutilized was not addressed. When the Housing Crisis Workplan was approved by the City Council in 2018, it was stated that Planning staff would complete a comprehensive review of GP policy H-2.9, including development of an objective definition of "underutilized" and "viability of surrounding commercial properties." It was expected that this work would be completed by the summer of 2019.

In response to Task Force questions about the number of potential parcels that might take advantage of the 1 1/2 acre rule, staff indicated that they had compiled a list of approximately 1,000 potential parcels. It is important to note that this list has not been scrubbed in any way. It is merely a list of commercial parcels in the City that are 1 ½ acre or less in size. If the list were scrubbed to consider current uses and the appropriateness of the site for affordable housing development, the number of potential properties would be considerably lower. It is also important to note that relatively few affordable housing projects move forward each year given the amount of funding available. When the 2-acre rule was in place, projects did use the rule, but it was a small number overall, and as already mentioned there was a limit on the number of acres that could be converted. It is highly unlikely that the 1 1/2 acre rule-- once the definition of underutilized is agreed upon-- would result in wholesale development of small commercial parcels.

It is time to define underutilized. We have an affordable housing crisis that has been made even more dire due to the current health crisis. **We ask that the Planning Department heed the Task Force request that staff arrive at a definition as soon as possible and not wait until the General Plan four-year review process is completed and presented to the City Council.**

We do know the staff has put some thought into this, and hope that with some additional conversation the definition can be agreed upon and brought forward to the City Council. We are happy, as I would assume other members of the affordable housing community would be, to engage in conversations that lead us to an acceptable definition and that make General Plan Policy H- 2.9 a workable alternative as the City seeks ways it can respond to its affordable housing crisis.

Sincerely,



Leslye Corsiglia  
Executive Director

c. Mayor and City Council  
Dave Sykes, City Manager  
Jackv Morales-Ferrand, Director of Housing

