



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** May 29, 2009

**COUNCIL DISTRICT:** Citywide  
**SNI AREA:** N/A

**SUBJECT: GP08-T-06 (HOUSING ELEMENT UPDATE) CITY-INITIATED GENERAL PLAN TEXT AMENDMENT REQUEST TO REVISE THE SAN JOSE 2020 GENERAL PLAN TEXT AND APPENDIX C: HOUSING, TO UPDATE DEMOGRAPHIC AND HOUSING DATA, GOALS, POLICIES, THE MINIMUM DENSITIES OF SELECTED LAND USE DESIGNATIONS, AND IMPLEMENTATION ACTIONS FOR THE 2007-2014 PLANNING PERIOD, AS WELL AS OTHER MINOR TECHNICAL, CLARIFYING AND CLERICAL REVISIONS, AS NECESSARY, TO COMPLY WITH STATE HOUSING ELEMENT LAW (GOVERNMENT CODE SECTION 65580-65589.8).**

## RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend approval of the General Plan text amendment request to revise the *San José 2020 General Plan* including "Appendix C: Housing," to update demographic and housing data, goals, policies, the minimum densities of selected land use designations, and implementation actions for the 2007-2014 planning period, as well as other minor technical, clarifying and clerical revisions, as necessary, to comply with State Housing Element Law (Government Code Section 65580-65589.8).

## OUTCOME

Should the City Council approve the Housing Element Update, the revised Housing Element would be submitted to the State Housing and Community Development Department (HCD) by June 30, 2009 for certification as required by State law. The outcomes associated with the Housing Element Update include:

1. Completing a Housing Element that fully complies with State law and obtains HCD certification in order to maintain the City's eligibility for State and regional housing and infrastructure funding;
2. Identifying specific locations and land use policy measures to demonstrate that the City has a viable plan to meet its share of the Bay Area Regional Housing Needs Allocation (RHNA) through 2014; and

3. Developing a comprehensive implementation strategy to facilitate housing development at all income levels through 2014.

## **BACKGROUND**

The Housing Element is a State-mandated component of local General Plans. Typically updated every five years, the Element quantifies a city's housing needs, specifies policies and programs to assist in the provision of housing across income categories, and identifies strategies for a city to meet its share of the regional housing needs allocation (RHNA). For all cities and counties in the Bay Area under the purview of the Association of Bay Area Governments (ABAG), including the City of San José, the Housing Element must be approved by the respective local jurisdiction and submitted to the State's Department of Housing and Community Development (HCD) for certification by June 30, 2009. If certified, the Housing Element would be valid until June 30, 2014. HCD certification of the Housing Element also creates a presumption of validity of the Housing Element pursuant to state law.

The City of San José's total RHNA share for the Housing Element update period is 34,721 units composed of the following unit types: 3,876 extremely low-income (ELI) units; 3,875 very low-income (VLI) units; 5,322 low-income (LI) units; 6,198 moderate-income (MOD) units; and 15,450 above moderate-income (Above MOD) units. This allocation represents a 33% increase in the overall housing needs from the previous 1999-2006 RHNA, with substantial increases in the LI and VLI categories. Although the City met its previous overall RHNA share, the City's larger housing allocation for the current period of 2007-2014, combined with the current economic and housing downturn, creates significant challenges for actual housing production to meet the RHNA goals.

Since initiating the Housing Element Update in early 2008, City staff has undertaken extensive outreach (discussed in more detail in the Public Outreach section of this memorandum) to solicit public comments on the issues the City should consider as part of the Housing Element Update. Based on these public comments and staff analysis, City staff completed a preliminary draft of the Housing Element Update. This preliminary draft was submitted to HCD on March 10, 2009 for a 60-day review, during which staff continued to solicit public comments through community meetings and presentations at Council Committee meetings, the City's Housing and Community Development Advisory Commission, and the Planning Commission. Staff received positive feedback from HCD, the public, Council Committees and the Planning Commission on the draft document. The latest draft of the Housing Element Update includes revisions based upon the comments received from HCD and public feedback on the draft document, and it is posted on the Internet at:

[http://www.sanjoseca.gov/planning/gp/special\\_study/housing\\_element/HE\\_update.asp](http://www.sanjoseca.gov/planning/gp/special_study/housing_element/HE_update.asp)

## **ANALYSIS**

On May 13, 2009, the Planning Commission held a public hearing to consider the subject Housing Element Update. The Director of Planning recommended approval of the Housing Element Update.

### Public Testimony

There were no public speakers on this item.

### Planning Commission Discussion

Chair Zito inquired about the proposed increases to the required density for development under certain General Plan Discretionary Alternate Use Policies (DAUP). The *Residential Uses on Commercially Designated Parcels* and *Residential Density Increases Along Major Transportation Arterials or Corridors* DAUP currently require residential development at a minimum density of 17 dwelling units per acre (du/ac) without a General Plan amendment. Staff noted that as part of the Housing Element Update, the minimum density for these DAUP and other selected General Plan Land Use Designations is proposed to increase to 30 du/ac. Staff explained that State law requires HCD to accept sites with minimum density requirements of 30 du/ac as capacity for affordable housing, and that the proposed density increase is also intended to support mixed use and commercial and residential development within 2,000 feet of passenger rail stations and Bus Rapid Transit. The Commission suggested that the policy for *Residential Density Increases Along Major Transportation Arterials or Corridors* DAUP be revised to *Residential Density Increases Along Major Transit Arterials or Corridors* to focus development on arterials or corridors with transit facilities.

Commissioner Cahan noted the importance of coordinating with school districts, and Chair Zito asked whether the Housing Element Update provides an opportunity to add policies that address school capacity issues and parkland in the General Plan. Staff responded that the General Plan contains policies to encourage coordination between the City and school districts during the development review process, and that goals and policies addressing parkland and open space are also contained in the existing General Plan.

Regarding parking requirements, Commissioners Campos and Kamkar suggested providing specific details on how parking reductions are considered during the development review stage and the basis for approving parking reductions so that developers can have more certainty in the process. Commissioner Kamkar also expressed concerns over reduced parking requirements for projects based on proximity to transit. He noted that the adequacy of the transit service and whether future funding is available for that service should be taken into consideration in evaluating parking reductions for a particular project. Laurel Prevetti, Assistant Director of Planning, Building and Code Enforcement, responded that the Zoning Ordinance allows for a 10% parking reduction if a project is within certain distance of mass transit, and that this reduction is allowed on a case-by-case basis, which allows City staff and the Planning Commission an opportunity to review individual development proposals as they are submitted. Assistant Director Prevetti also noted that the purpose of the Housing Element is to identify how the City is facilitating housing development for all segments of the community.

Commissioner Jensen acknowledged the City's success in meeting the 1999-2006 Regional Housing Needs Allocation (RHNA) goal, and asked whether the rate of residential development in the previous planning period, if it were not affected by the current housing market downturn, would have been sufficient to achieve the current 2007-2014 RHNA goal. Staff noted that the current RHNA represents a significant increase from the allocation in the previous planning period, and that

the past rate of residential development would not have been sufficient to achieve the current RHNA totals.

Commissioner Jensen asked whether the Housing Element Update would be considered by the General Plan Update Taskforce. Assistant Director Prevetti stated that the Housing Element Update is on specific timeline prescribed by the State, and that the adopted Housing Element must be submitted to HCD by the June 30, 2009 deadline. Furthermore, she noted this Housing Element focuses on the 2007-2014 planning period, while the Envision 2040 General Plan update is looking at a long term future for housing.

The Commission recognized the extensive public outreach effort on the Housing Element Update and thanked staff for the effort. Commissioner Campos made a motion to recommend approval of File No. GP08-T-06, Housing Element Update, as recommended by staff. The Commission voted 7-0-0, to recommend approval of the Housing Element Update.

#### **EVALUATION AND FOLLOW-UP**

Should the City Council approve the Housing Element Update, the revised Housing Element will be submitted to HCD by June 30, 2009 for certification. Pursuant to State law, HCD has 90 days to provide comments or certify the document. Given that staff has been working closely with HCD, staff anticipates the Housing Element will be certified with the revisions contained in the latest draft document. However, in the event that HCD does not certify the Housing Element, staff will respond to HCD's concerns and return to Council with a modified document for approval and resubmission to HCD.

The Housing Element Update includes an Implementation Program for the 2007-2014 planning period. The individual action items in the program are necessary to maintain compliance with State law. The majority of the action items are existing housing programs implemented by the City's Housing Department. The remaining programs consist of process streamlining efforts implemented by Planning, Building and Code Enforcement that include improving service delivery and adopting design guidelines and Zoning code revisions to ease entitlement processing. A majority of these streamlining efforts are either ongoing or have been recently completed. Outstanding items include revising the Zoning Ordinance to adopt definitions for Transitional and Supportive Housing as required under SB 2 and establishing a multi-family conventional zoning district to allow higher density residential development without a Planned Development rezoning.

State law also requires preparation of annual progress reports on the implementation of the General Plan and Housing Element programs. Progress reports are due to the Office of Planning and Research (OPR) and HCD on April 1<sup>st</sup> of each year. The next annual progress report will discuss accomplishments in calendar year 2009, and staff anticipates presenting a report to the City Council in early 2010.

## **POLICY ALTERNATIVES**

### **Alternative 1. Defer the Housing Element Update to the Envision 2040 General Plan Update**

Pros: None

Cons: Deferring adoption of the Housing Element Update would cause the City to miss the June 30, 2009 deadline for submitting an adopted Housing Element to HCD for HCD certification. This affects the City's eligibility for funds available at the State and Regional level for housing programs and infrastructure improvements. Furthermore, jurisdictions that are out of compliance with State Housing Element law are vulnerable to litigation, do not have the advantage of a presumption of validity of the Housing Element that results from HCD certification, and, in a worst-case scenario, could have their land use authority suspended.

Reason for not recommending: Deferring the Housing Element Update would not meet the objective of submitting an adopted Housing Element to HCD by the June 30, 2009 deadline. This Housing Element Update focuses on the 2007-2014 planning period within the horizon of the existing San Jose 2020 General Plan. This Housing Element Update process adheres to a specific timeline and requirements required by State law. In contrast, the Envision 2040 General Plan Update is a parallel but separate planning process that focuses on the long term future beyond the horizon of the existing General Plan, and does not have a completion deadline bound by State law. Should the General Plan Update create future policies that may materially impact an adopted Housing Element, State law allows the Housing Element to be amended in order to be consistent with the General Plan. Therefore, staff does not recommend deferring the Housing Element Update.

### **Alternative 2. Deny the Housing Element Update.**

Pros: None

Cons: Denying the Housing Element Update would cause the City to miss the June 30, 2009 deadline for submitting an adopted Housing Element to HCD. This would result in the City being ineligible for State funding for housing programs and infrastructure improvements. Furthermore, the City may be vulnerable to litigation, would not have the advantage of a legal presumption of validity of the Housing Element that is afforded by HCD certification, and may have its land use authority suspended.

Reason for not recommending: Denying the Housing Element Update would cause the City to be out of compliance with State law and subject to potentially adverse legal consequences. Furthermore, this Housing Element Update is the product of an extensive public process involving the community, developers, housing advocates, City Committees and Commissions, and HCD. The analyses, policies, and programs contained in the Housing Element Update are consistent with the City's General Plan and State Housing Element law, and reflect input from the extensive public process. Therefore, staff does not recommend denying the Housing Element Update.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Housing Element law requires local governments to make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element. As part of this Housing Element update, the City pursued an extensive public outreach process that included meetings with City commissions, neighborhood/developer roundtable discussions, taskforce meetings and general community meetings. To date, at least twenty-four public events have been held to solicit input on the Housing Element. These meetings include those with the general community, developers, the General Plan Update Task Force, the Planning Commission, the Housing and Community Development Advisory Commission, and the Parks and Recreation Commission. Staff also presented the Housing Element Update to the City Council Community and Economic Development and Neighborhood Services and Education committees and the Strong Neighborhoods Initiative neighborhood committees. The implementation of a broad-based public outreach strategy is consistent with the adopted City Council Public Outreach Policy. In addition to citywide meetings, staff held several stakeholder focus group meetings with market-rate and affordable housing developers as well as service providers of special needs housing. The City also prepared a Housing Element brochure providing general information about the Housing Element Update process. The brochure is available in English, Spanish and Vietnamese so that all segments of the community can become aware of this process.

A website dedicated to the Housing Element Update was also created to provide a central clearinghouse of all information gathered from the community. Visitors to the website who subscribed to the Housing Element Update mailing list received status reports on the progress of the Housing Element Update and announcements for events. The latest Draft Housing Element is posted on the Internet at:

[http://www.sanjoseca.gov/planning/gp/special\\_study/housing\\_element/HE\\_update.asp](http://www.sanjoseca.gov/planning/gp/special_study/housing_element/HE_update.asp)

### **COORDINATION**

The Housing Element Update was coordinated with the Housing Department and the City Attorney's Office.

## **FISCAL/POLICY ALIGNMENT**

The Housing Element is consistent with applicable City goals and policies as discussed below.

### **Consistency with General Plan Major Strategies**

Implementation of the Housing Element should further City goals and policies in support of the San José 2020 General Plan. In particular, this past calendar year, progress in implementing the Housing Element reinforced the Growth Management, Housing, and Sustainable City Major Strategies in the General Plan.

The Growth Management Major Strategy addresses population growth by balancing it with economic development, and directing the growth to infill areas of the City that are centrally located with established infrastructure, so that the City can provide services, jobs, and housing to residents cost-effectively. Housing units approved or built in the City in 2008 were generally located on infill sites, and the City adopted new policies and process improvements to facilitate mixed residential and commercial development near transit and existing City services and infrastructure.

The Housing Major Strategy supports a variety of housing opportunities in the City to meet residential needs at all economic levels. Housing is intended to be located in neighborhoods that are stable with adequate urban services. The Housing Element Update to the General Plan identifies how the City plans to address the City's share of the RHNA during the 2007-2014 implementation periods to continue to implement this Major Strategy.

The Sustainable City Major Strategy promotes the development of the City as an environmentally and economically sustainable city through conservation and renewal of its natural resources and built environment, and through economic development of clean technology businesses. To further the intent of the Sustainable City, in October 2008, the City Council adopted the Private Sector Green Building Policy for new construction of commercial, industrial, residential high-rise, and other residential development consisting of at least 10 units. The principles included in the Private Sector Green Building Policy support energy and water efficiency, healthy living environments, and reduced operational costs over the life cycle of all types of buildings, including residences.

### **CEQA**

This proposed Housing Element Update identifies existing residential development capacity in the San Jose 2020 General Plan to accommodate the RHNA goal. Therefore, adoption of the updated Housing Element itself would not have an impact on the environment, and environmental impacts anticipated from the full build-out of the General Plan have been analyzed in the San Jose 2020 General Plan EIR and subsequent environmental documents amending the General Plan. These existing environmental documents are contained in the "List of Existing CEQA Documents for the 2007-2014 Housing Element Update." The CEQA determination and Initial Study checklist are available on the Internet at:

[http://www.sanjoseca.gov/planning/gp/special\\_study/housing\\_element/HE\\_update.asp](http://www.sanjoseca.gov/planning/gp/special_study/housing_element/HE_update.asp)

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*for* *Laurel Prevet*  
JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Laurel Prevet at 408-535-7901.

Attachments:

1. Planning Commission Staff Report
2. April 8, 2009 Status Report to the Planning Commission
3. Public Correspondence on the Housing Element Update process
4. CEQA Determination for the 2007-2014 Housing Element Update