

REPUBLIC URBAN PROPERTIES LLC  
WEST COAST DIVISION

June 4, 2010

Hon. Sam Liccardo, Co-Chair  
Hon. Shirley Lewis (retired), Co-Chair  
Hon. David Pandori (retired), Vice-Chair  
Fellow GP 2040 Task Force Members  
300 E. Santa Clara Street, 3<sup>rd</sup> Floor  
San Jose, CA 95113

RE: Written Commentary on Fiscally Sustainable Land Use Framework Policies: FS-4-8, 4.16 and 4.17

Dear Distinguished Members of the Envision 2040:

The “Fiscally Sustainable Land Use Framework Policies: FS-4-8, 4.16 and 4.17” that were discussed in the last GP Task Force Meeting (5-24-10) are, in my opinion, “anti-housing”. The below letter contains my concerns and case example regarding the overall tone, language and potential practices of the proposed land use policies that relate to the creation of new housing units within GP 2040’s future Transit Villages and Hubs.

This is my attempt at “Breaking the Plan”.

**Concerns:**

- In my professional opinion, the current “jobs conversion” ordinance in GP2020 as well policies being proposed in GP2040 are fundamentally flawed and will severely to hinder future mixed-use residential development, specifically; large scale “Village Developments”. The proposed housing “opportunities” have been described by Planning t as “occurring on under-utilized commercial properties around the city”. I see proposed conversion policies hindering new mixed-use, residential projects within the DRAFT “Housing Overlay Corridors” within Midtown/West San Carlos, Alum Rock etc. In the case of Midtown, new housing units will need to come from underutilized commercial zonings such as tattoo parlors and used car lots. Applying the current jobs conversion ordinance, as well as the future land use policies of 2040, a developer would need to conduct a “feasibility analysis to replace these “jobs” in the form of square footage within the new development. The end result will be a totally infeasible project, because too much commercial space will be required as part of the new development proposal. A developer cannot “carry” dark retail space within a development; the banks simply will not loan money to a project that cannot absorb retail/commercial space.

- The more retail/commercial space that is mandated with these proposed policies within a mixed-use development, the more parking stalls that will be required within the new development. This is a direct conflict with the Task Force/City's proposed goals of Vehicle Car Reduction. The current and proposed city standards for retail/commercial parking alone will create more parking within any one proposed mixed-use development that is mandated to re-create retail/commercial space. More parking stalls create more cars on the road. Less parking stalls contained within a new development creates more parking within existing neighborhoods.
- The polices will have an impact on the City's ability to deliver its regional share of affordable housing. The said land use polices will further hinder non-profit and for profit developer/builders from acquiring, entitling and financing (Housing/RDA) new projects. As noted, retail/commercial would need to be a large part of all new housing proposals, and this would limit housing density as more parking would be required for ground floor retail. The Silicon Valley Leadership Group's *2010 CEO Business Climate Survey* recently reported that local executives continue "to see housing costs as the number one problem for their employees." As a Task Force committed to attracting and retaining jobs in San Jose, we must look closely as the link between job development and an adequate supply of market rate and affordable housing on a regional perspective.
- The policies will create additional land use "politics" between developers and the neighborhoods creating more political pressure at City Hall. Should a developer fall short of re-creating old jobs because of market factor associated with lending policies, absorption or parking constraints, I envision bad land politics between planners and community groups. I fear this will create more pressure on both planning commissions and city councils as they make land use decisions on future large transit village proposals within the housing growth areas that are adjacent to prominent and politically active neighborhoods. Most large scale, transit villages will contain density, height and affordable housing, and these subjects are of great concern and debate within our great neighborhoods as they strive to maintain their quality of life. As I will explain below in my hypothetical transit village case example, there are no "winners" if a project is killed because of flawed development polices and bad politics.

### **Case Example: Midtown Housing Overlay Opportunity**

In advance of my example, I would like to make a request that the Planning Department provide the Task Force with a real example of a "Transit Village". This could help establish some overall context for how we can further debate and become educated on future Task Force policy decisions in front of the Housing Overlay and Housing Element discussions. At a minimum, this would assist the Task Force and the community participants on a better understanding of the look and feel of a Transit Village. In the spirit of this request, I have taken a unilateral attempt at case example of how these job

conversion policies could and are killing legitimate transit village housing proposals throughout the city.

OC McDonald and Mel Cotton's properties are located on West San Carlos Street in Midtown San Jose. The "Draft Generalized Land Use Plan with Housing Growth Areas" provides a "Village Overlay" to West San Carlos corridor which would presume to allow some sort of mixed-housing (ground floor retail with housing above) opportunities. The proposed fiscal land use policies in question would play a large role in this hypothetical case example as the process would involve the developer/property owner conducting a "feasibility study" to replace any and all jobs located on the properties. In the case of OC McDonald, it is an industrial zoned supply yard and office; while Mel Cottons is a sporting goods commercial zone. Mel Cottons could potentially relocate within the new development ground floor retail, but OC McDonald would not enjoy the same relocation ability for the obvious reasons that industrial uses could not and will not locate within a mixed-use development.

So what happens in the above case example? Do you create a development proposal absent of OC McDonald? That is one approach which would result in less housing density. The other approach (my personal favorite) would be taking a chance with the City's land use "politics". There is a "cause and effect" to the latter approach: If the developer/property owners "win" the political vote, then many people in the community feel like the developer and council did not listen nor did they follow/consult their own general plan. And if the project dies as a result of these policies, San Jose loses economic development and the ability to provide high density, affordable new housing in transit corridors; the core meaning of this general plan. This is a real life example of how these "anti-housing" policies could create real long-term problems for the neighborhoods, the development community and the future land use decision makers.

I urge the Planning Department and the Task Force to provide at least one "case example" of a transit village (let's take on Oakridge!) proposal to understand the consequences and challenges of 2040's proposed land use/economic development policies and goals. I would be happy to provide any and all resources as the lone developer/builder in the City processing a true, "Transit Village" – The Ohlone, and I can make my development professionals available for interaction on any and all subjects.

Regards,

***MVE***

Michael R. Van Every, Sr. Vice President  
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