TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

DATE: July 17, 2017

COUNCIL DISTRICT: 6

SUBJECT: GP17-005. AMENDMENT TO THE ENVISION SAN JOSE 2040
GENERAL PLAN LAND USE/TRANSPORTATION DIAGRAM
DESIGNATION FROM NEIGHBORHOOD/COMMUNITY
COMMERCIAL TO URBAN RESIDENTIAL ON AN APPROXIMATELY
0.28 GROSS ACRE SITE LOCATED ON THE WEST SIDE OF LINCOLN
AVENUE, APPROXIMATELY 82 FEET NORTHERLY OF LINCOLN
COURT (2119 LINCOLN AVENUE)

RECOMMENDATION

The Planning Commission voted 6-1 (Commissioner Yesney opposed) to forward the proposed General Plan Amendment to City Council with no recommendation.

OUTCOME

The Early Consideration process is utilized when staff determines that a proposed General Plan Amendment request is fundamentally inconsistent with the Major Strategies, goals and policies of the General Plan. Through the Early Consideration process, City Council can deny the proposed General Plan Amendment request or direct staff to continue processing the application to be considered during the fall General Plan Annual Review hearing.

Should the City Council deny the proposed General Plan Amendment during this Early Consideration process, the site would retain its current Land Use/Transportation Diagram designation of Neighborhood/Community Commercial.

Should the City Council provide direction to continue processing the application for further consideration, staff would complete the development review process for the proposed General Plan Amendment, including environmental analysis of the proposed land use change, and bring the request forward during the General Plan Annual Review hearing in the Fall of 2017. At that time, the City Council would consider the adequacy of the environmental review and would
determine whether to approve or deny the requested change to the site’s General Plan Land Use/Transportation Diagram land use designation from Neighborhood/Community Commercial to Urban Residential.

**BACKGROUND**

On May 24, 2017, the Planning Commission held a public hearing for Early Consideration of the proposed General Plan Amendment. The Planning Commission voted 6-1 (Commissioner Yesney opposed) to forward the General Plan Amendment to City Council with no recommendation. Staff’s recommendation was to deny the General Plan Amendment request.

**Staff Presentation**

Planning Staff stated that the proposed Amendment is in direct conflict with the following three *Envision San José 2040* General Plan Major Strategies:

- **Focused Growth**: Focus new growth capacity in specifically identified Growth Areas.
- **Innovation/Regional Employment Center**: Develop San Jose as an employment center.
- **Fiscally Strong City**: Support San Jose’s fiscal strength by making land use decisions that balance revenue and costs.

Staff noted that the proposed Urban Residential land use designation would allow a residential project up to 95 DU/AC, which would be inconsistent with the existing neighborhood character and scale. Furthermore, the subject site does not meet the criteria defined in the Urban Residential land use designation that states where the designation should be applied, such as within and in close proximity to Urban Villages, Specific Plan areas, in areas that have existing residential development built at this density, and in close proximity to transit facilities where intensification would support those facilities. Staff emphasized that conversion of the site to a residential land use could set a precedent and encourage the submittal of General Plan Amendment requests to convert other viable commercial properties elsewhere in San José. Staff also noted that affordable housing cannot be a condition of approval or required through the General Plan Amendment process.

**Public Testimony**

The applicant stated she believes the site is surrounded by residential uses and that her property is considered a Growth Area, since there is a Main Street designation on Lincoln Avenue. She stated that the previous General Plan land use designation under the *San José 2020 General Plan* was Medium Density Residential, which she believes allowed the same density as the proposed Urban Residential land use designation. The applicant also shared she is currently paying $7,000 in property taxes and will potentially pay $37,000 in property taxes after a multi-family residential development is constructed on the property. The applicant specified she intends to keep the existing amount of commercial space and that staff already established a precedent for changing Neighborhood/Community Commercial properties to residential land use designations under a previous General Plan Amendment on Joseph Avenue. The applicant explained that her
plan for the proposed residential development includes charging tenants $2,000 per month and placing $1,000 in savings that will eventually be able to be used for a down payment on a home.

Thirty-five members of the public spoke on the item. Most comments addressed the need for affordable housing in the Bay Area and the specific need for teacher housing in San José. Of note, one member of the public stated that the Planning Commission should support the proposal since it is only inconsistent with three out of the 12 General Plan Major Strategies (Focused Growth, Regional Employment/Innovation Center, and Fiscally Strong City). Another member of the public who lives adjacent to the property stated that he is not against the proposal, but hopes that staff considers how a dense residential development will impact the surrounding neighbors.

**Staff's Response to Public Comments**

Staff acknowledged the affordable housing issues facing the City and the Bay Area; however, staff stated the proposal is a General Plan Amendment to change the subject site’s Land Use/Transportation Diagram land use designation to Urban Residential, and does not include a development permit for an affordable housing project. Staff emphasized there is no guarantee that a future development will provide affordable housing and that this land use decision sets a significant precedent for converting other commercial properties to residential. The General Plan is very intent on focusing new growth within identified Growth Areas, and due to input from the surrounding community, the subject site and surrounding area were not identified as a Growth Area during the 2011 update of the General Plan. Since 2011, the number of inquiries staff has received to convert employment lands has significantly dropped due to the General Plan’s firm stance against employment conversions. Staff stressed that changing the General Plan land use designation to a residential land use designation that does not guarantee affordable housing sends the wrong message to the development community.

Staff also clarified that the Main Street designation on the Planned Growth Areas Diagram is a roadway designation from the Transportation Diagram of the General Plan, not an identified Growth Area. Growth Areas include Urban Villages, Employment Areas, Specific Plans, and Downtown.

Staff stated that the previous General Plan Amendment the applicant referenced at 2898 Joseph Avenue (File No. GP15-005) to change the site’s General Plan land use designation from Neighborhood/Community Commercial to Mixed Use Neighborhood is not applicable to the proposed project site for the following reasons:

1. The Joseph Avenue site was surrounded by medium-density housing on three sides unlike the current site, which is surrounded by commercial and has single-family residential uses on one side.
2. The Joseph Avenue site was located on a side street, and could not be seen from the nearby commercial corridor, contrary to the subject site which is located on an established commercial corridor along Lincoln Avenue.
3. The Joseph Avenue site was vacant for many years unlike the current site which has an existing tenant.
4. The Joseph Avenue site’s proposed Mixed Use Neighborhood land use designation was compatible with the surrounding land uses and neighborhood pattern, in contrast to the currently proposed Urban Residential land use designation which is highly incompatible with the surrounding land uses and neighborhood pattern.

Staff stated that because the current applicant is relying on the previous General Plan Amendment on Joseph Avenue to justify the General Plan Amendment request, it demonstrates that the existing proposal will justify future proposals for commercial land use conversions.

Staff noted that although the previous land use designation under the San José 2020 General Plan was Medium Density Residential, it only allowed residential development ranging from 8 to 16 DU/AC. This would allow only four units on the subject site. The proposed Urban Residential land use designation would allow up to 95 DU/AC, which is significantly more intensive than Medium Density Residential. Staff also pointed out that the site has been zoned for commercial uses since the 1950s – of which have included a milk delivery service, a shoe cobbler, and a salon – and has never had residential development on the property since that time.

Staff also clarified that inconsistency with three of the 12 Major Strategies does not imply that the proposal is consistent with the remaining nine Major Strategies. The other Strategies are simply not relevant to the proposed General Plan Amendment, including but not limited to the Destination Downtown, Life Amidst Abundant Resources, and Urban Villages Major Strategies.

Staff also cited that only 15 percent of the city is zoned for commercial and industrial uses, meaning the city has a very limited amount of employment land remaining, including the subject site. Overall, the applicant is asking for a land use change to a residential land use designation that is unsuitable at the proposed location by its very definition and is inconsistent with the General Plan.

Planning Commission Discussion

Commissioner Yesney stated that the primary reason given by the applicant for why housing should be allowed at the proposed location is because she owns this property. She asked why the applicant bought the property for residential uses when the site is narrow, deep and surrounded by what has been described by the applicant as blighted commercial.

The applicant stated that she bought the project in 2010 and paid very little money for the property due to the recession. She stated that she can only afford to implement her teacher housing model on this property because of the low cost of the land. She stated that while she bought the property as an investment opportunity, she had no specific plans for development in 2010.

Commissioner Yesney asked the applicant if the proposed commercial square footage will cut reduce the maximum units allowed on the property. The applicant stated that she is flexible about the number of units built on the property and that all future proposals will include either keeping the existing commercial building or replacing the existing commercial square footage. She stated that the highest number of residential units she has considered on the site is 14. Commissioner
Yesney then confirmed with the applicant that she does not know what the actual project will be at this time.

Commissioner Bit-Badal asked how long the commercial building has been on the property and what business currently occupies the building. The applicant stated a milk delivery business originally used the current building, which was then sold to a cobbler who used the property until the applicant bought the building in 2010. The applicant stated the current tenant is a nail salon.

Commissioner Allen asked the applicant if she would be committed to making the units affordable if she is not able to specifically target the units for teachers. The applicant stated that she is committed to housing for teachers and the “missing middle.”

Commissioner Vora asked whether affordable housing can be a condition for approval. The Deputy City Attorney stated that General Plan Amendments are legislative acts, so if the proposed General Plan Amendment were to be approved by Council, any type of residential development would be able to move forward. The Commission and Council cannot condition the General Plan Amendment. Conversely, if the applicant had filed all of the permit applications needed to move forward with an affordable housing project, such as a Site Development Permit, then the Commission and Council could consider a specific project.

Commissioner Vora asked staff whether they recommended to the applicant to include a specific project through subsequent permits, and to explain the type of economic analysis conducted for General Plan Amendments. Staff explained that the applicant filed the General Plan Amendment on March 7th, three days before the deadline, and did not include a draft Initial Study with the submission. Staff informed the applicant that the Planning Commission and City Council would have more assurance that an affordable housing project would be constructed if she also submitted the necessary development permits. However, due to the timing of the applicant’s submission, staff would not be able to process the additional permits needed in order to meet the 2017 General Plan Annual Review hearing cycle due to CEQA processing timelines. Therefore, the applicant decided to only pursue the General Plan Amendment. Staff also stated that they do not conduct economic analyses for General Plan Amendments, and that a recommendation is developed based on guidance from the General Plan.

Commissioner Bit-Badal stated that she would prefer that the applicant have all the necessary development permits included with the General Plan Amendment. Commissioner Abelite stated that if the applicant chose to move forward with all of the development permits, she would be doing so at great risk. By bringing the General Plan Amendment to early denial, staff is sending a message to the applicant that it would be difficult to pursue housing at this location and gain staff’s support.

Commissioner Allen asked staff why the site at 2898 Joseph Avenue was given a Neighborhood/Community Commercial land use designation if the site was not viable for commercial development, and to explain what staff envisions for the best use of the Lincoln Avenue property. Staff responded that during the 2011 General Plan update process, staff’s general approach for determining the boundaries of Urban Villages was to draw the boundary line around properties with an existing commercial General Plan land use designation and to
exclude single-family properties. The Joseph Avenue site was previously located within the South Bascom Avenue (South) Urban Village because the site had an existing commercial use and land use designation. Thus, it was included within the Urban Village for commercial uses. As for the Lincoln Avenue property, staff explained that the current commercial building is not fully utilizing the site and that the expansion of commercial, office, or retail would be best suited at this location.

Commissioner Allen asked staff if the General Plan Amendment were to be approved by Council and the applicant were to sell the land to another developer for market-rate housing, would subsequent permits go back to the Planning Commission, who could encourage an affordable housing project on the site. Staff responded that there is no guarantee that future permits would come to the Planning Commission. While it is possible that future permits might need to be heard by the Planning Commission, an applicant could file permits in a manner that they would only be heard at a Director's Hearing. Whether or not the permits were heard by the Director or the Planning Commission, staff would not be able to recommend denial for the project because market-rate housing would conform to the proposed Urban Residential land use designation and the findings for such permits do not authorize the Director or the Planning Commission to deny a project on that basis. However, a market rate project would need to comply with any applicable City affordable housing laws – the rental housing impact fee or the for-sale inclusionary housing ordinance program.

Commissioner Ballard stated the applicant has the option to come forward with development permits in order for the Planning Commission and City Council to have certainty that an affordable housing project would be constructed. She asked if staff would support the application if City Council were to deny the General Plan Amendment in the hopes that the applicant comes back with all the necessary development permits to approve an affordable housing project. Staff responded that the proposal would still be fundamentally inconsistent with the General Plan, regardless of whether the application package included development permits.

Commissioner Yesney stated that part of being a Planning Commissioner is to understand that the conversion of employment lands to residential uses is fundamentally bad for the City, pursuant to policies set forth by the General Plan. She motioned to approved staff’s recommendation to recommend denial of the proposed General Plan Amendment. The motion was seconded by Commissioner Abellite who stated that while every Planning Commissioner cares about affordable housing, all proposals must be consistent with the General Plan. He stressed that the General Plan received significant community input that led to its current policy structure and that approving the proposed General Plan Amendment would set a bad precedent. He stated that previous poor land use decisions have made the City fiscally poor, and that to help correct this, the City needs to adhere to the goals and policies of the General Plan to preserve employment land focusing residential growth into identified Growth Areas.

Commissioner Allen stated that he does not believe the proposed density would be incompatible with the surrounding community and would be voting against the motion.

Commissioner Vora stated that while the affordable housing project morally makes sense, she is concerned about the City’s poor fiscal situation. She stated that she has concerns that if the
applicant cannot follow through with the affordable housing project, then the City loses the affordable housing and the existing commercial use. She stated that she is going to support staff’s recommendation because the Planning Commission cannot make the applicant follow through with her commitment to build teacher housing. She stated that she would prefer that the applicant submit all of the necessary development permits for the affordable housing project and come back during the 2018 General Plan Annual Review cycle.

Commissioner Ballard stated that this project is unique for two reasons: 1) an applicant putting forth her own money for an affordable housing project, and 2) community members coming out in support of an affordable housing project. Because there is an applicant that is willing and a community that is welcoming, the City should bend over backwards to accommodate the proposal. If approved, she stated she would want to see more than 16 units on the property in order to maximize the number of homes for people in need.

Commissioner Bit-Badal stated that the current economic development trend is for mixed-use development. She stated the existing commercial building is not bringing in tax revenue to the City and believes the site should be mixed-use.

Commissioner Abelite stated that he is skeptical of the ability of the applicant to execute an affordable housing project through the full permitting process. He asked staff if it is possible to “unwind” an entitlement should it be approved. Staff stated that a private applicant could apply to change the land use designation back to a commercial land use designation, although that is unlikely. Secondly, staff typically does not initiate General Plan Amendments on private property. However, City Council has mandated in the past for staff to initiate a General Plan Amendment to change a site’s land use designation back to its original designation if the proposed project is not built by a certain date.

A vote was taken on Commissioner Yesney’s motion, and the motion failed (3-4; Commissioners Pham, Allen, Ballard, and Bit-Badal opposed).

Commissioner Allen made a motion to recommend to the City Council the continued processing of the General Plan Amendment. The motion was seconded by Commissioner Ballard, but only if the Commission could condition that future development would be for affordable housing. The City Attorney stated that the City cannot condition the General Plan Amendment.

Commissioner Ballard rescinded her second and provided a substitute motion to forward the General Plan Amendment to City Council with no recommendation. The motion passed (6-1; Commissioner Yesney opposed).

**ANALYSIS**

A complete analysis of the issues regarding this project is contained in the attached Staff Report.
EVALUATION AND FOLLOW UP

Should the City Council desire to further consider the General Plan Amendment request during the Annual Review hearing cycle, the City Council would need to direct staff to continue processing the application.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public about the project. The property owners and occupants within a 500 foot radius were sent public hearing notices for the Planning Commission and City Council hearings, as well as all members of the public who requested to be placed on the project’s contact list. The Planning Commission agenda was posted on the City’s website, which included a copy of the Staff Report, and staff has been available to discuss the project with members of the public.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney’s Office.

CEQA

Under the provisions of Section 15270 of the State Guidelines for Implementation of the California Environmental Quality Act, the General Plan Amendment is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code. Section 15270 allows for an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency’s disapproval of the project after normal evaluation and processing.

Should the City Council determine that the proposed General Plan Amendment should be further processed for future consideration, such action would not constitute an approval of a project under CEQA. The General Plan Amendment application would be considered by City Council later this year after further evaluation by staff and after CEQA review has been completed.

/s/
ROHALLYN HUGHEY, SECRETARY
Planning Commission

For questions please contact Steve McHarris, Planning Official, at (408) 535-7819.

Attachments: Planning Commission Staff
Public Correspondence
PLANNING COMMISSION STAFF REPORT

File No. 
Applicant: Sarah Chaffin 
Location 
West side of Lincoln Avenue, approximately 82 feet northerly of Lincoln Court (2119 Lincoln Avenue) 
Existing Zoning 
CP - Commercial Pedestrian 
Council District 
6 
Historic Resource 
No 
Annexation Date: South Willow Glen No. 5 – July 15, 1949 
CEQA: Statutory Exemption (disapproval of project) 

APPLICATION SUMMARY:
General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Neighborhood/Community Commercial to Urban Residential on an approximately 0.28-gross acre site at 2119 Lincoln Avenue.

RECOMMENDATION:
Planning staff recommends that the Planning Commission make a recommendation to the City Council to deny the request to amend the Envision San José 2040 General Plan Land Use/Transportation Diagram designation on the site from Neighborhood/Community Commercial to Urban Residential.

PROJECT DATA

GENERAL PLAN CONSISTENCY

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<th>General Plan Designation</th>
<th>Neighborhood/Community Commercial</th>
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<tr>
<td>Consistent Policies</td>
<td>❑ Consistent ❌ Inconsistent</td>
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<td>Inconsistent Policies</td>
<td>Housing Goal H-1</td>
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<td>Focused Growth Major Strategy; Innovation/Regional Employment Center Major Strategy; Fiscally Strong City Major Strategy; Land Use Policies LU-2.3, LU-4.1, LU-5.2, LU-9.17; Vibrant Neighborhoods Policy VN-1.3; Innovate Economy Policies: IE-1, 1.4; Fiscal Sustainability Policies: FS-4, FS-4.1, FS-4.4;</td>
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**SURROUNDING USES**

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<th>General Plan Land Use</th>
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<td>Commercial offices</td>
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<td>Commercial Pedestrian</td>
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<td>Planned Development</td>
<td>Single-family residences and townhomes</td>
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**RELATED APPROVALS**

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<td>11/1/2011</td>
<td>GP07-06-03: General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to General Commercial on a 0.28-acre site. The <em>Envision San José 2040 General Plan</em> incorporated Neighborhood/Community Commercial on the subject site which approved this land use designation change request.</td>
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<tr>
<td>1955</td>
<td>C55-019: Conventional rezoning from R-1 and R-2 to C-1</td>
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**PROJECT DESCRIPTION**

The applicant, Sarah Chaffin, applied for a General Plan Amendment on March 7, 2017, proposing to change the General Plan Land Use/Transportation Diagram designation on the 0.28 acre subject site from Neighborhood/Community Commercial to Urban Residential. Changing the General Plan land use designation to Urban Residential would allow residential development or residential/commercial mixed-use development of up to 95 dwelling units per acre. At this density, up to 26 housing units could potentially be allowed on the 0.28 acre site. A residential/commercial mixed-use project would be determined using a minimum Floor Area Ratio (FAR) of 1.0 (12,200 square feet of building area) and a maximum FAR of 4.0 (48,800 square feet of building area).

The applicant has represented that she intends to demolish the existing commercial building and develop a mixed-use project incorporating commercial use(s) and pilot teacher housing, although no specific development proposal has been submitted by the applicant at this time. Neither use of the land for pilot teacher housing, nor mixed commercial-residential use can be a condition of approval or required through the General Plan Amendment process so there is no guarantee that this would occur if the amendment were approved.

**Site Location:** The site, located on the west side of Lincoln Avenue, approximately 82 feet northerly of Lincoln Court, is located along an approximately half-mile stretch of Lincoln Avenue (Roy Avenue north to Malone Road) comprised predominantly of commercial neighborhood serving uses. The site currently contains an occupied one-story commercial building and surface parking lot; and is surrounded by commercial offices to the north, a day care center across Lincoln Avenue to the east, a church, salon, and single-family homes to the south, and a single-family home to the west. One VTA bus line travels past the site, Route 64, which has a frequency of service every 30 minutes. The site is not located in a General Plan Growth Area.
Early Consideration

The proposed General Plan Amendment is requesting a land use designation change from Neighborhood/Community Commercial to Urban Residential on a 0.28 acre site. As per General Plan IP-3.3, the Early Consideration process is utilized when a proposed land use amendment to the Envision San José 2040 General Plan is fundamentally inconsistent with the Major Strategies, goals and policies of the General Plan. The Administration brings the amendment to the Planning Commission for Early Consideration of a recommendation to the City Council for either denial or continued processing during the 2017 General Plan Annual Review. The only
actions that Council may take are denial of the application or direction to staff to continue processing the application for the General Plan Amendment including environmental review under CEQA.

ANALYSIS

Existing General Plan Land Use Designation: Neighborhood/Community Commercial

This designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Neighborhood/Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction. General office uses, hospitals and private community gathering facilities are also allowed in this designation. The Neighborhood/Community Commercial land use designation allows an FAR up to 3.5 (1 to 5 stories). Redevelopment of this site could significantly expand commercial uses as the existing commercial building on site has an FAR of 0.13.

Proposed General Plan Land Use Designation: Urban Residential

This designation allows medium-density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities. Properties with the Urban Residential land use designation are appropriate within identified Urban Villages, in other areas within the City that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility where intensification will support those facilities. Any new residential
development at this density should be in Growth Areas or, on a very limited basis, as infill development within areas with characteristics similar to the Urban Village areas (generally developed at high-density and in proximity to transit, jobs, amenities and other services). The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or other policy document. The allowable density/Intensity for mixed-use development will be determined using an allowable FAR (1.0 to 4.0) to better address the urban form and potentially allow fewer units per acre if in combination with other uses such as commercial or office. Developments in this designation would typically be three to four stories of residential or commercial uses over parking.

Background

Through Major Strategies, goals, and policies, the *Envision San José 2040 General Plan* strives to support San José’s growth as an innovation and regional employment center and focus new residential and commercial growth in specifically identified Growth Areas. San José is the only U.S. city with a population over 500,000 that is a bedroom community, meaning that the City acts as a net exporter of workers within the region. Since 1980, approximately 2,300 acres of employment lands have been converted to non-employment uses, resulting in an estimated loss in job capacity between 52,000 and 110,000 jobs. The imbalance between residents and jobs in San José has led to significant fiscal, environmental and quality of life impacts for San José.

To address the preservation and creation of employment lands, the General Plan has established the Innovation/Regional Employment Center and the Focused Growth Major Strategy. These Major Strategies and their objectives inform the City’s land use policies and designations.
The Innovation/Regional Employment Center Major Strategy focuses employment growth in Downtown and on employment lands citywide, while also encouraging the development of neighborhood-serving commercial uses throughout the community and close to the residents they serve. The General Plan recognizes the value of existing employment lands to the City overall and therefore establishes goals and policies to preserve those lands. Divergent from this major strategy, the proposed General Plan Amendment would allow the conversion of a commercially designated property to a residential land use designation.

The Focused Growth Major Strategy concentrates new growth in defined areas, such as Downtown, Specific Plan areas, and Urban Villages, while strictly limiting new residential development outside of these Growth Areas to preserve the quality of established neighborhoods. Past infill development has been disruptive to neighborhood character, as it has often been at a density and form inconsistent with existing neighborhood patterns. Focusing new residential and commercial development into Growth Areas supports the quality of existing neighborhoods and enables the development of new Urban Villages and other Growth Areas to accommodate the City’s projected growth. The subject site is not located in one of the General Plan’s Growth Areas and the Urban Residential land use designation would allow a residential project of up to 95 dwelling units per acre, which would be inconsistent with the existing neighborhood scale and character. The Urban Residential land use designation is also not appropriate for this property, as its description states that this designation should only be applied to identified Urban Villages or to other areas of the city that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility.

In 2007, the previous owner of the property filed a General Plan Amendment and Site Development Permit application to demolish the existing one-story commercial building and construct a new two-story office building. Although the site had a Medium Density Residential land use designation under the previous General Plan (San José 2020 General Plan), the site has had continuous commercial uses dating back to the 1950s. Planning staff was supportive of the proposed land use change and incorporated the proposal into the Envision San José 2040 General Plan update process by designating the site as Neighborhood/Community Commercial. Changing the site’s land use designation to Neighborhood/Community Commercial supported the Envision San José 2040 General Plan’s goal of preserving existing employment land and reflected the existing commercial zoning and building on the property.

As stated previously, the applicant intends to demolish the existing commercial building and develop a mixed-use project that would include housing for teachers. The Envision San José 2040 General Plan includes policies to support and facilitate affordable housing in the City. For example, one hundred percent affordable housing developments are allowed on sites outside of Growth Areas on commercially designated properties that meet defined criteria. One hundred percent affordable housing developments are also allowed, when the project meets certain criteria, within Urban Villages ahead of a Growth Horizon, or in a Village in a current Horizon that does not have an approved Plan. Furthermore, affordable housing would be permissible on other properties throughout the City with a land use designation that supports residential uses. Altogether, affordable housing is allowed on many sites throughout San José. The subject site, however, does not have a residential land use designation, is not in an Urban Village, and does not meet the criteria for affordable housing projects on commercially designated sites.

In addition, use of the property for affordable housing cannot be a condition of approval or required through the General Plan Amendment process. The proposed General Plan Amendment converting the property from Neighborhood/Community Commercial to Urban Residential would allow for market-rate housing through a conventional or Planned Development zoning. Conversion of the subject site could set a precedent by encouraging the submittal of General Plan Amendment
requests to convert other viable commercial properties to residential land use designations, inconsistent with General Plan Major Strategies, goals and policies, and with no binding obligation for the owner to provide affordable housing.

**General Plan Major Strategies, Goals, and Policies**

The proposed amendment was analyzed with respect to conformance with the major strategies, goals and policies of the Envision San José 2040 General Plan. The proposed General Plan Text Amendment is consistent with the following General Plan goal:

**Goal H-1 Housing - Social Equity and Diversity:** Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.

*Analysis:* By allowing residential units to be built on the subject site, additional housing could be built, thereby furthering Goal H-1.

The proposed General Plan Amendment is inconsistent with the following General Plan Major Strategies, goals, and policies of the *Envision San José 2040 General Plan* as discussed below:

1. **Focused Growth Major Strategy:** The Focused Growth Major Strategy focuses new growth into areas of San José that will enable achievement of City goals for economic growth, fiscal sustainability, and environmental stewardship. The Plan focuses new growth capacity in specifically identified Growth Areas, while the majority of the city is not planned for additional growth or intensification. This Major Strategy also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City’s Urban Growth Boundary.

*Analysis:* The General Plan sets capacity for ambitious job and housing growth over the lifetime of the Plan, to which the vast majority of this growth will occur within identified Growth Areas. The subject site is located on a commercial arterial roadway and is not located within a Growth Area. The proposed Urban Residential land use designation would allow dense, infill residential development along an established commercial corridor surrounded by single-family residential neighborhoods. The Urban Residential land use designation should only be applied to identified Urban Villages or in other areas of the city that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility where intensification will support those facilities. The subject site is located within none of the areas as described above and would allow new residential development at up to 95 dwelling units per acre, which would be out of scale and character with the existing neighborhood. Thus, the proposed General Plan Amendment is inconsistent with the Focused Growth Major Strategy.

2. **Innovation/Regional Employment Center Major Strategy:** The Innovation/Regional Employment Center Major Strategy emphasizes economic development within the City to support San José’s growth as a center of innovation and regional employment. San José is the only large city within the U.S. that acts as a net exporter of workers within the region, and through multiple General Plan updates, San José has identified improvement of the City’s jobs/housing balance as a critical objective to address multiple City goals. The Plan
recognizes that all existing employment lands add value to the City overall and therefore establishes goals and policies to preserve those employment lands and promote the addition of new employment lands.

**Analysis:** The proposed General Plan Amendment is inconsistent with the Innovation/Regional Employment Center Major Strategy because it proposes to convert employment land to a primarily residential use. This Major Strategy promotes the creation and preservation of existing employment lands within the city, and the proposed General Plan Amendment would reduce the city’s limited amount of employment land.

3. **Fiscally Strong City Major Strategy:** The Fiscally Strong City Major Strategy establishes a land use planning framework that promotes fiscal balance of revenue and costs to allow the City to deliver high-quality municipal services, consistent with community expectations. A component of this Major Strategy is to provide adequate land for uses that generate revenue for the City.

**Analysis:** Conversion of the proposed site from the Neighborhood/Community Commercial land use designation to the Urban Residential land use designation is inconsistent with the Fiscally Strong City Major Strategy as it would convert the subject site from a commercial land use designation to a primarily residential designation. Commercial uses typically provide more fiscal benefit than residential uses.

4. **Land Use Policy LU-2.3:** To support the intensification of identified Growth Areas, and to achieve the various goals related to their development throughout the City, restrict new development on properties in non-Growth Areas.

5. **Land Use Policy LU-4.1:** Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José’s workers, residents, and visitors.

6. **Land Use Policy LU-5.2:** To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified Growth Areas and areas where there is existing or future demands for such uses.

7. **Land Use Policy LU-9.17:** Limit residential development in established neighborhoods that are not identified growth areas to projects that conform to the site’s Land Use / Transportation Diagram designation and meet Urban Design policies in this Plan.

8. **Vibrant Neighborhoods Policy VN-1.3:** Encourage the development and maintenance of compatible neighborhood retail and services within walking distance of residences as a means to promote the creation of “complete” neighborhoods.

**Analysis:** The General Plan’s land use and vibrant neighborhoods policies promote the preservation and expansion of employment lands and the creation of complete neighborhoods which include both residential and commercial uses. While the proposed Urban Residential land use designation allows both commercial and residential uses, the applicant could develop entirely residential uses on the subject site. Furthermore, the site is not currently designated for residential uses nor in a Growth Area, so the proposed land use is directly inconsistent with policy LU-9.17.

9. **Innovative Economy Goal IE-1:** Proactively manage land uses to provide and enhance economic development and job growth in San José.

10. **Innovative Economy Policy IE-1.4:** Manage land uses to enhance employment lands to improve the balance between jobs and workers residing in San José. To attain fiscal
sustainability for the City, strive to achieve a minimum ratio of 1.1 jobs/employed resident by 2040.

Analysis: The Envision 2040 General Plan sets an ambitious goal for the City to achieve 1.1 jobs per employed resident by the year 2040. In order to reach this goal, the City needs to maximize and enhance its existing employment lands. The 0.28-acre subject site is currently developed with a commercial building with active tenants. The proposed land use change to Urban Residential would convert the site to a land use designation that would allow one hundred percent residential uses, and could therefore result in the loss of jobs or future employment opportunities on this site.

11. Fiscal Sustainability Goal FS-4: Maintain, enhance, and develop our City's employment lands as part of our strategy for Fiscal Sustainability.

12. Fiscal Sustainability Policy FS-4.1: Preserve and enhance employment land acreage and building floor area capacity for various employment activities because they provide revenue, near-term jobs, contribute to our City's long-term achievement of economic development and job growth goals, and provide opportunities for the development retail to serve individual neighborhoods, larger community areas, and the Bay Area.

13. Fiscal Sustainability Policy FS-4.4: Identify, designate, and maintain an adequate number of suitable sites for a full range of commercial opportunities, including large-scale commercial centers and neighborhood-scale shopping opportunities, to serve the resident and visitor consumer population fully and to increase sales tax revenue in San José.

Analysis: The preservation and maintenance of employment land is a key component of the Envision 2040 General Plan's fiscal sustainability policies. By preserving commercial sites, the City can maintain a diverse supply of employment land for both large-scale and small-scale office, retail, and commercial uses. The current Neighborhood/Community Commercial land use designation furthers the fiscal sustainability goals and policies as the subject site is of sufficient size to serve the surrounding residential properties with neighborhood-serving commercial uses. Approving the proposed Urban Residential land use designation would potentially convert the site from employment land to residential.

Conclusion

The proposed General Plan Amendment to convert the site's General Plan land use designation from Neighborhood/Community Commercial to Urban Residential is fundamentally inconsistent with the Major Strategies, goals, and policies of Envision San José 2040. Through these Major Strategies, goals, and policies, the General Plan establishes a framework to focus growth in designated areas, preserve employment lands, and respect existing neighborhood character outside of Growth Areas. The subject site, which is located along an active commercial corridor on Lincoln Avenue, outside of a Growth Area, is developed with a commercial building that is occupied with existing tenants. Conversion of this site to Urban Residential could result in the loss of employment lands and allow a residential project that is out of context with the neighborhood character. This land use change would also set a precedent by supporting future General Plan Amendment applications to convert commercially designated properties to residential uses, further eroding the limited amount of employment land within the city. Additionally, while the applicant has stated their intent to develop housing for teachers, there are many other sites in the City where this use would be allowed and would be consistent with the City's General Plan. Furthermore, affordable housing cannot be conditioned through the General Plan Amendment process. Based on the analysis above, Planning staff recommends that the
Planning Commission make a recommendation to the City Council to deny the General Plan Amendment request.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under the provisions of Section 15270 of the State Guidelines for Implementation of the California Environmental Quality Act, the General Plan Amendment is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended (CEQA), if the public agency disapproves of the project. Section 15270 is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency’s disapproval of the project after normal evaluation and processing.

PUBLIC HEARING NOTIFICATION

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The staff report is also posted on the City’s website. Staff has been available to respond to questions from the public.

Project Manager: Kimberly Vacca
Approved by: [Signature], Planning Official for Harry Freitas, Planning Director
Date: 5/16/17

Attachments:
- Public Correspondence

Owner/Applicant:
Sarah Chaffin
193 Smith Ranch Court
Los Gatos, CA 95032
April 6, 2017

Re: Sarah Chaffin/Personal Reference

I have known Sarah Chaffin for close to 20 years both professionally and as a close, personal friend.

I worked with her when she was a Vice President at World Savings and she was instrumental in solving the problem of a loan for a small business owner. She has also advised me on business matters over the years.

Sarah is an honest, serious person who does what she says she'll do. She is committed to creating resources for those in need and has the brains, ability and financial where withal to accomplish her goals.

Please feel free to call me with any questions.

Sincerely,

[Signature]

Gay Timmons
President
Oh, Oh Organic, Inc.
510/412-1072
April 7, 2017  

Dear Councilmember Davis,

This is a letter of recommendation for Sarah Chaffin.

I have known Sarah for over ten years. I got to know her when I was pastor of St. Lucy Parish in Campbell. I was privileged to officiate at her marriage and over the years we have kept in contact, even after I retired as pastor in 2009. Sarah to me is a very energetic and caring person. If she sees a need that she might be able to address, she puts herself wholeheartedly into working on that need.

Sarah is very concerned about Education — especially that children, like her daughter, have good teachers. Recently, over lunch, she expressed to me her concern about the difficulty of teachers being able to live in the city of San Jose because of the rising cost of housing. Rather than just worry about this, she thought about what she might be able to do to help with this problem, even if it was only to do a small part. The idea came to her to use property that she owned in the Willow Glen area and build housing units on it that would be made available to teachers at below market rates.

In our conversation, I brought up questions as to how she would be able to do this, especially if the units were to be rented on the open market — i.e., how she would be able to insure that they would be available only to teachers. She had thought this through saying that this could be done if she worked out an alliance with a school or school system so that the school would be able to offer these units to their teachers — as long as they were teachers in that school. It would be something like a university offering university housing to its professors.

Sarah is not doing this for her own benefit, but to do something to address the housing needs of teachers in San Jose. I heartily recommend that she be allowed to proceed with this project which might become a model of how to insure that good teachers are able to remain in San Jose.

Anything that you can do to insure that this project is able to move forward would be of great value.

If you need any further information from me, please do not hesitate to contact me.

Sincerely,

Rev. Msgr. Terrence Sullivan  
Pastor Emeritus, St. Lucy Parish, Campbell
Dear Ms. Davis,

I am very pleased to write this letter on behalf of Sarah Chaffin whom I have known for over ten years. I can vouch for her competency, integrity and perseverance in achieving any task she undertakes. As a business woman, she understands the complexities of working within systems having necessary restrictions that frame many decisions made; however, she does her homework ahead of time and meets whatever challenges come before her.

Sarah is straightforward in her manner of dealing with people. Her transparency evokes credibility and respect from those who may or may not share her point of view. I have witnessed these qualities firsthand on more than one occasion.

Beyond the work world, I know Sarah as a devoted wife, loving mother and faithful friend. The old adage, “What you see is what you get” can safely be said of her. Responding to the problem of providing affordable housing for teachers, is not simply a project but a passion that holds great meaning for her, one that arises from genuine care about offering quality education for our children. Sarah knows, as we all do, that one way is to retain good teachers who are leaving this Valley due to the unsustainable cost of living.

If you wish any further information, do not hesitate to contact me.

Sincerely yours,

Sister Rosalie Pizzo, SNDdeN
Bishop’s Delegate to Religious
April 10, 2017

Councilmember Dev Davis
City of San Jose, District 6
200 East Santa Clara Street, 18th Floor
San Jose, California 95113-1905

Dear Dev,

I am writing in regard to a proposed teacher housing development project from Sarah Chaffin. I met Sarah through a common friend, Sr. Rosalie Pizzo, a sister of Notre Dame. Sarah was well on her way in her conception of developing a housing project that would support teachers on a parcel of land that she owned in Willow Glen.

This is an issue that I and the Notre Dame Board of Directors have discussed and studied for years. The price of housing in the valley exponentially outpaces the compensation ability of schools and other service professionals. Sarah’s motivation to address this concern and perhaps pilot a viable response is intriguing. She has presented her plans to the Physical Resources committee of our board, chaired by John Michael Sobrato, and all have championed her and hope for her success. Why wouldn’t we?

Notre Dame High School teachers would benefit from a housing program that provided stable and reasonable rent structure and a plan to save to own. But not just Notre Dame teachers, others teachers from St. Patrick, the Nativity schools, and Cristo Rey would also benefit. These downtown area schools support underserved students from neighborhoods that have limited education choices.

As you know Dev, housing rental prices for teachers and other professional groups are untenable in the south bay. Sarah is boldly moving forward to address this and if her model for moderate rent and savings towards a down payment works, it could be replicated in other areas.

So, I hope that you and the city give her project strong consideration and support.

Thank you,

Mary Beth

Mary Beth Riley, Principal
Notre Dame High School
mbriley@ndsj.org
408 294 1113 x2105
April 10, 2017

Councilmember Dev Davis
The City of San Jose
District 6
200 E Santa Clara Street
San Jose, CA 95113

Dear Councilmember Dev,

I am writing this letter of recommendation for Sarah M. Chaffin for all the hard work she has done for the community. I have known Sarah for over 25 years both professionally and personally. Professionally Sarah has implemented many procedural changes to improve the workflow within her environment. She is highly skilled and is able to think outside the box. Affordable housing for Teachers is very important to Sarah, as well as our community. I believe her project is a model that would be beneficial to the housing needs within our community. As someone who was born, raised and currently lives in San Jose, I do not see the housing need being met or any resolution in the future unless we look into new options.

During the 25 years, I have known Sarah to be dedicated and work numerous hours for charity. One of which I have worked with Sarah very closely is the Ladies Oriental Shrine of North America for the Shriner’s Children Hospitals. It has been through her dedication that she has made a difference in a child’s life, by giving her time and talents.

Should you have any questions or comments you may contact me directly at 408-472-5311 or email me at mgordon@1stfunding.com.

Sincerely,

Melody J. Gordon
Past High Priestess
Ankh Ct #92
San Jose, CA