RECOMMENDATION

Recommend that the City Council deny the proposed General Plan Amendment (GPA) at 2119 Lincoln Avenue, in support of the staff recommendation for denial through the Early Consideration process provided for in the Envision San José 2040 General Plan, Chapter 7, Implementation Policy, Goal IP-3.3.

BACKGROUND

We urge our Council colleagues to deny the proposed GPA at 2119 Lincoln Avenue for the following reasons:

1. The *Envision San José 2040 General Plan* embodies the values and priorities of over 5,000 community members who attended over fifty (50) Task Force meetings prior to the adoption of the plan. Council received clear and decisive direction from the community then about "promoting job growth, protecting employment lands, fostering fiscal sustainability and focusing growth capacity into Urban Villages and near transit." Our action in this instance follows that direction.

   The importance of protecting employment lands is also endorsed in the SPUR/Working Partnerships USA, May 2016 Report titled Back in the Black: A fiscal strategy for investing in San José’s future, on Page 37-38, Item 2: Maintain restrictions on the conversion of key employment lands to residential uses.

2. With regards to our housing goals, the General Plan sets a capacity for 120,000 new dwelling units through 2040 under three horizons of residential growth. Horizon 1 has a total of 48,000 new units of which 33,000 units have been entitled to date leaving another 15,000 units left to be entitled.
3. The proposed GPA is a conversion of commercial land in a long-established neighborhood-serving business district. The loss of employment land profoundly and negatively impacts the City’s long-term fiscal health, magnifying our uniquely poor jobs-housing imbalance and diminishes local resident access to retail services that are within walking distance from their homes. The land use designation for the site is Neighborhood Community Commercial (NCC) under General Plan 2040 and has - since the 1950’s - been zoned for commercial use.

4. The proposed GPA to Urban Residential (UR) with densities up to 95 DU/AC; FAR 1.0 to 4.0 (3-12 stories) is unacceptable and highly inappropriate for Lincoln Avenue. This area is not a General Plan designated Growth Area; it is not within an Urban Village nor is it supported by transit.

5. At the May 24, 2017 Planning Commission hearing on this proposed GPA, the Deputy City Attorney advised Commission members that the City could not condition the GPA with the applicant’s intended future teacher housing development project, which resulted in a 6-1 vote of the Commission to forward this GPA to Council with no recommendation.

6. The applicant - and/or any subsequent developer of the land - on the other hand, stands to gain a financial windfall at the long-term cost to the taxpaying public, if the land use designation changes from NCC to Urban Residential (UR).

The property sold in April 2010 for $359,000 from Patrick Amato Trustee to Sarah Chaffin. At the May 24, 2017 Planning Commission hearing, Ms. Chaffin confirmed she bought the property in 2010 and paid very little money due to the recession. Any due diligence done on the property prior to acquisition would have identified the land use designation on the site as NCC. Furthermore, if Ms. Chaffin had contacted City staff prior to the acquisition of the site, she would have been informed of the City’s land use goals and that no residential uses would be supported here.

While the applicant has stated a desire to build no more than 14-units, an UR designation that allows up to 95 DU/AC would allow up to 26-units of multi-family housing and densities and heights that are absolutely not appropriate in this vicinity. The windfall could be in the range of $3-5 million depending on the number of units developed on site.

7. Fifty (50) small properties along the Lincoln Avenue commercial corridor between Lennon Way and Roy Avenue – to the north, south and west of 2119 Lincoln Avenue - have a similar NCC land use designation. The business base located here includes insurance companies, attorney’s offices, realtors, shoe repair and dry cleaners, beauty supply and salons, coffee shops and restaurants, medical supply and auto-related uses, and Action Day Nursery and Ace Hardware. There are businesses that see robust activity on a daily basis, and others that are in fragile economic condition. Our mission ought to be to strengthen the business corridor. Allowing a conversion of one property from commercial to residential will similarly constrain the other adjacent employment serving sites, and we will continue to watch the dominos fall in the years ahead. We must not set precedent on Lincoln Avenue which will undoubtedly spread to other active commercial corridors throughout San José, including The Alameda, West San Carlos Street, Japantown, Blossom Hill Road, Cottle
Road and Santa Teresa Blvd, East Santa Clara Street, Alum Rock and Story Roads, Union and Camden Avenues, Tully and Capitol, to name a few locations where our small and ethnic businesses are mostly located.

8. The California Environmental Quality Act (CEQA) contemplates an “early decision” process in Section 15270, by exempting such early denials from environmental review. The Council ought not to direct staff to continue processing the GPA application for further consideration in the Fall of 2017. Should the Council agree to allow this GPA to proceed to a Fall hearing, the property owner will commence the extensive and expensive process of environmental review. At that stage, the property owner will argue that the outcome shouldn’t be denied on the basis of the hundreds of thousands of dollars invested in the project.

CONCLUSION

Each of the signatories to this memorandum couldn’t be more supportive of teachers and any initiatives at the State or local level that would generate affordable housing for teachers. In the Mayor’s March 2016 Budget Message the following direction was given:

Page 15, Item c.

Teacher Housing on School District Land: Several conversations with superintendents of local school districts have demonstrated interest in partnerships that would enable the creation of affordable workforce housing for teachers and staff on school district land. Partnerships with districts can enable us to leverage their land assets with City (and other public) dollars to expand affordable housing to a critical subpopulation essential to our community's future. These partnerships could also allow for exploration of modular and other innovative housing models. The City Manager is directed to prepare an estimate of inclusionary and impact fee revenue for the next two to three years, to enable Council and staff to assess whether this source might suffice to support a pilot project or two with participating districts.

The Administration’s response can be found in the Manager’s Budget Addendum #21 at the following link: https://www.sanjoseca.gov/DocumentCenter/View/57177. Housing Department staff assured City Council that efforts would be undertaken to explore the interest of local school districts to fund affordable housing for teachers and staff on school district property. Let’s be clear that the City Council did not direct staff at the time or at any point thereafter, to explore teacher housing on sites along our commercial corridors, particularly because we understand that any such action would be contrary to implementing the goals of our General Plan and Economic Development Strategy.

After thoughtful evaluation, staff has declared its opposition to this proposed conversion of commercial land for primarily residential use. The City Council re-affirmed long-standing precedent in 2015 and 2016 by voting to deny employment land conversions. We should do the same in this regard.
Attachment: General Plan 2040 Land Use Designations

**NEIGHBORHOOD/COMMUNITY COMMERCIAL**
Density: FAR up to 2.0 (1-4 stories)

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.

**URBAN RESIDENTIAL**
Density: 30-95 DU/AC; FAR 1.0 to 4.0 (3-12 stories)

This designation allows for medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, 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.