



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Blage Zelalich
Rachel Roberts

SUBJECT: SEE BELOW

DATE: June 30, 2020

Approved

/s/
Kim Walesh

Date

6/30/2020

INFORMATION

SUBJECT: NEGLECTED VACANT BUILDING/STOREFRONTS PROGRAM REPORT

The purpose of this memorandum is to provide an 18-month evaluation report on mandatory registration for vacant buildings and storefronts in Downtown San Jose that have been vacant for more than 30 days.

This item was originally scheduled to be presented at the March 23, 2020 Community and Economic Development Committee meeting. The meeting was cancelled due to the COVID19 pandemic and therefore the report on this item is being issued as an informational memo.

BACKGROUND

District 3 Councilmember Peralez first introduced the Vacant Storefronts Initiative as a part of the Council priority-setting conversation in November 2015. At the December 2015 City Council priority session, Council voted to make the Vacant Storefronts Initiative a priority.

In May of 2017, staff presented initial recommendations on the implementation of a vacant storefronts initiative to the City Council's Community and Economic Development Committee (CEDC) centered around altering the city's existing vacant building ordinance and associated Neglected Vacant Building Monitoring Program which focused on neglected and abandoned buildings (not storefronts) and did not require that building owners proactively register their buildings. Pursuant to the direction of CEDC members, staff conducted outreach to nearby jurisdictions to see what similar programs may exist. With assistance from Business Development staff from the San Jose Downtown Association, staff reached out to the cities of Campbell, Cupertino, Fremont, Los Gatos, Milpitas, Mountain View, Oakland, Santa Clara, San Francisco and Sunnyvale as well as colleagues in Sacramento, San Diego, San Luis Obispo, Santa Cruz, Hollywood, and Westwood Village in Los Angeles. Except San Francisco, none of these cities had a formal program to address vacant storefronts.

Staff returned to CEDC on October 23, 2017 with final recommendations for the program. These recommendations included expanding the scope of the vacant building ordinance to include vacant storefronts; defining the geographical boundaries of the program as the 2040 General Plan Downtown Growth Area, with its western most boundary as HWY 87; making registration mandatory for buildings and storefronts within the defined boundaries; and including the functionality of existing exterior lighting on the list of criteria that a property owner must comply with. At the November 7, 2017 City Council meeting, Council accepted staff's CEDC report and directed staff to proceed with its recommendations. The City Council approved necessary ordinance changes to Title 17 on May 1, 2018 and those ordinance changes became effective June 15, 2018.

Pursuant to the adopted 2019-2020 Schedule of Fees and Charges, the Neglected Vacant Building/Storefronts Mandatory Registration Fee is \$220 per quarter and is billed quarterly. The monthly monitoring fee for those properties in violation (Neglected Vacant Building/Storefront Monitoring Fee) is \$660 per quarter and is billed quarterly. Any penalties assessed resulting from code violations identified by a Code Inspector are charged in addition to registration and monitoring fees.

There are three ways a property owner can be exempt from mandatory registration of their Downtown vacant building or storefront. The first is if the property owner provides satisfactory proof to the City that they are actively offering the building/storefront for sale, lease or rent. The second is satisfactory proof of physical occupancy of a tenant, and the third is if there are open and active building permits on the property address. To have "an open and active" building permit, a property owner or tenant must have at least one building inspection every six months, meaning there is active progress toward the completion of repairs or improvements to the space in question, in theory toward having a tenant occupy the space.

ANALYSIS

The Neglected Vacant Building/Storefronts Mandatory Registration program is managed by the City's Code Enforcement Division. Code Enforcement maintains the registry, manages all necessary communication with property owners, conducts proactive and complaint-based inspections of properties on the registry, administers registration fees and fines, and oversees the program's appeals hearing process.

The Code Enforcement Inspector inspects vacant buildings and storefronts on the mandatory registry a minimum of once per quarter, provided the property is not in violation of the City's Municipal Code. Once a property is found to be in violation of the City's Municipal Code for 30 days or more, it is inspected monthly and the property owner is charged for monthly inspections (Neglected Vacant Building/Storefront Monitoring Fee), in addition to the fines assessed for their violation(s). In addition, Code Enforcement conducts bi-annual sweeps of the Downtown Growth Area to identify any new properties in the mandatory registration area that may be

eligible for the program. A property must be completely free of any Municipal Code violation for two consecutive quarters (six-months) to resume the quarterly inspection charge. Once a property is confirmed to be no longer vacant, it is removed from the registry. Property owners on the registry are eligible to participate in the same appeals hearing process in place for the citywide Vacant Buildings and Storefronts program.

Between July and September 2018, the Code Enforcement Division conducted property owner outreach and a field survey of the properties in the Downtown Growth Area. Code Enforcement mailed out letters to approximately 1,775 commercial and residential property owners informing them of the new mandatory registration program. The letter described the intent and parameters of the program and included a registration form. The letter also contained Office of Economic Development contact information for assistance with activating or leasing a property.

Over the past 18 months, the total number of buildings/storefronts registered into the program for either quarterly or monthly monitoring is 22. To date, eight buildings/storefronts have been removed from the registry. Of these, four of the properties house new businesses, two are being marketed for lease and one for sale, and one is part of a larger commercial redevelopment project. There are currently seven properties on the mandatory registry which receive a minimum of one proactive inspection per quarter, and seven properties on the downtown monitoring list which receive a minimum of one proactive inspection per month. The average length that a building/storefront has remained on the registry is approximately 120 days. Common code violations of properties in the program include graffiti, unsecure building (e.g. broken windows, open doors), and garbage and debris.

The Downtown Mandatory Registration Program was incorporated into the existing citywide Neglected Vacant Building/Storefront Monitoring Program which is comprised of one Inspector. While approximately 100 staff hours were utilized to launch the program and conduct necessary outreach to the affected properties within the Downtown Growth Area, ongoing administration of the mandatory registration program has accounted for approximately 10% of staff time (or 18 hours monthly) with the remaining 90% dedicated to enforcement of neglected vacant buildings and storefronts citywide.

While vacant storefronts are inevitable in the normal lifecycle of a commercial district, staff felt that the implementation of a mandatory registration program might minimize the negative impact of ongoing vacancies on the surrounding environment. Unfortunately, it does not appear that the mandatory registration program is a significant catalyst in tenanting vacant storefronts as long-time vacancies in prominent buildings along Santa Clara Street, Second Street, and in the SoFA District persist. However, the mandatory registration program has resulted in proactive monitoring and enforcement efforts in turn mitigating the effects of urban blight in a more comprehensive and timely manner.

Staff recommends continuing the Neglected Vacant Building/Storefronts Mandatory Registration program in the Downtown Growth Area but does not recommend expanding the program citywide. Expansion of the mandatory registration program to include neglected vacant buildings

and storefronts citywide would require, at a minimum, the addition of 1.0 FTE Code Enforcement Inspector to the Neglected Vacant Buildings and Storefronts Program, for a total of two inspectors. Additionally, staff resources would be needed to amend the San Jose Municipal Code, Title 17.38 “Maintenance and Rehabilitation of Neglected Vacant and Abandoned Buildings” to expand the mandatory registration area and conduct outreach to property owners impacted by the new program.

COORDINATION

This memo has been coordinated with the City Attorney’s Office.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

/s/
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/s/
BLAGE ZELALICH
Downtown Manager

For questions, please contact Rachel Roberts, Deputy Director, Code Enforcement, at (408) 535-7719 or Blage Zelalich, Downtown Manager, at (408) 535-8172.