



## **Task Force Meeting No. 6 Synopsis July 30 2020**

**Task Force Members Present:** Teresa Alvarado, David Pandori, Dev Davis, Pam Foley, Sylvia Arenas, Michelle Yesney, Mariel Caballero, Linda LeZotte, Jessie O'Malley Solis, David Bini, Eddie Truong, Pat Sausedo, Vincent Rocha, Nate LeBlanc, Karl Lee, Michael Van Every, Erik Schoennauer, Don Little, Harvey Darnell, Juan Estrada, Megan Fluke, Jason Su, Kevin Zwick, Leslye Corsiglia, Shiloh Ballard, Andre Luthard, Jim Zito, Sam Ho, Robert (Bob) Levy, Smita Patel, Tamiko Rast, Margie Matthews, Jesus Flores, Ray Bramson, Bonnie Mace, Susan Butler-Graham, and Roberta Moore. (verified by Zoom participant panel)

**Task Force Members Absent:** Steven Solorio, Jeffrey Buchanan, Luis Arguello, and Shawn Milligan. (verified by Zoom participant panel)

**City Staff, Consultants and Other Public Agency Staff Present:** Rosalynn Hughey (PBCE), Michael Brilliot (PBCE), Jared Hart (PBCE), Jennifer Piozet (PBCE), Kieulan Pham (PBCE), Jessica Setiawan (PBCE), Robert Rivera (PBCE), Ruth Cueto (PBCE), and Kristen Clements (Housing).

**Public Present:** 170 public attendees on Zoom, 38 live viewers on YouTube and Granicus

### **1. Welcome, Introductions, and Overview of Agenda**

The meeting convened at approximately 6:00 p.m. The Co-Chair Teresa Alvarado welcomed the Task Force, presented the format of the meeting, and clarified that staff's recommendation is a policy framework for discussion.

### **2. Approval of February 27, 2020 and June 25, 2020 Meetings Synopses**

The February 27, 2020 and June 25, 2020 Meeting Synopses were approved with clarification from Harvey Darnell that his requests for the conceptual opportunity housing maps were enlarged and community members could speak on opportunity housing to be included; and abstention from Karl Lee and Planning Commissioner Caballero for the February 27, 2020 meeting due to their absence from the meeting.

### **3. Staff Recommendations on Opportunity Housing**

Jessica Setiawan, Planner III of the General Plan team, presented staff's refined recommendations on Opportunity Housing.

#### **4. Clarification Questions from Task Force Members**

Councilmember Foley asked for clarification on what the purchase or long-term rental criterion of the staff recommended conceptual framework meant to imply. Staff clarified that the criterion meant that Opportunity Housing developments would not be allowed for short-term rentals and noted a revision in the criterion text to better reflect the intent. Councilmember Foley also asked staff to clarify the origin and reason behind excluding rental properties. Staff clarified the intent was to provide protections for existing rental tenants by prevent evictions that would result in the development of lower cost existing rental units for newer and more expensive units.

Councilmember Foley acknowledges that the intent of Opportunity Housing is to create more housing stock and equity issues must be taken into account, but restricting existing rental units from developing Opportunity Housing would limit the additional housing stock intended.

Councilmember Foley's last clarifying question inquired the status of SB 1120. Task Force member Leslye Corsiglia responded that the bill is on its way to Assembly Local Government Committee in one week and that the next couple weeks will be telling if the bill will make it forward.

Councilmember Arenas asked staff how Opportunity Housing would impact San José in terms of segregation and if the current recommendation as proposed would exacerbate segregation and if expanding Opportunity Housing to citywide would have the opposite effect. Staff responded that the current recommendation does have a larger impact on existing disadvantaged neighborhoods near Transit Urban Villages, but that it is difficult to say in terms of segregation. Opportunity Housing, however, would allow families to move into areas that have in the past been exclusively higher income and predominantly white neighborhoods. Councilmember Arenas commented that looking at the conceptual maps, the areas closer to Transit Urban Villages are highly segregated due to historical exclusionary land use practices that have led to this and that change is needed to reverse those legacies. Councilmember Arenas also asked if it is typical in historic neighborhoods to see different types of buildings and architectures and, if there are concerns over historic preservation of those buildings, could City resources be allocated to update the Historic Resources Inventory (HRI) rather than keeping Opportunity Housing out of these neighborhoods entirely. Staff clarified that it is typical in our historic neighborhoods to already have a variety of housing types (including up to fourplexes) particularly in neighborhood built before World War II. Councilmember Arenas also asked if the Task Force recommendation would be on an implementation plan, but staff clarified that the recommendation would be the conceptual framework and the work plan listed in the presentation and memo. Councilmember Arenas encouraged that the Displacement Risk Analysis be done as part of the short-term work plan before presenting it to City Council.

Task Force member Smita Patel asked staff about timeline of the short- and long-term work plan and if staff is considering impacts of COVID-19 as part of Opportunity Housing particularly around transit and working from home. Staff responded that, should the Council give direction to further study Opportunity Housing, the long-term work items would take anywhere from 18 months up to a couple years to complete. Staff added that the State is requiring the City to complete updates to the Housing Element by the end of 2022 and that staff is expecting much more housing to plan for and it would make sense to include Opportunity Housing in that effort and use the environmental clearance in that effort to clear policies for Opportunity Housing.

Regarding COVID-19, staff is unsure of the long-term impacts that it may have on the policies and that it may be too early to tell.

Task Force member Erik Schoennauer asked what motion or recommendation is staff looking for from the Task Force. He noted that there is significant concern in the Vendome neighborhood about potential impacts of this policy, but that his understanding is that the Task Force recommendation would be whether or not City Council should initiate the process of exploring Opportunity Housing with future planned community engagement process and analyses of future potential criteria to come up with a policy that would be ultimately decided by the Council. He mentioned that it would be good to clarify for the residents that are concerned that the Task Force is deciding on the specific details of the policy, adopting the policy, and allowing implementation based on the Task Force vote. Co-Chair Teresa Alvarado responded that she provided a preamble to the meeting to invite the public to provide comments and to clarify that this framework is preliminary for discussion purposes and only the start of a public process. Staff confirmed that this is a framework and that staff is ultimately looking for Task Force input on the criteria, the work plan and any concerns that staff and Council should consider if Opportunity Housing were to move forward.

Co-Chair David Pandori chimed in that Task Force member Erik Schoennauer's summary is misleading because he believes that the Task Force is not only reviewing a recommendation and commenting on it, but that there is a staff recommendation that is up for approval by the Task Force. He added that there has been a request made by Task Force member Harvey Darnell to distribute larger maps to affected neighborhoods, but it was only distributed one week before the Task Force meeting. Furthermore, he added that the Task Force should not vote to recommend anything on Opportunity Housing before more outreach is done.

Task Force member Erik Schoennauer responded that he was not attempting to mislead, but rather was simply asking the question on what the expected motion and recommendation was from the Task Force. He clarifies that he does not intend to vote on any specific policy, but rather to recommend whether or not the City Council should initiate a process.

Task Force member Jessie O'Malley-Solis asked if the City of San José recently established an Office of Equity. Staff responded that City Council took action to create an Office of Racial Equity but it has not officially been established yet. Task Force Member O'Malley-Solis expressed concern that keeping Opportunity Housing to a tighter area around Transit Urban Villages has significant equity concerns and potential further segregation and hope that the new office would work hand-in-hand with Planning to work through the Opportunity Housing equity concerns if the process moves forward. Task Force member O'Malley-Solis also asked if there are data available on how many permits have been issued for Opportunity Housing types from other jurisdictions that have moved into the implementation phases of their Opportunity Housing. She elaborated that it would be good context to have for community concerns of a perception of doing away with single-family neighborhoods and to show that it is a voluntary process and how it would look like if implemented. Staff responded that although staff does not currently have the data, they will reach out to Portland, Minneapolis, Seattle, and Vancouver to see if that data is available.

Task Force member Jim Zito asked staff to clarify if the intent of Opportunity Housing is to create more properties for purchase or for rental and if it would also apply to properties on Planned Development (PD) zoning districts. Staff responded that Opportunity Housing could be either for purchase or rental, but for PD zoning it would be something staff would need to determine later down the line. Task Force member Jim Zito also asked staff why 7 years was used in the rental property criteria. Staff clarified that the 7-year number was taken from the now dead SB 50 that was a similar statewide proposal to Opportunity Housing, but staff is open to changing this number based on Task Force input.

Task Force member Vincent Rocha asked staff why some criteria would overlap with existing City ordinances. Staff responded that they should be consistent with City ordinances but are included as part of the discussion to provide clarity. Additionally there may be gaps in existing City ordinances (e.g., renter protections) that staff would have to analyze.

Task Force member Ray Bramson asked staff why limit Opportunity Housing to four units, since there seemed to be flexibility in language in the June 2019 memo regarding lot size, location, and other things to allow more units. Staff responded that the Council-approved scope of work was specific in keeping it to two to four units, but acknowledged that the State Accessory Dwelling Units (ADU) laws and City Ordinance would allow for additional units even for multifamily projects. For multifamily housing two detached ADUs and one attached ADU would be allowed.

Task Force member Andre Luthard asked staff about the Opportunity Housing scope of work and if “proximate to transit and adjacent to existing multifamily residential” language is in fact directly from the Council-approved scope of work and why citywide application would not be considered. Task Force member Luthard further explained that with the equity concerns and the intent to create more housing, it would make sense to look outside of these areas. Staff clarified that yes the language in the scope of work does direct staff to explore Opportunity Housing in these areas, which is more apparent when reviewing the background text in the original Scope of Work which intends for Opportunity Housing to be the transition area between high density development in Urban Villages and low density single-family neighborhoods.

Task Force member Bob Levy asked staff if Opportunity Housing would include areas within existing Urban Village boundaries. Staff responded that areas within existing Urban Village boundaries would be subject to their own Plan policies and that additional refinements to the map are planned. Task Force member Bob Levy emphasized the importance of an accurate map. Task Force member Bob Levy also asked staff what fees would be applicable to Opportunity Housing should it be approved since the additional demand would need additional revenue to provide adequate City services. Staff responded fees would be charged, but specifics have not yet been determined and will be done as part of the Zoning Code revisions in the long-term work plan.

Task Force member Juan Estrada asked a clarifying question on whether Task Force discussion would take place after public comment. Co-Chair Teresa Alvarado responded that Task Force discussion is possible but would depend on the number of public comments.

Task Force member Harvey Darnell asked staff to clarify the term High Resource Area. Staff responded that High Resource Areas are established by the California Office of Housing and Community Development and indicates areas with higher resources such as higher income, better access to jobs, and educational attainment. Task Force member Harvey Darnell also asked staff how renter history would be determined. Staff clarified that unfortunately renter data is not available and staff is still figuring out ways to implement any criteria that needs this data. Task Force member Harvey Darnell asked when would a citywide HRI be initiated and completed. Staff responded that though there is not a timeline, the City has allocated resources and has selected consultants to work on this effort.

Task Force member Roberta Moore asked staff if Opportunity Housing applies to tear downs or units added and staff clarified that Opportunity Housing would allow both. She also asked in neighborhoods that are predominantly less than 35 feet in height, if Opportunity Housing would be allowed to build up to 35 feet. Staff responded that yes, because all other properties would be allowed to develop up to 35 feet, Opportunity Housing would also be allowed to do so. Task Force member Roberta Moore also asked if rentals have been included in the site count and staff responded that because spatial rental data is not readily available, the numbers include rental properties and therefore could be further refined. She also clarified that rental properties make up approximately 40 percent of housing in San José and many of them are in the areas proposed. Task Force member Moore's asked staff if an analysis has been done that looks at renters and race. Staff has not looked at this breakdown but will do so as a follow up for the next Task Force meeting. Her final question asked staff how displacement of renters would be determined and if a permit is needed and staff explained that it would be a difficult task to monitor displacement and that is why the recommendations are conservative and that a permit would be needed for any development.

Councilmember Dev Davis asked staff about the timeline of the HRI work and how likely is it to have Opportunity Housing and the HRI fully vetted. Staff clarified that the staff recommendation does not include completing the HRI before Opportunity Housing, but it is something that the Task Force could discuss and consider, and staff would get back to the Task Force regarding the timeline of the HRI work. Councilmember Davis followed up with another question asking staff what would prevent properties in historic areas from being developed which would preclude an area to be designated as such. Staff responded that the first step would be to identify the properties with historic character by using the Department of Interior standards for historic properties and staff could consider creating additional standards, and that historic properties on the HRI would not develop using a by-right process. Properties on the HRI would go through a discretionary permit process to make sure keeps its historical elements and integrates with historic neighborhood context.

Task Force member Michelle Yesney commented that State laws require design standards to be objective and it would be difficult to implement in historic areas, which is something staff should consider if Opportunity Housing moves forward. She also asks staff for clarification on the quarter versus half mile recommendation and staff clarified the staff recommendation is half mile.

Commissioner Mariel Caballero asked staff what are the risks and opportunities between the quarter and half mile conceptual areas. Staff responded that equity is a concern when pinching the distance closer to Transit Urban Villages and that additional opportunities for qualifying sites when the conceptual area is expanded, but that the quarter mile was only considered to provide an additional option for the Task Force that may not be comfortable with the half mile.

Task Force member Sam Ho comments that expanding the Opportunity Housing area would help achieve goals in producing more housing. He also asks what lessons learned can we take away from other jurisdictions that have implemented Opportunity Housing type policies – what are the positive and the negative impacts and how we could mitigate those negative impacts? Staff responded that they would reach out to those jurisdictions and report back to the Task Force.

## **5. Public Comment**

A large showing of community members provided public comment (42) with varying degrees of support, opposition, and general questions and concerns regarding Opportunity Housing including:

- Notify residents, conduct community outreach, and provide transparency
- Preserving historic resources and updating the Historic Resources Inventory
- Consider expanding it beyond the half-mile or citywide to reduce equity impacts/prevent perpetuation of exclusionary land use legacies, diffuse development pressure in disadvantaged neighborhoods and historic neighborhoods, and provide additional needed housing, especially in higher resource areas
- Establish design standards and acknowledge different neighborhoods (not a one-size-fits-all approach)
- Improve existing infrastructure and analyze additional pressure on utilities, amenities, and services
- Analyze environmental impacts (i.e., trees, water runoff)
- Preserve quality of established neighborhoods
- Consider parking impacts
- Foster an inclusive San José where neighborhood character is enhanced by the diversity of people and not the buildings
- Allow opportunity housing as gentle density, missing middle housing to help provide additional types of housing units
- Allow infill housing which promotes walkable neighborhoods and invigorates neighborhood businesses
- Consider property values and jobs to housing imbalance
- Ensure that housing is built sooner than later to meet the goals and housing needs of the City
- Better utilize vacant lands within Urban Villages
- Build consensus through the community engagement process

## **6. Task Force Discussion**

Co-Chair Teresa Alvarado suggested that Task Force members make no motions tonight and to begin the next Task Force meeting with Task Force discussion and motions.

Task Force members Erik Schoennauer and Leslye Corsiglia verbally disagreed.

Motion (2:20)

Task Force member Erik Schoennauer made the following motion to recommend City staff to:

- Perform a robust public outreach and stakeholder process;
- Analyze and consider every comment made tonight by the public and any Task Force members;
- Consider any Task Force member comments sent via email to City staff by August 15, 2020; and
- Formulate a policy recommendation to present to City Council.

Erik further elaborated that Task Force members and staff should not adopt any criteria and should consider all comments tonight and do a robust city outreach process. Task Force Roberta Moore second the motion. The motion failed.

Motion approved by: Shiloh Ballard, Dev Davis, Pam Foley, Sylvia Arenas, Nate LeBlanc, Sam Ho, Karl Lee, Eddie Truong, Erik Schoennauer, Jim Zito, Susan Butler-Graham, Pat Sausedo, Jason Su, Tamiko Rast, Michael Van Every, Don Little, and David Pandori.

Motion opposed by: Jessie O'Malley Solis, Ray Bramson, Juan Estrada, Andre Luthard, Vincent Rocha, Mariel Caballero, Megan Fluke, David Bini, Jesus Flores, Leslye Corsiglia, Linda LeZotte, Roberta Moore, Robert (Bob) Levy, Margie Matthews, Bonnie Mace, Kevin Zwick, and Michelle Yesney.

Motion abstained by: Smita Patel, Teresa Alvarado, and Harvey Darnell.

## **7. Adjourn**

Co-chair Teresa Alvarado adjourned the meeting at approximately 8:30 p.m. Opportunity Housing will be continued at the next meeting which will reconvene on August 20, 2020 at 6:00 p.m.