August 19, 2020

Envision San Jose 2040 4-Year Review Task Force
City of San Jose

Dear Envision San Jose 2040 4-Year Review Task Force Co-chairs, Task Force Members, and City Staff,

Re: Task Force Recommendation on Opportunity Housing

Over 80 online petitions have been submitted to date requesting that the Envision San Jose 2040 4-Year Review Task Force recommend that Opportunity Housing be applied citywide. Additional community members have expressed support of citywide Opportunity Housing via public comment at the 7/30/20 Task Force meeting and via letters and emails to Task Force staff.

I therefore plan to make the following motion to the Task Force at the 8/20/20 Task Force meeting.

I motion to have the Task Force recommend allowing up to four units on parcels with a Residential Neighborhood land use designation and to proceed with the subsequent steps identified by city staff in the 8/13/20 memo to the Task Force with the subject line “August 20, 2020 TASK FORCE MEETING”.

The subsequent steps outlined by Task Force staff in the 8/13/20 memo are as follows:

“Should City Council direct staff to further explore Opportunity Housing, the following actions will need to be initiated.

1. Conduct a citywide community engagement effort:
   a. Work with community organizations and leaders to encourage participation and diverse representation reflective of San José in the outreach process.

2. Explore creating an affordable housing incentive to encourage inclusion of units at affordable or moderately-priced levels in Opportunity Housing.

3. Find an approach that would allow Opportunity Housing while also minimizing displacement risk:
   a. a. Conduct a Displacement Risk Analysis where Opportunity Housing would be implemented.
   b. Determine if existing City protections for renters (i.e., just causes for evictions under the Tenant Protection Ordinance, Ellis Act Ordinance relocation requirements) would be sufficient or are additional protections needed to minimize and discourage displacement. Consider additional protections for renters such as not allowing Opportunity Housing on properties that have withdrawn from the market through the Ellis Act Ordinance, are qualifying properties under the Apartment Rent Ordinance, and have been occupied by renters in recent years.
   c. Consider additional restrictions for use of Opportunity Housing units as short term rentals, beyond the City’s existing ordinance.

4. Explore strategies to preserve historic areas and properties while also allowing Opportunity Housing:
   a. Consider allowing the adaptive reuse of structures that are on or are eligible for inclusion on the City of San José’s Historic Resources Inventory.
   b. Consider an age-based rule for older homes applying for Opportunity Housing if updates to the Historic Resources Inventory are not completed by the time of implementation.

5. Update City policies and ordinances to allow Opportunity Housing:
a. Update the Citywide Design Guidelines and Standards to include Opportunity Housing design standards that ensure that Opportunity Housing projects are designed to be compatible with existing neighborhoods.

b. Revise the General Plan and Zoning Code to allow and facilitate Opportunity Housing while maintaining the intent for Opportunity Housing to blend in with the existing neighborhood.”

As a reminder, the Task Force recommendation on Opportunity Housing will be packaged with all other recommendations on the General Plan 4-Year Review Scope of Work and presented to Council in spring 2021. Should the Task Force take action to recommend that City Council move forward with Opportunity Housing conceptual policy framework, staff will also conduct a Cost Effectiveness Analysis to determine the feasibility and cost of Opportunity Housing types and present the results to the City Council in spring 2021. Should the City Council approve the recommendation on Opportunity Housing, then staff would initiate the actions listed in items 1 through 5 above. Upon completion, these items will be presented to City Council for their approval.

Environmental analysis of the Opportunity Housing conceptual policy framework will be conducted programmatically as part of the General Plan 4-Year Review process. However, an in-depth environmental analysis would be completed as part of the General Plan Housing Element update which will be initiated in 2021. The Opportunity Housing action item work plan and the General Plan Housing Element update will run concurrently. Staff anticipates the Opportunity Housing work plan to be aligned with the mandated General Plan Housing Element update completion by December 2022.”

Why citywide Opportunity Housing instead of only in some city areas?

Doing so would increase options citywide for lower income families and communities of color, provide equal opportunity to one-unit residential property owners, and maximize the number of new units possible to address the housing crisis.

According to 8/13/20 memo, “Staff recommends continuing to explore allowing up to four units on parcels with a Residential Neighborhood land use designation in areas generally a half-mile walking distance around Transit Urban Villages, taking into consideration natural, human-made, and neighborhood boundaries, and on properties adjacent to existing multifamily housing types or properties designated for multifamily housing.”

Would abolishing the single-family home zoning designation within half-mile walking distance around Transit Urban Villages be the best decision for San Jose?

No. We can do better. We can do better for those that need housing. We could do better to provide more opportunity for one-unit property owners. We could do better to help undo historic patterns of exclusion that reinforced segregation.

Doing so would increase options citywide for lower income families and communities of color.

Doing so would help right historic wrongs that have denied access and opportunity to them, while also providing residential property owners throughout San Jose with an equal opportunity to add additional units to their properties.

Doing so would increase the number of possible units available given that many property owners may not be interested in redeveloping into duplexes, triplexes and four-plexes.

We should provide residential property owners throughout San Jose with the opportunity to redevelop into duplexes, triplexes and four-plexes that are consistent with City requirements for parks and open space.

Would proceeding with the staff recommendation presented in the 8/13/20 memo be an acceptable alternative?
No. Opportunity Housing in only some areas is not sufficient. It is unlikely that all property owners eligible would choose to increase the units on their lots. The impact would be minimal new units compared to the need.

Opportunity Housing in only some areas is not fair. There may be some property owners in other city areas interested in redeveloping into duplexes, triplexes and four-plexes. We should not limit opportunity.

Opportunity Housing in only some areas is not just. We should not exacerbate the historic patterns of exclusion that resulted in the segregation of lower income families and communities of color in San Jose. Zoning and lending rules, for example, impacted the ability of these groups to own a home in certain areas of San Jose. Limiting Opportunity Housing as currently defined would not provide opportunities for these groups throughout the city. Now is the time in history to boldly address multiple issues rather than unintentionally exacerbate injustice.

*While well-intentioned, Opportunity Housing in only some areas (even if framed as an initial "pilot" or "test") is not a recommendation that I could support.*

The Task Force should vote to recommend allowing Opportunity Housing citywide. Opportunity Housing citywide would increase options citywide for lower income families and communities of color, provide equal opportunity to one-unit residential property owners, and maximize the number of new units possible to address the housing crisis.

Juan Estrada
GP 2040 Task Force Member