

Agenda Item-No Attachments (PDF)

File #: 15-0890, Version: 1

REPORT TO COUNCIL

SUBJECT

Consider Approval of Conversion Impact Report for Nick's Trailer Court, located at 1008 E. El Camino Real in Sunnyvale

REPORT IN BRIEF

Sunnyvale Municipal Code (SMC) Chapter 19.72 regulates mobile home park conversions or closures and establishes a process for park owners to follow when they decide to close a park or convert it to another use. Chapter 19.72 requires park owners to prepare a Conversion Impact Report (CIR) (Attachments 1 and 2) to provide information about a planned park closure or conversion including background information on the park, its current residents, the timing of the proposed closure, the types of relocation assistance to be provided to park residents, and related information. Portions of the CIR that include sensitive personal information, such as tenant names, household income, demographics, and housing needs, are provided as a confidential report for staff review, but are not included in the main CIR for public review.

Chapter 19.72 was significantly revised in 2012 as a result of Study Issue CDD 09-07. Nick's Trailer Court (Nick's) is the first mobile home park to be proposed for closure since that time. This park is not covered by the City's standard mobile home park preservation policies because it is zoned for commercial uses. In addition, the park is substandard by today's standards, with twice the density that is currently allowed under City zoning for mobile home parks.

Staff has reviewed the draft CIR and the confidential CIR reports to verify compliance with the requirements of Chapter 19.72, including the requirement to provide adequate relocation assistance to the residents. The park owners hosted two informational meetings for the residents, in December 2014 and September 2015, and most of the attendees expressed strong interest in the relocation assistance options; a number of them were interested in moving out of the park as soon as possible.

On October 28, the Housing and Human Services Commission (HHSC) reviewed the draft CIR for completeness and compliance with the requirements of Chapter 19.72, held a public hearing, made findings and recommended Alternative 2, which is similar to Alternative 1, but with several modifications to CIR, as described in the minutes (Attachment 3). Following that hearing, the applicant provided a letter to staff describing the modifications to the CIR that it proposes to make in response to the HHSC recommendations (Attachment 4).

Staff recommends Alternative 1: Find that preparation, noticing, and distribution of the CIR has been done in compliance with SMC Chapter 19.72, that the CIR, as modified by the applicant, includes adequate information and options, and that it takes adequate measures to address the adverse social and economic impacts on displaced residents and mobile home owners of a mobile home park conversion; and approve the draft CIR as shown in Attachments 1, 2 and 4.

BACKGROUND

Nick's was developed into its current layout by the family of Mildred S. Citraro in 1959, on property that the family had operated as an auto campground since the 1940's. Nick's was owned and operated by the Citraro family until July 15, 2014, when it was sold to its current owner, Sunnyvale Park LLC (Sunnyvale Park). In September 2014, Sunnyvale Park notified the City that the park was undergoing a conversion due to reduced occupancy, as at least 25% of the spaces were vacant. On December 5, 2014, the City notified all residents of the park by mail that the park was undergoing a conversion. The notices provided information about the City's mobile home park conversion requirements, which are codified in SMC Chapter 19.72.

Chapter 19.72 was amended in 2012 as a result of Study Issue CDD 09-07, following significant public outreach and multiple public hearings. The zoning code amendments were reviewed and recommended by the HHSC and Planning Commission and approved by City Council in December 2012. The most significant changes to Chapter 19.72 included: expanding the relocation assistance provisions to all park households, whether they rent or own their dwelling unit in the park; and providing a two-year rent subsidy for lower income and special needs households, in addition to the other types of assistance previously available, such as purchase of the mobile home for 100% of in-place value and moving cost assistance.

EXISTING POLICY

SMC 19.72.010(b): Purpose. This chapter establishes requirements to ensure that the adverse social and economic impacts of any mobile home park conversion on displaced residents are identified and mitigated through adequate notice, reasonable relocation and other assistance. These requirements are established under the authority granted by California Constitution, and Government Code Sections 65863.7 and 66427.4, and Civil Code Section 798.56.

Property Zoning/Land Use Designation of Park Site:

- C-2 - Highway Business
- GP - Commercial General Business (CGB)
- Precise Plan for El Camino Real

Consolidated General Plan, p. 5-9: The City has established a designated mobile home park zoning district. Currently, 13 of the City's 16 parks, comprising a total of 420 acres, are zoned for long-term mobile home use. Chapter 19.72 of the Municipal Code regulates the conversion of mobile home parks to other uses, including requirements for preparation of a conversion impact report, tenant noticing and public hearing requirements, and payment of relocation assistance to displaced tenants.

ENVIRONMENTAL REVIEW

Consideration of the CIR is exempt from the California Environmental Quality Act (CEQA) in accordance with Guideline Section 15061(b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Closure of the park itself will not cause either a direct or indirect physical change. Any subsequent application for a land use entitlement for the ultimate reuse and development of the site is covered by CEQA and will be subject to environmental review.

DISCUSSION

Because mobile home park conversions or closures are often contentious and complex procedures for park residents, local governments, and property owners, there are numerous state laws, court decisions, and local codes and requirements which collectively regulate the conversion or closure process for all parties involved. Certain state laws, cited above in the Existing Policy section, and federal property rights laws limit the extent to which local governments can impose requirements or restrictions on mobile home park owners related to their decisions to close a mobile home park. However, state law allows local jurisdictions to require park owners to mitigate the adverse impacts of the closure on park residents by providing specified types of relocation assistance not to exceed the reasonable costs of relocation to residents and providing significant notice in advance of the closure.

In Sunnyvale, there have been five park closures in the past several decades. Due to a number of concerns related to the most recent two closures, in 2007 and 2008, a study issue was proposed (CDD 09-07) and the City spent a considerable amount of time revising its mobile home park conversion ordinance (Chapter 19.72) to comply with relevant laws and address the concerns of various stakeholders, including park residents, owners, city officials, and advocacy groups. The revisions, adopted in 2012, resulted in the current ordinance, which has been recognized by advocates, including representatives of the Silicon Valley Law Foundation, as a model for other communities to emulate.

Property Details

The parcel on which Nick's is located has been zoned for commercial uses for several decades, therefore this mobile home park is a legal non-conforming use (i.e., it does not conform to the current zoning, but may legally remain due to its existence before the zoning designation was applied). Legal non-conforming uses may remain for their useful lives, but any newly constructed or redeveloped uses must conform to the property's current zoning and General Plan designation. The Nick's property was annexed into the City in 1961, having been developed under County land use jurisdiction.

Because the property's current zoning and general plan designation are for commercial uses, it is not subject to the City's policy to preserve at least 400 acres of land for mobile home parks. That policy applies only to those areas with "mobile home park exclusive" zoning designations. With the closure of Nick's, the City will still have slightly over 400 acres zoned for mobile home parks.

The park, as currently laid out, has roughly double the residential density currently allowed for mobile home parks in the City's Zoning Code, which is 12 units per acre. With 44 mobile home spaces on 1.8 acres, the density is 24.4 units per acre, as noted in Attachment 5. As noted in the CIR, only 30 of the 44 spaces were occupied at the time the CIR was published. Three of those occupied units were owned by the park and rented to tenants. Sixteen of those occupied units were single-wide mobile homes, and the remaining 14 were travel trailers/recreational vehicles (RV's). As of early December, 28 spaces in the park were occupied.

The average age of the mobile homes in the park is 47 years and the average age of the RV's is 37 years. Mobile homes built in the 1950's through the 1970's were typically built to last for about 20 years. Many of the homes include unpermitted additions or modifications, such as prefabricated storage sheds converted to bedrooms.

Preparation and Distribution of the CIR

A summary of the requirements of Chapter 19.72 is provided in Attachment 6. The park owner prepared the draft CIR pursuant to Chapter 19.72 and guidance from the relocation specialist and staff. City staff reviewed the draft CIR for compliance before it was distributed to the residents. The draft CIR and related documents were delivered to each tenant in the park during the week of August 20, 2015. The related documents included a Statement of Benefits letter and an invitation to the informational meeting held on September 16, 2015 and to the HHSC hearing in October. The Statement of Benefits letters summarized the available benefits for each tenant, various options available, and an estimate of the dollar value of the benefits depending on the characteristics of the household. Letters were translated into the language spoken by each household (Spanish or Chinese) as needed.

Development of the Relocation Plan

The relocation specialist hired by the City (Autotemp, Inc.) interviewed or has attempted to interview all tenants in the park regarding their housing needs and preferences for replacement housing. The relocation specialist followed staff guidance and standard best practices in relocation programs when interviewing the residents and developing the details of the proposed relocation assistance package, consistent with the City requirements. In addition, several local agencies, including Project Sentinel and Sunnyvale Community Services, have reached out to the park residents to see if they had concerns or were interested in available services, such as mediation or food programs. Project Sentinel staff also made outreach efforts in the park to determine if any residents were interested in negotiating for purchase of the park. No residents expressed interest in this option, which expired after the end of the option period provided in Chapter 19.72.

A brief summary of the relocation assistance package described in the draft CIR, with average estimated assistance values based on the confidential report materials reviewed by staff, is provided in Attachment 7. A timeline of the process is provided in Attachment 8.

One area in which Chapter 19.72 did not provide highly detailed guidance is the calculation of the two-year rent subsidy for eligible tenants. Staff suggested that the applicant use local, current RealFacts data and comparables from Craigslist listings, both for Sunnyvale units only, to determine rent subsidy amounts, rather than the "Fair Market Rent" (FMR) set by the Housing Authority for the entire county. FMRs are often used for this purpose, but the current FMR is significantly lower than most Sunnyvale rents. The applicant agreed to use the local comparables as suggested by staff, which results in higher rent subsidies for the tenants. These calculations are explained in the draft CIR. This approach should provide the residents with a wider range of options in selecting a replacement unit. As explained in the CIR, tenants may opt to use the rent subsidy to rent a new dwelling unit or mobile home space, or apply it towards the purchase of a new home (mobile home, condominium, or other property).

HHSC Review and Recommendation

Chapter 19.72 requires first the HHSC and then Council to review the CIR (public portions) for adequacy and then hold a public hearing to receive testimony regarding the CIR from any interested parties, such as park residents or others interested in the process. The HHSC conducted this review and hearing at its meeting on October 28 (minutes provided in Attachment 3).

The following findings are required pursuant to Chapter 19.72.130:

(c) Findings and Decisions on CIR. Following a public hearing, the Housing and Human Services Commission shall make a recommendation to the City Council to approve or conditionally approve the CIR based on the required findings. After receiving a recommendation from the Housing and Human Services Commission and holding at least one public hearing, the city council may approve or conditionally approve a CIR based on the required findings:

- (1) Preparation, noticing, and distribution of the CIR has been done in compliance with this chapter; and
- (2) The CIR includes adequate information and options, and takes adequate measures to address the adverse social and economic impacts on displaced residents and mobile home owners of a mobile home park conversion.

The HHSC recommended conditional approval of the CIR with several recommended modifications as listed below. The staff suggestion and/or applicant response is also provided below each modification.

- 1) That the applicant clarify the details about any utilities included in the rent subsidy calculation, and to make appropriate adjustments to the calculation, if necessary, to ensure an "apples to apples" comparison;

Staff suggestions: Staff concurs with this item and the applicant has already implemented it, as noted in the applicant's response letter (Attachment 4).

- 2) That any release agreement to be signed by park residents who choose the "lump sum" option should not include any clauses involving releases unrelated to the city's relocation assistance requirements;

Staff suggestions: The main intent of this recommendation seems to be to ensure that the form of the agreement does not include any sort of unscrupulous clauses which would unfairly take advantage of the residents' situation, which can be understood as a legitimate concern. However, there are several challenges with requiring the park owner to comply with this recommendation:

- a) It appears to conflict with SMC subsection 19.72.080(a), which states: "The applicant and any person eligible for relocation assistance may agree to other mutually satisfactory relocation assistance." That section does not require any City review of such alternate assistance or the form of agreement by which it is provided; and
- b) Implementing this requirement would presumably require staff to review the individual agreements negotiated between the parties to determine if it contained any "unrelated" clauses. This would require staff to provide legal advice to the residents, which is not appropriate.

- 3) That the park owner shall notify the park residents of available legal and financial advisory services, such as those provided by Project Sentinel; and

Staff suggestions: Staff concurs with this item so that the residents may have access to legal

review of their agreements and the applicant has already implemented it, as noted in the applicant's response letter (Attachment 4).

The HHSC further recommended that the applicant consider voluntarily offering the mobile home owners in the park the following:

- 4) Reimbursement for the cost of a second appraisal of their homes (for those homeowners opting to obtain a second appraisal);

Applicant response: The applicant has agreed to voluntarily implement this recommendation, as noted in Attachment 4. The applicant will provide reimbursement to any mobile home owner who obtains a second appraisal of their home which results in a higher value than the first appraisal and presents it to the applicant for reimbursement.

- 5) Updating the mobile home appraisals closer to the date of residents' moves; and

Staff suggestion: An updated appraisal might be warranted if any of the residents were going to remain in the park well beyond the stated lifespan of an appraisal (typically up to six months), and if mobile homes were notably increasing in value during the period between the date of the appraisal and the tenants' move out date. However, if mobile home values remain flat or decrease during this time period, an updated appraisal would not benefit the residents. In particular, if mobile home loan interest rates or park space rents rise in the interim, the updated values could be lower than those of the initial appraisals.

Based on staff's discussions with the relocation specialist and on the questions asked at the residents' meetings, it appears that the vast majority of the park tenants are interested in relocating as soon as possible, and many have already signed or are ready to sign agreements setting forth their selected benefits. At this time it does not appear that many home owners will remain in the park long enough to warrant an updated appraisal. However, if any do remain in the park for some months beyond the Council hearing date without entering into an agreement defining their relocation benefit amounts, an updated appraisal could be reasonably requested at that time. Staff believes that Chapter 19.72 provides staff with the discretion to require an updated appraisal for those homeowners, if mobile home values appear to have risen since the original appraisal date, as part of staff's overall monitoring of the work of the relocation specialist and verification of the applicant's payment of adequate relocation assistance for each tenant. Staff has discussed this with the applicant and they have concurred.

- 6) Increase the payments for the mobile homes to the mid-point between the appraised value of the home and the anticipated cost to buy another mobile home.

Staff suggestion: Staff finds that the recommendation is too vague and complex to be fairly implemented by the applicant or monitored consistently for compliance by staff. In particular, the "anticipated cost to buy another mobile home" would be virtually impossible to determine consistently for all the home owners in the park, given the wide variety of mobile homes available, price variations by park, city, mobile home size, type, age, and space rents or utilities. In addition, a number of park tenants have already located homes and placed offers on them and/or purchased them with the relocation benefits offered pursuant to the draft CIR.

Other residents have successfully obtained replacement rental housing with the benefits offered, so that option also appears viable.

In conclusion, as reflected in Attachment 4, the applicant's letter summarizing the updates to the CIR, the applicant has agreed to implement the HHSC recommendations 1, 3 and 4, and has indicated that the "early termination" agreement it has been using does not conflict with the overall intent and spirit of item 2. Staff does not feel that any changes to the CIR are required to address the HHSC concerns related to item 5, and item 6 does not appear to be workable.

Council Review of the CIR

State law precludes cities from denying a CIR altogether. Council can opt to either approve the CIR as presented based on the findings noted above (Alternative 1) or conditionally approve it with modifications that would allow Council to make the required findings (Alternative 2). In the case of a conditional approval by Council, the applicant could either agree at the hearing to incorporate the modifications specified by Council, if they are relatively clear and straightforward, with staff to verify that the final CIR, as revised, complies with the modifications directed by Council. Alternatively, if the modifications require further research or analysis by the applicant or some sort of coordination with staff on the proposed changes, Council could hold a follow-up hearing on the revised CIR prior to granting final approval.

Status of the Property

The park owner has not yet submitted any planning application to redevelop the park; however the owner has indicated that the owner would like to develop a mixed-use project with some commercial uses and residential rental units. The owner has expressed a desire to include up to 20 percent of the units as affordable rental units through use of tax-exempt bonds and/or another subsidy program. The park owner has also agreed to provide the residents with first right of refusal to rent or purchase any dwelling units that may be developed on the site, as required by Chapter 19.72. In addition, Chapter 19.72 provides the displaced residents with a priority to buy or rent any City-required Below Market Rate (BMR) units that may be developed on the site. City staff administers the BMR programs, so staff has established a system, in coordination with the relocation specialist, to maintain the names and contact information of any park residents that express interest in exercising this priority.

FISCAL IMPACT

The recommended action is not projected to have a fiscal impact on the City. The park owner is responsible for all relocation costs and expenses associated with the park closure.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

Representatives of Sunnyvale Park held an informational meeting for all park residents on December 11, 2014. City staff, Sunnyvale Park management, and the relocation specialist team attended that meeting and presented information about the conversion process and the relocation assistance provisions of Chapter 19.72 to the residents. Project Sentinel staff also attended and offered the

agency's services to the residents.

The Park representatives also hosted an informational meeting focused on the draft CIR and detailed relocation assistance options on September 16, 2015. It was well attended, and the presentation by the City's relocation specialist was well received. Most of the questions asked by residents at that meeting were related to how soon they could access the relocation benefits, logistical details regarding timing of payments and the early move-out bonus offered by the developer, and transactional details related to escrow deposits and possible third-party payees. Several Housing staff members were also available and spoke briefly about City Housing programs, and a number of residents expressed interest in the City's Below Market Rate homes and other affordable housing programs.

Notices of the Housing and Human Services meeting in October 2015 and the Council meeting in January 2016 (including changes to the meeting dates) were mailed to the residents and mobile home owners.

Staff also provided early notice of the Nick's closure process to interested parties including the Law Foundation of Silicon Valley, Project Sentinel, and Sunnyvale Community Services, and has answered their questions and provided them with meeting notices and related information about the process. Sunnyvale Community Services staff attended the September 2015 meeting and offered the agency's services to any interested residents, such as food programs and financial assistance. Brief summary notes of that meeting are provided in Attachment 9.

Following the HHSC hearing, several additional park residents have contacted staff inquiring about the City's affordable housing programs, following up on the information staff provided at the second residents' meeting in September. These latest contacts have not involved any requests for changes to the CIR, to the method for calculating the relocation benefits, or to the appraisal process.

ALTERNATIVES

1. Find that preparation, noticing, and distribution of the CIR has been done in compliance with SMC Chapter 19.72, that the CIR, as modified by the applicant, includes adequate information and options, and that it takes adequate measures to address the adverse social and economic impacts on displaced residents and mobile home owners of a mobile home park conversion; and approve the draft CIR as provided in Attachments 1, 2 and 4.
2. Conditionally approve the CIR with modifications, which may include one or more of the HHSC recommendations not already included in Alternative 1, or any other modifications specified by Council, which, if incorporated into the CIR, would allow Council to make the required findings as stated in 1.A above and approve the CIR.
3. Other Council direction.

STAFF RECOMMENDATION

Alternative 1: Find that preparation, noticing, and distribution of the Conversion Impact Report has been done in compliance with SMC Chapter 19.72, that the Conversion Impact Report, as modified by the applicant, includes adequate information and options, and that it takes adequate measures to address the adverse social and economic impacts on displaced residents and mobile home owners of a mobile home park conversion; and approve the draft Conversion Impact Report as provided in Attachments 1, 2 and 4 to the report.

Staff closely reviewed the CIR and the confidential portions of the report, which provide details on each tenant household, the estimated relocation benefits available to them, and the appraisals, and feels that it complies with Chapter 19.72 and that the required findings can be made. Staff has given thoughtful consideration to the recommendations of the HHSC, and the applicant has agreed to incorporate those that can be reasonably implemented into the draft CIR. The current package of relocation benefits being offered to the residents through the CIR supports the recommended findings and goes somewhat beyond the requirements of Chapter 19.72. The vast majority of residents appear to be happy with the options offered and the relocation assistance provided to date.

Prepared by: Suzanne Ise, Housing Officer

Reviewed by: Trudi Ryan, Director, Community Development Department

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Draft Conversion Impact Report (CIR)
2. Conversion Impact Report Appendices
3. Minutes of October 28, 2015 HHSC Meeting
4. Applicant Updates to CIR
5. Summary of Nick's Trailer Court Characteristics
6. Summary of SMC Chapter 19.72 Requirements
7. Average Relocation Benefit Values
8. Conversion Process Timeline
9. September 16, 2015 Resident Meeting Summary