



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rosalynn Hughey
Kim Walesh

SUBJECT: SEE BELOW

DATE: February 23, 2018

Approved

D. D. S. L.

Date

2/23/18

SUBJECT: ACTIONS RELATED TO THE PETITION INITIATIVE AMENDING THE ENVISION SAN JOSE 2040 GENERAL PLAN

RECOMMENDATION

Accept the Elections Code 9212 Report, as revised, analyzing the Petition Initiative Amending the Envision San José 2040 General Plan (Initiative).

OUTCOME

On January 23, 2018, the City Council accepted the Certificate of Sufficiency issued by the Registrar of Voters that an Initiative amending the *Envision San José 2040 General Plan*, amending the *Evergreen-East Hill Development Policy*, adopting the Evergreen Senior Homes Specific Plan, and amending Title 5, Title 18, and Title 20 of the San José Municipal Code qualified for Council action under the City Charter and Elections Code. In addition, the Council directed staff to prepare a report, known as a “9212 Report,” about the effects of the Initiative consistent with Council direction and the requirements of Elections Code section 9212.

Under the Elections Code, the 9212 Report must be presented to the Council within 30 days of accepting the Certificate of Sufficiency. Once the Report is presented, the Council is required by state law to either (1) adopt the Initiative, as submitted with no changes, within 10 days, or (2) adopt a resolution calling for an election to submit the initiative to the voters at least 88 days before the next General Election, which will occur on Tuesday, June 5, 2018. (Elec. Code § 9215(c).) The Report was presented to Council on February 13, 2018 meeting the 30-day time period allotted pursuant to Elections Code. Staff specified certain changes to the Report during the February 13 presentation and the attached revised Report reflects the inclusion of the modifications. The City Council’s acceptance of the 9212 Report is not required by state law, but is an action the City Council indicated as desirable to take after all the staff revisions to the Report were included in the final Report.

At its February 13, 2018 meeting, the City Council unanimously voted in favor of calling an election to submit the Initiative to the voters at the next General Election, which is on June 5, 2018. The Council may place the Initiative on the June 5 ballot by adopting the resolution proposed in the following agenda subsection.

BACKGROUND

On September 8, 2017, Sean Welch (Nielsen Merksamer Parrinello Gross & Leoni LLP), submitted to the City a Notice of Intent to Circulate Petition for the purpose of qualifying and enacting the Initiative. On November 27, 2017 the Petition with obtained signatures was submitted to the City of San Jose City Clerk's Office. On January 10, 2018, the Santa Clara County Registrar of Voters certified that proponents of the Evergreen Senior Homes Initiative submitted sufficient signatures to qualify the Initiative for the June 5, 2018 general municipal election.

The Initiative proposes a significant number of amendments to the General Plan, Evergreen East Hills Development Policy, and Municipal Code to exempt the Initiative's proposed development on the Evergreen site and the Citywide Overlay from conformance to these existing policies and codes. Initiatives proposed by the voters do not require review under the California Environmental Quality Act (CEQA); however, subsequent discretionary approvals that will be needed to implement the Initiative require compliance with CEQA.

On October 17, 2017, and also again on January 23, 2018, Council directed staff to move forward with preparing the 9212 Report on the statutory items identified in the City Clerk's memorandum. The prepared analysis was presented to the City Council on February 13, 2018. Staff indicated proposed text changes to the presented Report related to transportation, green-house gas and air quality sections as well as anticipated additional information to account for Fire/EMS services for seniors in the model used for the fiscal analysis.

ANALYSIS

9212 Report Revisions

Air Quality and Greenhouse Gas Emissions

On February 13, 2018, Staff presented to the City Council the analysis of the proposed Evergreen Senior Homes Initiative, referred to as the 9212 Report as it includes the subject matters that are authorized under Elections Code section 9212 regarding the proposed Initiative. Staff explained the changes to Chapter III of the Report's green-house gas and air quality sections. The specified changes are now incorporated into the revised Report, which is transmitted as Attachment A of this memorandum. The changes provide context for the national trip generation standard (ITE) for senior housing and its potential effect on air quality and

greenhouse gas impact analysis, which is used in the Report. The Report as revised states in relevant part:

“...San Jose has higher cost of housing and incomes than most communities in the nation. Cost of housing and affluence are factors that are associated with higher trip generation. Should the seniors in the ESHSP (ESH Specific Plan) have driving behaviors different than the national standard assume, the senior housing trip generation may be underestimated,” and “thus the air quality impacts” and “green house gas impacts” “from senior housing may be underestimated.”

These revisions are included on pages 76, 79, 129-131 of the Report (Attachment A hereto).

Fire/EMS Expenses for Seniors

The 9212 Report explains that the cost of Fire/EMS services associated with the Citywide Overlay and Evergreen site assumes a standard residential population. At the February 13 meeting, staff explained to Council that data from the City’s Fire Department would be forthcoming to provide a more accurate estimation of the City’s costs to provide Fire/EMS services to a senior population. The Fire Department provided 2017 data that attributes 37.9% of all San Jose Fire Department calls for medical service (EMS) to individuals 55+; however, by contrast, the United States Census American Community Survey indicates that individuals 55+ make up 22.7% of the San Jose population. As a result, the fiscal model is updated in the revised Report to reflect the greater need for service attributed to the senior population. This modification to the model results in increased total costs for the Citywide Overlay and the ESH Specific Plan. The Citywide Overlay now is projected to have \$24.5 million net deficit (as opposed to a \$17 million deficit previous stated in the 9212 Report posted on the 2/13/18 City Council Agenda, as attachment E to agenda item 3.7) in comparison to adopted General Plan’s \$89.5 million net revenue. The ESH Specific Plan now is projected to have a net deficit of \$84,200 (as to opposed to a \$31,100 deficit previous stated in the 9212 Report posted on the 2/13/18 City Council Agenda, as attachment E to agenda item 3.7) in comparison to the adopted General Plan’s \$1.1 million net revenue. These revisions are on pages 3; 94-96 ;98-100; 137; 139-140 of the revised 9212 Report. The Fiscal Analysis attachment to the revised 9212 Report has also been updated to factor in the higher EMS expenses associated with senior development.

The Fire Department also provided data specific to The Villages senior (55+) community which consists of 4,000 residents in the Evergreen area. In 2017, the Villages had 727 emergency medical (EMS) calls for service, which is 19% of its 4,000 person population. In comparison to the citywide data, there were 71,460 EMS calls for the entire City, which is 7% of the 1,009,363, person population (including all ages). The Villages have greater than twice the level of EMS calls per resident than the City as a whole.

City Response to Initiative Proposers Comment Letter

Received by the City Clerk on Monday, February 12, 2018 at 2:14 pm, the Initiative proposers, called the “San Jose Residents for Evergreen Senior Homes” (with major funding from

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Ponderosa Homes II), submitted a comment letter regarding the 9212 Report. Staff reviewed the Initiative proposer's comment letter. Attachments B, C, & D are a summary of staff's responses to comments raised by the Initiative proposer.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the March 6, 2018 Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, Budget Office, Department of Public Works, Housing Department, Department of Parks, Recreation, and Neighborhood Services, Department of Transportation, and San Jose Public Library.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation is associated with this action.

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

ROSALYNN HUGHEY

Acting Director

Planning, Building, and Code Enforcement

/s/

KIM WALESH

Deputy City Manager

Director of Economic Development

For questions please contact Jared Hart, Supervising Planner, Phone No. 408-535-7896

Attachments:

A) Revised 9212 Report

B) Response to February 12, 2018 letter from San Jose Residents for Evergreen Senior Homes

C) Narrative response to spreadsheet accompanying February 12, 2018 letter from San Jose Residents for Evergreen Senior Homes

D) Spreadsheet including staff responses to all comments raised within the spreadsheet accompanying February 12, 2018 letter from San Jose Residents for Evergreen Senior Homes