



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: January 12, 2009

Approved

Date

1/21/09

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

SUBJECT: DISTINCTIVE NEIGHBORHOOD PROGRAM STATUS; INITIAL PUBLIC OUTREACH AND POLICY OPTIONS

RECOMMENDATION

City Council review this report on the outcome of the initial public outreach for the Distinctive Neighborhood Program and provide comments for the continued development of this program.

OUTCOME

The City Council's comment and direction on the public input regarding existing City policies and the need for further enhancement and protection of single-family neighborhoods, will allow staff to effectively continue the development of the Distinctive Neighborhood Program and move forward with the analysis of policy options and development of policy recommendations for Council consideration in June 2009.

BACKGROUND

In the 2008/2009 fiscal year budget the City Council approved funding for the development of a "Distinctive Neighborhood Program" to address neighborhood concerns regarding the physical development of single-family neighborhoods, including: demolitions, additions and new construction that is out of character with existing neighborhoods. The Department of Planning, Building and Code Enforcement has been directed to develop this program, conduct outreach, and have a recommendation for City Council by June 2009.

The goal of the Distinctive Neighborhood Program is to add further protection and enhancement to San Jose's unique residential neighborhoods by: Defining and identifying the characteristics of distinct neighborhoods based on community input; Reviewing existing protections; and Proposing potential policy changes.

The City Council approved the Single-Family House (SFH) Permit process in 2000 to promote orderly development and to enhance the character, stability, integrity and appearance of single-family neighborhoods. A Single-Family House Permit is required for new construction that:

- Meets or exceeds 30 feet or 2 stories in height
- Has a F.A.R. (ratio of house floor area to lot area) that meets or exceeds 0.45
- Occurs on a site listed on the Historic Resources Inventory

SFH Permit applications are evaluated using the adopted *Single-Family Design Guidelines* that are intended to help maintain the quality of San Jose's neighborhoods. SFH Permits for historic homes and neighborhoods listed on the Inventory are evaluated using the adopted *Your Old House: Guide for Preserving San Jose Homes*.

If no Planning Permit is required, the property owner may proceed to the Building Division for building permits without any design review. The City's Municipal Code allows physical changes including demolition to facilitate new construction that can substantially alter homes and, over time through the cumulative effect of many individual demolitions and remodels, alter the character of entire neighborhoods.

ANALYSIS

During the first round of outreach for this program which began in October and ended in December 2008, staff conducted nine meetings to hear community concerns regarding their neighborhoods and to collect feedback on the proposed policy options. Five of the meetings were community workshops conducted at various locations throughout the city. These locations were strategically chosen with an attempt to get to all areas of the city. The other four meetings were conducted with various focus groups including: the Neighborhood and Developer's Roundtables, the Historic Landmarks Commission and the Planning Commission.

At each meeting staff presented the program and concluded the presentations with three questions to the community. The three questions are outlined below with a summary of community responses to these questions. The answers to the questions differed depending on whether residents were from older neighborhoods or from newer neighborhoods¹. Between January and April of 2009 staff will be conducting a thorough analysis of the policy options in light of community input received. The Discussion subsection below presents an initial analysis and forecast of that process.

Question 1: What are the characteristics in your neighborhood worth preserving?

Existing Architectural Styles and Design – Residents of older neighborhoods said they wanted to preserve the historic architectural styles, charm and character of existing homes in their neighborhood. They liked the vintage of their neighborhood and had an appreciation for the design and detail of homes, including the doors, windows, porches, facades, and eclectic quality and diversity of houses. Residents of older neighborhoods liked the pattern of detached garages which allows for a more "active" street frontage. Residents of newer neighborhoods did not have many comments regarding these issues.

¹ The term "older neighborhoods" refers primarily to pre World War II neighborhoods but may also include early post World War II homes.

Existing Density and Scale - Many residents of older neighborhoods said they wanted to preserve the size and scale of houses and the single story character of some neighborhoods. The general density and scale of streets including the existing lot patterns, setbacks and privacy were often mentioned as worth preserving. Residents also mentioned liking the continuity and uniformity of streets including the preservation of trees, the size of lots, the narrow width of streets and the existing single-family use and density of homes. Residents of low density neighborhoods said they wanted to preserve the small town feel of their neighborhoods such as the safe and friendly atmosphere, access to open space, size of lots and yards, height and privacy. They also stressed the importance of preservation of trees.

Question 2: What changes to your neighborhood would adversely affect the character?

Conservation of Existing Neighborhood Fabric – Residents of older neighborhoods expressed concerns regarding demolition of existing homes. This concern was prevalent in four out of the five community meetings and was often related to the type of construction replacing the house being demolished but was also voiced as a concern regarding the loss of historic fabric. There were many concerns regarding the replacement of original details of houses such as wood windows, doors, trim and siding with cheaper and more modern materials such as vinyl and stucco perceived as incompatible and out of character with the existing house and adjacent houses. Concerns were voiced over the loss of other architectural elements such as porches. Participants indicated that these replacements and losses cause properties to lose integrity over time. Residents were generally concerned about illegal remodels/replacements and conversions of garages and secondary units. Residents of newer neighborhoods were generally less concerned about existing fabric but did speak about the loss of landscaping and open space and the paving of front yards.

Residents of both newer and older neighborhoods voiced concerns about the loss of trees in neighborhoods and the need for more trees. Residents spoke about the removal of trees over time, and the removal of trees due to new development. Concern was voiced regarding heritage and potential heritage trees and the lack of maintenance of these trees.

Design and Scale of New Construction – Most residents of older neighborhoods were concerned with the design of new construction perceived as out of character with existing homes in the neighborhood. Residents indicated that some new development includes “cookie cutter” homes lacking the variety, proportion and eclectic quality of existing neighborhoods. Residents indicated that new development is often setback from the street inconsistently with existing homes. Reference was also made to the incompatibility of new houses with attached garages in neighborhoods that have primarily detached garages. Residents of newer neighborhoods generally did not voice concerns regarding these issues.

Residents of older and newer neighborhoods alike expressed concerns regarding the scale of new construction adjacent to single-family neighborhoods. Reference was made specifically to large homes perceived as out of scale and of out character with adjacent homes and regarding high density infill developments perceived as not fitting in with the surrounding neighborhood. Some concerns were expressed regarding incompatible second story additions and the loss of privacy and neighborhood character and continuity due to these developments. The edges of neighborhoods were seen as especially vulnerable to high density development.

Developers stressed the importance of property rights and said that certain remodels, such as second story additions, should be allowed by right, otherwise residents may be forced to move out of neighborhoods. They indicated that the permit process should not get too lengthy and that the City should consider the funding source for implementing this program. They said that change and growth are good because neighborhoods should be able to evolve over time to meet the needs of residents.

The Historic Landmarks Commission indicated that some Conservation Areas in San Jose originally surveyed in the 1970's needed updated survey work because some of these Conservation Areas may qualify as City Landmark Historic Districts. The Planning Commission discussed the balance between property rights and city growth and regulating development, some commissioners were concerned with the issue of regulating architectural style and design of new construction.

Question 3: Should the policy be city wide or neighborhood specific?

City Wide Policy Option – Residents of older neighborhoods indicated that demolitions can cause negative impacts on neighborhoods and should be assessed city wide quickly. A city wide option would be a quicker solution to the problem, set up in such a way as to take specific context into account as is done in the *Residential Design Guidelines* which outline recommendations in specific contexts. A suggestion was made to create a checklist of city wide neighborhood characteristics where specific neighborhoods could check the characteristics that apply to their neighborhood. This could be a quick solution to deal with specific neighborhoods through a city wide approach.

Residents of older and newer neighborhoods felt demolitions and significant remodels; and the relationship of high density to single-family neighborhoods should be handled through a city wide approach.

Neighborhood Specific Policy Option – Many residents felt that a neighborhood specific approach is more appropriate since every neighborhood is different. Some neighborhoods may prefer tighter regulations while others would not. Residents emphasized that neighborhood individuality and distinct qualities are important to preserve and a neighborhood specific approach would therefore be more appropriate. Opinions differed regarding the type of neighborhood specific approach warranted. Some resident preferred an Enhanced Design Review Overlay (which would result in neighborhood specific design guidelines), while others thought a Zoning Overlay (which would result in neighborhood specific development standards) is a better approach. Some residents thought both should be applied to certain neighborhoods. However, there was general consensus regarding the appropriateness of a Conservation Study Area² for older neighborhoods.

Some residents suggested a “buffer zone” at the edge of single-family neighborhoods as a transition zone between high density development and single-family neighborhoods; need for more notification of development especially when a house is being demolished or significantly remodeled; more incentives for rehabilitation of historic homes; and an affordable, streamlined permit process.

² A Conservation Study Area would aim at streamlining the surveying process to identify historic neighborhoods. See attachment A for more information regarding the policy options presented.

Discussion

From the input received a clear difference is apparent between the concerns of residents of older neighborhoods compared to residents of newer neighborhoods. Residents of older neighborhoods felt a lot more protective of the architectural style and design of their neighborhood and were therefore more concerned with the loss of existing fabric and any new development that was incompatible with the existing design of homes. However, residents of older and newer neighborhoods alike were protective of the scale and density of their neighborhood. Due to this differentiation, staff will explore policy recommendations that take into account the age of neighborhoods.

City Wide Policy Options - Staff intends to explore that the following aspects that could be appropriately handled through a city wide option:

Demolitions of houses over a certain age – Demolitions were a major concern of residents of older neighborhoods and were perceived as an urgent issue. One City wide policy option may be to add demolitions of houses over a certain age as one of the thresholds for requiring a Single-Family House Permit. Through this permit process staff could require a historic evaluation for potential historic houses.

Size and height of new homes and major remodels/additions – Since the issue of scale and density were concerns of residents of older as well as newer neighborhoods a City wide policy will be explored to deal with this issue. Residents were more concerned with the appearance and scale of the front of the house than that of the rear. Policy analysis will include reviewing the current Single-Family House Permit thresholds outlined in the Zoning Code to determine whether revisions are needed to regulate the size and architectural character of the front of a house allowing for more flexible regulations at the rear. A system whereby the single-family house permit threshold requirements would take into account the context of the proposed project will also be considered.

Single-Family Design Guideline Update – From the input received it is apparent that although neighborhoods are very different there are certain distinct mid century neighborhoods, such as ranch-style and Eichler developments dispersed in different areas in San Jose. One option would be to update the *Single Family Design Guidelines* to include specific design goals for specific types of neighborhoods city wide.

Neighborhood Specific Policy Option - Neighborhood specific policy options would be evaluated for neighborhoods that request additional restrictions and protection. The implementation of these options would all require additional resources. Neighborhood boundaries would need to be identified and these neighborhoods would have to go through a designation process.

Project Scope – The scope of this program is still being defined and is generally focused on single-family development and permitting in San Jose. The community raised some concerns that are outside but related to the scope. These include but are not limited to the development of high density housing adjacent to single-family homes and preservation of trees. Public input on these topics is being referred to the appropriate city staff.

EVALUATION AND FOLLOW UP

Planning staff have completed the initial round of outreach. An evaluation of policy options will conclude in May of 2009. Staff will conduct another round of outreach between April and May of 2009 and anticipates presenting policy option recommendation to the Neighborhood Services and Education Council Committee at this time. A final recommendation to the City Council will be presented in June of 2009.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

Preparation of this memorandum was coordinated with the City Attorney's Office.

CEQA

Not a Project



JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Akoni Daniels, Principal Planner, at 535-7823.

ATTACHMENT A – POLICY OPTIONS PRESENTED

Taking into account the initial concerns raised prior to the City Council's funding approval for the development of this program, staff developed some draft policy options intended to address the deficiencies associated with the current regulations and process for the development of single-family homes in the City. These policy options were presented to the community at the various community meetings and workshops and included a City Wide Policy Option and three Neighborhood Specific Policy Options detailed below.

City Wide Policy Option

This policy option would apply to all neighborhoods in San Jose and would require a Zoning Code revision that would change or add new thresholds for requiring a Single-Family House permit. Potential new thresholds for requiring design review could be: proposed demolitions, second story additions, additions affecting front façades and additions over a certain size (different from the size threshold currently in place). If this policy option were adopted a Single-Family House permit would be required for all or any of the above potential thresholds city wide.

Neighborhood Specific Policy Option

This policy option would apply to specific neighborhood in San Jose. This option would require the identification of neighborhood boundaries and the designation of neighborhoods that would be affected by this policy. Three sub options in this category were presented and included the Enhanced Design Review Overlay, the Zoning Overlay and the Conservation Area. These options are discussed below.

A. Enhanced Design Review Overlay – This option would result in neighborhood specific design guidelines that would guide Planning staff in the review of development of single-family homes in a particular neighborhood. The guidelines would encourage development that would be compatible with the existing fabric of the neighborhood but may not be applicable to other neighborhoods with different architectural styles and characteristics. Implementation of this option would require researching certain neighborhoods in San Jose through a collaborative process with the residents of the neighborhoods to identify the distinct characteristics of each neighborhood and determine how new development can address modern needs, fit in and enhance the neighborhood.

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B. Zoning Overlay – This option would result in a Zoning change for a particular neighborhood. As in option A, Planning staff would work with neighborhood residents to identify the distinct characteristics of their neighborhood. In this case the research would result in neighborhood specific zoning standards that could do one of the following:

1. Determine new thresholds for requiring a Single-Family House Permit as detailed in the City Wide Policy Option above, but specific to the applicable neighborhood only.
2. Determine new, neighborhood specific, development standards such as revised setbacks, single story or height limits, etc.

The Zoning Overlay would not replace a standard conventional Zoning designation for an area but rather override certain standards only. For example, if a certain area in San Jose had a zoning designation of R-1-8 the Zoning Overlay could result in larger or smaller front setbacks for that area but would still be subject to all other requirements of the R-1-8 zoning.

C. Conservation Study Area – This option would be applicable to older neighborhoods that have the potential to become Conservation Areas but have not gone through the required survey process. This option is aimed at streamlining the surveying process. The current designation process for becoming a Conservation Area requires a survey which is typically done by a historic consultant and includes two parts:

1. A Context Statement which involves an analysis of general development patterns and history of a subject area, and
2. Individual historic evaluations of every building in a subject area.

The Conservation Study Area is a proposal to require the Context Statement only for the designation of an area. Individual evaluations would be required as development proposals come in to the city and only if a proposed development does not meet applicable guidelines. A Conservation Study Area would have the same protections and State and Historic Building Code incentives as a Conservation Area. This policy option would allow areas to become Conservation Study Areas more quickly and at less expense than Conservation Areas.