

## City Council Questions

### September 14, 2021 Council Meeting

#### **ITEM 4.2 El Camino Real Pedestrian and Bicycle Improvement, Projects 20-61 and 22-29-Various Actions**

1. Can the \$3.7 million be used for any CIP, or is it restricted to bike/ped improvements?

The El Camino Real Crossings project originally planned for Fiscal Year 2022-23 was preliminarily set to receive Construction/Conveyance Tax Fund, which is unrestricted funding. This project was removed from the planned CIP for Fiscal Year 2022-23 as part of the recently adopted five-year CIP for Fiscal Year 2021-22 through Fiscal Year 2025-26 and the \$3.7 million was returned to the estimated funding available for Fiscal Year 2022-23. As approved by Council, the priorities for the unrestricted CIP funds included pavement projects (including integrating Active Transportation improvements) and local match for transportation grants. Therefore, the freed up \$3.7 million provided more capacity for other transportation improvements when the 5-Year CIP was developed.

2. Most recently, what did the 6 businesses/residential units say about removing the on-street parking adjacent to their locations?

The City did not receive any comments from the 6 businesses/residential units. As noted in the Council Report, they received the postcards notices, were part of the door-to-door outreach, and should have seen the yard signs that were posted along El Camino Real.

3. Besides COVID and the impact it has had on driving/dining out/etc., what has changed to cause staff to change their recommendation on removing on-street parking between Castro and Palo Alto/Los Altos?

The primary event that caused staff to recommend moving forward with removing the parking and installing the bicycle facilities northwest of Castro Street is the expectation that Los Altos will be asking Caltrans to install buffered Class II bike lanes within their jurisdiction of El Camino Real (from Rengstorff Avenue to Palo Alto City limit) as part of the upcoming repaving project. This would leave a gap in bicycle facilities on El Camino Real between Castro Street and Rengstorff Avenue. It is far more cost effective for the City and more beneficial for promoting bicycle use to close this gap as part of the Caltrans repaving project.

4. What's a pedestrian hybrid beacon? Do we have any of them already operating? If so, where?

A pedestrian hybrid beacon (PHB) is a traffic control device that allows pedestrians to cross safely. For motorists, PHBs only operate when a pedestrian pushes the crossing button. Operations include a sequence of yellow, red and flashing red lights (see Figure 1). When the lights are red, motorists must stop so pedestrians can cross; when the lights are flashing red, motorists must come to a full stop before proceeding when the crosswalk is clear of pedestrians.

A PHB is currently operating on El Camino Real at Distel Circle in Los Altos near the Mountain View border (see Figure 2). On June 8, 2021, Mountain View City Council approved installation of the City's first PHB at the intersection of Grant Road and Sleeper Road.

Figure 1: Pedestrian Hybrid Beacon

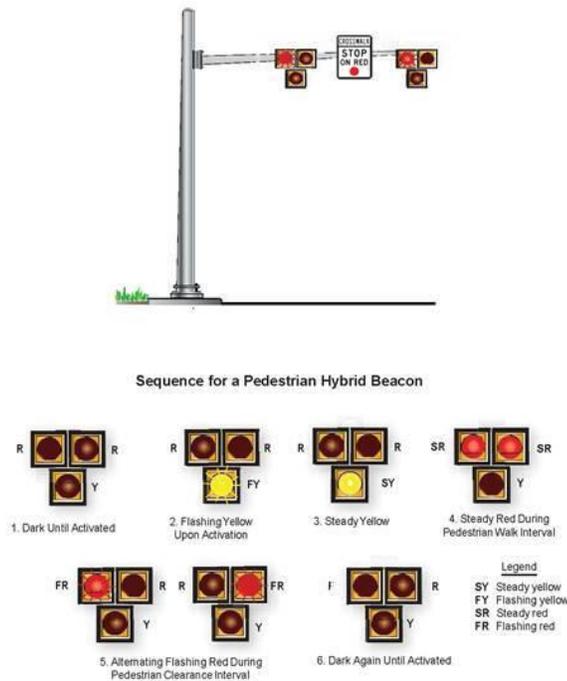


Figure 2: Pedestrian Hybrid Beacon at El Camino Real and Distel Circle in Los Altos



**ITEM 4.3 San Antonio Water Main Replacement, Project 21-21-Accept Construction**

1. How does this project fit into our overall leak detection program?

The San Antonio Water Main Replacement project was a result of staff identifying the aging and deteriorating condition of the main after two breaks. Staff believes the nearby active construction work, new connections to the main, and shutting water on and off prompted the breaks in the aging pipeline. With the pipeline replaced, this is preemptive to prevent potential water leaks along this length of water mains. Along the same front, staff is currently working with consultants to update the City Water System Master Plan. The Plan will provide an analysis of the City’s water pipeline system: age, material, soil material, and break history; and make recommendations for future water main replacement projects.

## ITEM 6.1 Rowhouse Development at 570 South Rengstorff Avenue

1. On page 6 of the report, staff indicates that “a change in the applicant/developer entity alone is not sufficient to trigger treatment as a new application under SB 330.”
  - a. Does this apply also to BMR Phase 2? How significant would a change have to be in order for the project to be subject to Phase 2 requirements?

Under SB330 a change in the project scope (number of units or building area) of 20% or greater will trigger a new application requirement. A change in applicant on the project application is not a basis that authorizes a City to apply updated standards to a project or to trigger a new application under SB330.

Subdivision (j) (1) of the Housing Accountability Act says that the City can only apply standards in place at the time the application was complete under the State Permit Streamlining Act except under very limited instances. For example, as was added by SB 330, a change of more than 20% in units or building area or inactivity for over 90 days would qualify as a requirement to treat the project as a new application.

The City did have any specific requirements in the BMR Phase II grandfathering language to specify additional items and any such requirements would have been pre-empted by State law.

Therefore, the determination that the application could continue to be grandfathered under BMR Phase I was consistent with the City’s ordinance and State law.

- b. Has staff contacted HCD to confirm this? How did staff come to this conclusion?

Staff did not contact HCD; however staff did consult with legal counsel to make the determination. The BMR Phase II is a City ordinance. As noted above, the project met the BMR Phase II requirements to be grandfathered under BMR Phase I. In addition, any requirements beyond those that were in place at the time that the application was made would have been pre-empted by State law. As a result, the project was deemed to have met the grandfathering requirements of BMR Phase II as being subject to BMR Phase 1.

2. How much time does an inactive project have before the application is withdrawn?

State law does not have a specific timeline before an application can be closed out.

The City’s past practice as noted in the incompleteness letter dated October 6, 2019, was to close out an application if there was no activity or response from the applicant for a period of 60 days. Projects that were inactive were closed out. However, projects that continued to stay active in the review process were not.

Examples of activity includes not only formal resubmittals, but also meetings with various departments to resolve a number of issues related to: design and other refinements to meet standards and guidelines in various City documents, address issues raised by neighbors at neighborhood meetings, review strategies to save heritage trees, work with other departments to address issues such as trash hauling, circulation and driveway locations, utility issues, etc.

The development review process is iterative and requires several meetings over several months between applicants and all the departments to resolve issues. In addition, site plan changes can also trigger a re-review of all standards and guidelines to ensure that other standards are still being met as the applicant strives to meet a specific comment. An example of this is if a site plan were revised to meet a setback standard requiring an additional 10 feet, it would affect other standards including open space, other setbacks, lot coverage, placement and size of parking, circulation, etc. This would require several iterations before a site plan could be determined to be consistent with City requirements.

In the case of this project, the applicant continued to work with staff from the time that the October letter was sent out to refine design, site plan and landscaping issues. These design changes required several back and forth communications and meetings to ensure that the project met the Rowhouse Guidelines, landscaping requirements, etc.

Since SB 330 was enacted, the City's process has been revised to now allow a period of 90 days (60 days and an additional 30 days) for an applicant to respond or stay active in the project.

3. How much time elapsed between the first applicant/developer's departure and the first response to a comment letter by the subsequent applicant/developer?

The change from the original applicant, Ciyavash Moazzami - Dutchints Development LLC, to the new applicant, Kevin DeNardi - DeNardi Wang Homes, LLC, took place on December 23, 2020. The first resubmittal from the new applicant was submitted on January 19, 2021. It should be noted that the property owner has not changed and continues to be Tod Spieker - Spieker Companies, Inc.

4. Can staff provide the checklist (that is, whatever information is required from the applicant) to determine completeness?

Prior to SB 330, the City, like many others, had a checklist required to submit an application including site plans, elevations, sections, details, civil and utility plans, landscape plans, etc. See Attachment 2 for a copy of the 2019 Application Checklist. However, it did not list all the detailed information required to make an application complete. These were identified later in the incompleteness letters after the applicant submitted the application. Examples of these were: affordable housing compliance, requirements for trash and recycling, transportation and utility studies, etc.

Since SB 330 took effect, the City has worked over the past year to create a comprehensive list of items required for an applicant to make a complete application. The website link to the application is provided below:

<https://www.mountainview.gov/depts/comdev/planning/application.asp>

5. Can staff provide more information about the definition of "application completeness" under SB330, and "additional information as requested in the City's 30-day letter responding to the applicant's formal application submittal" for BMR Phase 2?

The application review has the following procedures:

Completeness Review – whether all necessary information required by the City's application form and materials has been provided.

Consistency check or compliance check –with applicable standards

Process requirements – e.g. TRAO, CEQA etc., neighborhood meetings, public noticing, etc.

All three of these are typically run concurrently. However, it is important to note that only one of those requirements specifically relate to completeness.

An application is deemed complete when all the necessary information required to conduct a compliance review has been included in response to the City's application requirements as noted in the link below: <https://www.mountainview.gov/depts/comdev/planning/application.asp>

These requirements have been updated pursuant to SB330 and the City continues to review them and add items as the City revises fees, ordinances, etc.

It should be noted that a completeness determination is different from a consistency or compliance determination. As noted earlier, the process is iterative and requires continuous feedback and review to create a compliant application.

6. What aspect of the project application was incomplete right before it was deemed complete by law?

Prior to SB 330 taking effect, staff sent incompleteness letters that included the following categories but were not differentiated specifically for incompleteness: (i) incompleteness items, (ii) consistency items (for example if the plan didn't meet project setbacks), (iii) conditions of approval that could be applied (for example BMR, Building Code or other requirements, (iv) process requirements (for example, TRAO, CEQA studies and (v) fee payments or deposits required to fund various studies related to the application. Multiple departments (including Fire, Building, Housing, Public Works, etc.) have input into the letter.

As can be seen from the incompleteness letter dated October 6, 2019 (**Attachment 1**), there were a number of items identified for submittal, modification or clarification. However, to determine the items related specifically to completeness as they responded to the application form requirements are **highlighted in yellow** in Attachment 1. They generally include: (i) information to show compliance with the private storage requirement for units, (ii) building section details and dimensions to determine compliance with Rowhouse standards, (iii) information on tree removals, (iv) Residential Cal Green and MVGB checklist form, and (v) trash and recycling bin locations.

Other items that were not in the application checklist but were identified as necessary items include: (i) Transportation/Traffic Impact Analysis memo, (ii) driveway triangle information.

The remaining comments included: (i) direction to the applicant to make changes to the site plan, (ii) potential conditions of approval, or (iii) requirements at the building permit stage.

Please note that this is not a comprehensive list of items which would require a detailed review by all departments contributing to the incompleteness letter after comparing the comments with the requirements on the 2019 application form (Attachment 1).

## ITEM 7.1 Introduction of an Ordinance Enacting Mobile Home Rent Stabilization

1. How many petitions for an upward adjustment of rent have been submitted since the CSFRA was implemented? Can staff provide comparable data from jurisdictions with AGAs that are 75% of CPI and 50% of CPI? (<https://mhphoa.com/ca/rso/>)

Seventeen petitions for upward rent adjustments have been submitted. Staff does not have comparable data from other jurisdictions.

2. Are any of the mobile home parks subdivided into multiple parcels? Or are all of the units in each park in one parcel?

Staff has conducted initial evaluations of parcel maps and tax assessor records for the six mobile home parks. While more time will be needed to review all of the records and documentation to make a definitive determination, it does not appear that any of the parks have been subdivided and that any of the mobile home units are on their own parcel.

3. How quickly could staff amend the TRAO to include mobile home parks?

Based on current staffing impacts and workload that include several high priority projects, it is estimated that modification of the TRAO could begin in Q2 2022.

4. It is my understanding that the CSFRA uses CPI in two areas – annual increases, and maintenance of net operating income. I see the proposed ordinance defines the CPI for annual increases. Does it also define the CPI used for maintenance of net operating income?

The CSFRA Program indeed uses the Consumer Price Index in two areas. One as defined in the CSFRA Section for Annual General Adjustment of Rents, and one to perform calculations related to the maintenance of net operating income in connection with petitions for upward adjustment of rent. The CPI for the fair return petition is determined by the RHC in Regulation Chapter 6. CSFRA Subsections (d)(1), (d)(2), and (e) of Section 1709 and subsection (a) of Section 1710 provide that the Rental Housing Committee has the authority to adopt and shall establish regulations to further the purposes of the Act. Chapter 6 implements the CSFRA detailing the method of ensuring Landlords may earn a fair and reasonable rate of return on their investment. Consumer Price Index—All Items (CPI-U) in San Francisco-Oakland-Hayward, California, all urban consumers, not seasonally adjusted (currently designated as Series ID: CUURS49BSA0 by the U.S. Department of Labor, Bureau of Labor Statistics).

5. Did the RHA do a study to determine the annual fee per unit? If so, what was the study? And how is the annual fee determined each year?

An estimated total of 14,950 fully and partially covered rental units are located in the City of Mountain View. To ensure full funding of the CSFRA program, the Rental Housing Fee is calculated by dividing the total amount of the Fiscal Year 2021-22 budget, as approved by the RHC, by the total amount of rental units covered by the CSFRA (14,950). The revenues required for Fiscal Year 2021-22 are reduced by the estimated ending balance remaining from Fiscal Year 2020-21. Incorporating the balance with the recommended budget, the Annual Housing Fee for FY2021-22 is \$102 per unit. The Rental Housing Fees will be billed in January of each year.

6. How many IRA requests have there been since the RHC's inception by property owners, how many have been approved, how many denied?

Since November 2017, seventeen MNOI rent increase petitions have been filed with the City:

- Eleven were awarded an increase
- One was denied
- Three were withdrawn by petitioner
- One was not accepted by the City due to code violations on property
- One is in the hearing process and on hold as of July 2021

7. What is the current vacancy rate in Mtn. View?

The current vacancy rate in the City is 7.3% (across all units in the City).

8. What is the current average % of rent increase compared to pre-COVID?

This data compares average market rent rates for vacant units. The market has rebounded significantly over the past six months for all units except for *newly built units*. Newly built units are units that were first occupied after December 23, 2016.

This data is an average comparison fiscal year over fiscal year for all rental units:

- Pre-COVID – Percent change between FY 2017/18 and FY 2018/19: 5.4% increase (\$2,835 to \$2,987)
- COVID Impact – Percent change between FY 2018/19 and FY 2019/20: .6% increase (\$2,987 to \$3,005)
- COVID Impact – Percent change between FY 2019/20 and FY 2020/21: 6.3% decrease (\$3,005 to \$2,816)
- COVID Impact – Percent change between FY 2020/20 and Current: .21% increase (\$2,816 to \$2,882)
- COVID Impact – Percent change from market low (December 2020) and current: 8.5% increase (\$2,656 to \$2,882)

9. What is current CPI?

The current CPI-U for San Francisco-Oakland-Hayward is 311.167 for August 2021. The Mobile Home Ordinance would establish an AGA based on the annual increase in CPI. For comparison purposes, over the past 12 months, the CPI has increased 3.2%.

10. Pass-throughs (p8 of ordinance) what is an example of a pass-through that primarily benefits Park Owners rather than Mobile Homeowners?

Construction work that is more costly than necessary and that is not necessary for reasons of health or safety could be denied or reduced on the basis that it is not a benefit to residents.

11. Capital Improvement Cost approval (item f on page 9-10) how about having the Hearing Officer rather than the RHC do the approvals similar to IRAs?

The Ordinance authorizes the RHC or its designee to hold hearings on pass-through requests, and it is anticipated that hearing officers would be the initial decision-makers on requests.

12. Also, for Capital Improvement Cost applications - is there a time limit as to when the RHC/hearing officers need to make a determination and how does that relate to the 60 days the Mobile Homeowners have to file an objection?

The 60-day period for residents to object to capital improvement pass-throughs would occur first. If fewer than 10% of residents object, no hearing is required. The Ordinance does not currently define a time after the petition hearing occurs for the decision to be issued.

13. Subleases (p.13) Is there rent control on the sublease rents? If not, shouldn't there be?

Yes, there is rent control on the sublease rents. "Mobile Home Landlords" are subject to the ordinance, and the definition includes individuals who lease a home they own on a space they rent, subleases of mobile homes, and a park owner who rents homes on spaces they own.

14. Owner move-in - are the siblings of Landlords included in allowed occupancy?

No. Siblings are not currently included as a family member that provides a non-fault basis for eviction under the owner move in category.

15. Withdrawal of mobile home permanently from rental market -(p.15). Can a mobile home be readmitted into the rental market after a certain length of time?

Yes, subject to rent stabilization. Council can also adopt further restrictions such as relocation benefits or a requirement that units re-rented in a certain period of time be offered to former tenants at previous rents.

16. Annual RHC fee (p.17) since Mobile Homeowners own their units and benefit from space rent control as it affects the appreciation of their units during time of sale, shouldn't they also share the cost of the RHC fees?

The RHC can determine by Guidelines if all or part of the space rental fee can be passed through to residents outside of the annual general adjustment or the capital improvement process. Likewise, Council could make this required (or prohibited) in the Ordinance itself.

17. IRA bases (p.18 article 2) If the reduction or elimination of communal facilities or housing services is due to the mobile homeowners objecting to the Capital Improvement pass-through needed to replace these facilities or services (10% objection), shouldn't that be exempt as a basis for approving a downward IRA by the Mobile Homeowner or Renter?

The objection would not veto the improvement – it would then go to a hearing to determine what costs, if any, should be passed through. A park owner is obligated to provide the housing services that are specified in the lease, and reductions in those services is akin to an unauthorized rent adjustment; however, the hearing officer would be able to judge whether a reduction was warranted based on specific facts and circumstances.

18. How does AB 2782 affect this draft ordinance?

AB 2782 amended the Government Code requirements governing the closure or change of use of a mobile home park. The draft ordinance operates as an additional protection for residents and does not add to or diminish a park owner's responsibilities under state law with respect to park closures or changes in use.

19. How many mobile homes exist in MV outside of mobile home parks?

Although there may be some mobile homes or manufactured homes developed outside of the six mobile home parks in the City, the precise number and location is not known. The proposed ordinance would only apply to mobile homes that are located in the six mobile home parks.

20. What is the annual fee expected to be?

The fee will be determined by the RHC based on the expected cost to operate the program. For a point of comparison, the CSFRA annual fee is currently \$102 per apartment unit; however, the costs to operate the mobile home rent stabilization will be independently calculated and could be higher or lower per mobile home space.

21. If Council agrees with Staff Recommendation to remove the MOU provisions, will that lengthen the process?

The City Council can provide amendments to be incorporated into the ordinance before it is introduced on September 14 that would not delay the process or keep the ordinance from being adopted on September 28.

22. What happens to rent control if the owner replaces an old coach with a new one?

Rent stabilization would continue to apply as new homes are constructed on existing spaces in mobile home parks. If new mobile home parks were constructed, the spaces and homes would be exempt from rent stabilization.