

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: January 28, 2016

SUBJECT: GPT15-006 AND PP15-130 – GENERAL PLAN TEXT AMENDMENT TO PROTECT EXISTING MOBILEHOME PARKS, AMENDMENTS AND ADDITIONS TO TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE (THE ZONING CODE OR ZONING ORDINANCE), AND A NEW CITY COUNCIL POLICY TO CLARIFY AND SUPPLEMENT THE EXISTING MOBILEHOME PARK CONVERSION ORDINANCE IN THE CITY OF SAN JOSE

RECOMMENDATION

The Planning Commission voted 6-0-0-1 (Yob abstained) to recommend that the City Council approve the proposed Envision San José 2040 General Plan (General Plan) Text amendment as recommended by the Director of Planning, Building and Code Enforcement.

The Planning Commission then voted 5-1-0-1 (Abelita opposed and Yob abstained) to recommend that the City Council approve the proposed ordinance amending the Zoning Code and that the Council adopt a new City Council Policy as recommended by the Director of Planning, Building and Code Enforcement.

OUTCOME

- If the City Council approves the proposed General Plan Text amendment, the amended text would: 1) strengthen goals and policies to protect existing mobilehome parks in the City of San José as a component of housing choice, and a source of existing affordably-priced housing in established neighborhoods, and to improve protection from conversion to another use; and 2) add General Plan goals, policies, and actions to preserve mobilehome parks and other housing in each Urban Village until the preservation of affordable housing can be comprehensively addressed by adoption of an Urban Village Plan specific to that Urban Village.
- If the City Council approves the proposed ordinance making amendments and additions to Chapter 20.100 and Chapter 20.180, and makes other technical, formatting or other non-substantive changes within those sections of the Zoning Code, the proposed ordinance would:

1) make the City Council the initial decision-making body for consideration of all proposed mobilehome park conversions to another use after the Planning Commission considers these proposals for recommendations to Council; 2) add provisions for making findings of consistency with the Envision San José 2040 General Plan for Conditional Use Permits; and 3) add a new subsection to Chapter 20.180 expressly providing that the City Council may adopt such additional rules and regulations as are needed to implement the intent of that Chapter so as to facilitate adoption of the Council Policy described below.

- If the City Council approves the proposed City Council Policy, the Policy would provide new guidance to facilitate implementation of the requirements in the Zoning Code regarding mobilehome park conversions to another use including, but not limited to: 1) clarifying that the intent of Council direction is to encourage the preservation of mobilehomes; 2) providing guidelines for good-faith negotiations between mobilehome park residents (including mobilehome owners and mobilehome tenants) and mobilehome park owners; 3) providing guidelines regarding a satisfactory program of relocation and purchase assistance, including but not limited to compensation to residents, purchase price for the existing mobilehomes, relocation impact reports, and relocation benefits; and 4) providing guidance and clarification regarding the implementation and interpretation of the existing mobilehome park conversion ordinance in the Zoning Code.

EXECUTIVE SUMMARY

At the Planning Commission hearing on January 13, 2016, the Planning Commission recommended that the City Council adopt the General Plan Text amendments, amendments and additions to the Zoning Code, and a new City Council Policy to further the protection of mobilehome parks in the City of San José and to provide clarification for interpreting the provisions in the Zoning Code for consideration of use-permit applications for mobilehome park conversions to another use.

BACKGROUND

On January 13, 2016, the Planning Commission conducted a public hearing on the proposed General Plan Text amendment, ordinance, and new City Council Policy. See the attached Staff Report to the Planning Commission for the full analysis, description of public outreach, and coordination conducted on the proposed items.

ANALYSIS

Planning staff summarized the background of the recommended policy and ordinance changes and noted the following:

- Prior to the start of the Planning Commission meeting, staff distributed a revised draft City Council Policy to the Planning Commission that corrected some typographic errors and responded to public correspondence regarding clarification of guidance in the proposed Policy.
- Staff also distributed to the Commission public correspondence that was received by staff after the staff report had been distributed to the Commissioners.
- Staff emphasized that the proposed City Council Policy provides guidance rather than regulation, which is why the word “should” is used throughout the draft document rather than “shall.”

Commissioner O’Halloran asked staff why the City administration could not slow down the schedule for the proposed changes and whether the schedule was solely driven by the currently adopted end of the moratorium on February 25, 2016. Staff responded that the moratorium was one of several factors driving the timeline; other factors were Council’s interest in having updated policies and regulations in place that could be implemented to address potentially urgent situations where existing mobilehome parks could be threatened with closure resulting in many displaced residents. Staff also mentioned that there are many other Council Priorities that staff cannot address as quickly if the timeline for updating mobilehome park policies and regulations is extended, and that there would be additional costs to the City in extending the work plan.

Commissioner O’Halloran then asked if the City administration was curtailing its ability to adopt effective measures by moving the process quickly. Staff stated that the proposed policy and code changes respond to stakeholder input and Council direction, and should be effective measures in protecting existing mobilehome parks.

Several Commissioners asked clarifying questions regarding the implications for mobilehome parks that are in designated Urban Villages in the General Plan or in Priority Development Areas designated by the Association of Bay Area Governments (ABAG).

Staff explained that there are a few [five confirmed by staff data] mobilehome parks in approximately seventy Urban Villages, and that some of these Urban Villages are in Priority Development Areas, which are areas intended for intensification to support transit; and neither the Urban Village designation nor the Priority Development Area designation calls for redevelopment of existing single-family residential neighborhoods, including mobilehome parks, with other land uses.

Public Testimony

At the Planning Commission hearing, some members of the public spoke in favor of the proposed changes and others spoke in opposition. Speakers representing mobilehome park owners and operators stated that they wanted more opportunities for public engagement and comment so that stakeholders could better understand and respond to the proposed City Council Policy.

Several mobilehome park residents stated support for all three proposed policy and ordinance items and the current timeline. They commented that staff had followed Council direction, and added that if their mobilehome parks were to close, they would be displaced and could not stay in San José. They said that many residents in mobilehome parks are retired seniors or immigrants on limited incomes, and that most mobilehome park residents are homeowners.

Speakers representing mobilehome park residents emphasized that they appreciated that mobilehome parks in San José are rent-controlled which makes them reasonably-priced housing options, and that most nearby jurisdictions did not have rent control for mobilehome parks. They stated that for relocation proposals offered by mobilehome park owners, residents needed guidance for dispute resolution, appraisals of mobilehomes, and provisions for comparable housing clearly explained in the proposed City Council Policy, and that the City should invest in educating mobilehome park residents on how to organize into associations to further the goals of maintaining high-quality living environments and preservation of mobilehome parks. Additionally, a resident said that the City should educate mobilehome park residents about signing up for affordable housing and housing assistance programs.

Commissioner Ballard asked a speaker, who identified herself as a lawyer representing mobilehome park residents, if mobilehome purchasers are provided with disclosures about the implications of the siting mobilehomes in mobilehome parks. The Commissioner also asked the speaker if she knew how many mobilehome parks had closed, other than Buena Vista in Palo Alto. The speaker responded that there may be written disclosures provided to purchasers but that not every purchaser understands the implications, and that mobilehome parks in San Mateo County had closed. She added that approximately 900 mobilehome park spaces had been lost in the region in the last fifteen years as a result of mobilehome park closures.

A speaker identifying himself as the executive director of the Manufactured Housing Association and representing mobilehome park owners, requested that the City defer action on the subject items and that the moratorium be continued for at least another 120 days because the timeline has been unnecessarily rushed and the process had been arbitrary. Commissioner O'Halloran asked the speaker what would be gained by additional time that cannot be accommodated in the current schedule. The speaker responded that the Council policies are not complete, and there are a many unanswered questions in them.

Another speaker representing mobilehome park owners commented that the proposed policies seem to try to prevent closure of mobilehome parks by considering closures under the mobilehome park conversion ordinance, which the speaker stated was an arbitrary policy approach. He emphasized that more time was needed to consider the opt-in/stay-in-business concept in relation to the proposed policies for keeping mobilehome parks in operation and that the web-posting of the draft City Council Policy on December 10, 2015, did not provide adequate time for mobilehome park owners to prepare responses to it.

Planning Commission Discussion

Vice Chair Abelite asked staff to respond to the issues raised by the public. Staff explained that the moratorium was adopted by Council for a six-month duration in compliance with State law, which contains provisions that pertain to the purpose and maximum duration of moratoriums. The purpose of the subject moratorium is to allow the City adequate time to create and adopt policies and regulations for the Council to consider in making decisions on applications for use permits for mobilehome park conversions to another use. Staff reiterated that extensive public engagement had been completed consistent with the Council Policy on Public Outreach. Staff noted that some stakeholders representing mobilehome park owners and operators stated in public community meetings that they did not want to comment on the draft Council Policy at those meetings. Staff also clarified that the opt-in/stay-in business concept that mobilehome park owners had mentioned was not related to land use regulations; and, therefore, was deemed to not be within the purview of the Planning Commission for recommendations to Council. Additionally, Council direction did not stipulate that the opt-in/stay-in business concept had to be considered in tandem with the proposed land use policy and regulatory items that were now before the Planning Commission. Staff explained that the opt-in/stay-in business concept was still in an exploratory phase and not ready for Council consideration.

Staff emphasized that the General Plan Update includes goals and policies to protect existing established residential communities in Urban Villages and ABAG-defined priority development areas, that mobilehome parks are considered residential communities, and that the proposed General Plan Text amendment is intended to strengthen existing protective measures.

Commissioner Bit-Badal asked staff if the public had time to give their input to the City Council prior to the Council hearing scheduled for February 9, 2016. Staff responded that the public could provide comments to the Council and staff up to and during the Council hearing, and that staff had scheduled February 23, 2016, for continuance of the Council hearing if additional time was needed for the item to be heard by Council.

In response to Commissioner Bit-Badal asking how many mobilehome park conversions had occurred in San José since 1961, and how many had occurred area-wide in the past twenty years, staff stated that since the City of San José's mobilehome park conversion ordinance had been adopted approximately 30 years ago, there had not been conversions of mobilehome parks to another use that were subject to the mobilehome park conversion ordinance. However, there had been one conversion of a mobilehome park [Redwood Mobile Home Park] to an affordable housing development that had occurred without being subject to the ordinance because that mobilehome park owner had negotiated directly with the mobilehome park's residents, and they had all vacated the mobilehome park prior to the mobilehome park owner's submittal of an application to the City to redevelop the former mobilehome park site [on Goble Lane].

Staff also shared that Twin Palms Trailer Court may have closed in San José without being subject to the mobilehome park conversion ordinance [It should be noted that subsequent to the Planning Commission hearing, staff obtained documentation that Twin Palms was not subject to the mobilehome park conversion ordinance because it had fewer than four mobilehomes onsite at

the time the site was re-zoned to allow affordable housing]. Other than the closure of BuenaVista in Palo Alto, staff stated that there were pending applications in Sunnyvale for the closure of Nick's Trailer Park and Blue Bonnet.

Commissioner Ballard asked staff whether there would be negative implications for intensification if policy language to encourage preservation and rehabilitation of affordably-priced housing was added to the General Plan text. Staff responded that areas identified for intensification in the General Plan include multiple parcels, and that some parcels could have existing housing preserved while other parcels that are under-developed with another use, such as a used car lot, could be redeveloped and intensified.

Commissioner Ballard asked staff why mobilehome parks should be singled-out and treated differently than other types of housing. Staff responded that apartments and mobilehome parks built prior to a specific date in 1979 are subject to rent control in San José. Tenants who rent apartments have not invested in the purchase of their residence, but mobilehome residents often have purchased their mobilehomes and rented land in a mobilehome park on which their home is situated, so there is more up-front investment by mobilehome owners than in apartment rentals, and the State recognizes that special type of ownership in its Mobilehome Residency Law that regulates construction, maintenance, and closure of mobilehome parks.

Commissioner O'Halloran asked staff if it could assure the Commission if the proposed policy and regulatory changes for mobilehome park protection would not preclude resolving the opt-in/stay-in business concept and for staff to comment on the constitutional questions raised in Anthony Rodriguez's letter (see attached public correspondence). Staff confirmed that Council direction provided that the opt-in/stay-in business concept could be further resolved independently of the proposed policy and regulatory changes that were before the Planning Commission that evening. Staff noted that the letter from Mr. Rodriguez made assumptions about takings for a hypothetical proposal for a mobilehome park conversion to another use, and that there were no such proposals currently pending with the City, so the letter was speculative; however, there were no takings issues with the City's existing or proposed policy or regulatory measures relating to the conversion of mobilehome parks to another use.

Vice Chair Abelite asked staff to clarify how mobilehome parks could close. Staff reiterated that there had been at least one mobilehome park that had closed in San José that was not subject to the mobilehome park conversion ordinance.

The Vice Chair asked why the moratorium should not be extended to allow more time for public comment on the draft Council Policy, and whether there was a threat to one of the mobilehome parks. Staff summarized the extensive public engagement process that had been done, including an outline of the Policy approach provided to the public at focus groups, community meetings, Housing and Community Development Commission (HCDC), and Community and Economic Development (CED) Committee meetings months prior to the posting of the draft Council Policy on December 10, 2015. Staff also solicited comments on the Policy through email, web-posting, as well as a public meeting conducted after posting of the draft Policy. Many stakeholders had testified that evening that they had time to review the draft Policy. Staff reiterated that

comments could still be submitted up to and during the Council hearing on the item scheduled for February 9, 2016.

Staff explained that the moratorium was adopted, in part, to respond to a potentially urgent situation if an application for conversion of a mobilehome park to another use were to be submitted to the City; staff cited statements made by representatives of the Winchester Ranch mobilehome park owner indicating their intention to close that mobilehome park.

Senior Deputy City Attorney Todorov mentioned that moratoriums are not to be taken lightly whether urgency or not, that the City had adopted a 45-day urgency moratorium followed by a six-month non-urgency moratorium. She noted that under the law the City is required to resolve the issues for which it adopted the moratorium as soon as possible so that applications can be submitted and processed in a timely manner, and that moratoriums are not to be extended unless there is good reason to do so.

Commissioner Yesney commented that she was struck by some vague references that evening to issues that needed to be worked out, but the members of the public that made these references did not provide specifics, whereas most of the public that testified were specific about what they liked or did not like. Commissioner Yesney further shared that she did not hear in the speakers' request for extension of the moratorium what the extension would accomplish except for a delay. She added that she was impressed by the breadth of the staff analysis and that she did not see what would be gained by delaying the process.

Commissioner O'Halloran made a motion to recommend the approval of the General Plan Text amendment in accordance with the staff recommendation. The Planning Commission then approved the motion to support the staff recommendation.

Commissioner O'Halloran made another motion to recommend the approval of the proposed Zoning Code amendment and City Council Policy in accordance with the staff recommendation.

Commissioner Bit-Badal commented that empowering the City Council to be the decision-making body for Conditional Use Permits (CUPs) for conversions of mobilehome parks to another use was appropriate because mobilehome issues are not just land use issues but also social justice and community issues. She said that she takes public outreach very seriously, and that she believed that staff had done its job to engage the public.

Commissioner Ballard stated support for the motion and added that mobilehome ownership is a fascinating homeownership model involving both a mortgage and rent. She wondered if this was a model the City should support.

Vice Chair Abelite said he would vote against the motion because he did not believe that 59 property owners should be responsible for 11,000 units of affordable housing for preservation, and that everyone should pay equally to fund affordable housing. He also said that a 30-day comment period including holidays for the draft City Council Policy was inadequate.

The Planning Commission then approved the motion to support the staff recommendation.

EVALUATION AND FOLLOW-UP

If the proposed General Plan Text amendments, City Council Policy, and Zoning Code amendments are approved, the City would analyze future applications for mobilehome park conversions to another use for consistency with the adopted policy language and compliance with the new Zoning Code provisions, prior to making decisions to approve or deny such applications.

POLICY ALTERNATIVES

Alternative 1: Do not adopt the proposed changes.

Pros: After expiration of the moratorium, mobilehome park owners could file CUPs and Planned Development Permit applications for mobilehome park conversions to another use, and have such applications processed without delay. Status quo could be maintained.

Cons: Stakeholders and the City Council have stated that existing policies and regulations pertaining to the consideration of conversions of mobilehome parks to another use are unclear and not as strong as they should be.

Reason for not recommending: Council direction to strengthen protection of existing mobilehome parks would not be met.

PUBLIC OUTREACH

City staff has presented the above-described policy and ordinance proposals for additional protection of existing mobilehome parks, and has received public input on these items, at several public hearings and stakeholder forums including the following meetings:

- Community and Economic Development (CED) meeting (6/22/15)
- Two focus group meetings with mobilehome park owners (7/16/15 and 7/23/15)
- Two focus group meetings with mobilehome park residents (7/30/15 and 8/6/15)
- City Council meeting (8/11/15)
- Housing and Community Development Commission (HCDC) meeting (8/13/15)
- Public meeting at Mayfair Community Center (8/13/15)
- City Council meeting (08/25/15)
- Public meeting at Seven Trees Community Center (8/29/15)
- Public meeting at City Hall (8/31/15)
- HCDC meeting (9/10/15, 10/8/15, and 11/12/15)
- CED Committee meeting (11/16/15)

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- Public meeting at City Hall (1/11/16)
- Planning Commission meeting(1/13/16)
- HCDC meeting (1/14/16)

COORDINATION

Preparation of this memorandum, the proposed General Plan Text amendments and Zoning Code changes, and the proposed City Council Policy on mobilehome parks were coordinated with the Housing Department and the City Attorney's Office. The proposed General Plan Text amendment, File No. GPT15-006, was referred to the Santa Clara Valley Airport Land Use Commission (ALUC) on December 10, 2015, and ALUC staff placed the item on the January 27, 2016, ALUC public hearing agenda. At that hearing the ALUC found the GP amendment for mobilehome park preservation consistent with ALUC policies.

CEQA

File No. PP10-068. Not a Project. General Procedure and Policy-making: Code or Policy change that involves no changes in the physical environment.

/s/

HARRY FREITAS, SECRETARY
Planning Commission

For questions please contact Jenny Nusbaum, Supervising Planner, Ordinance and Policy Team, Planning Division at (408) 535-7872.

Attachments: Planning Commission Staff Report
Supplemental Memo to Planning Commission
Public Correspondence



Memorandum

TO: PLANNING COMMISSION

FROM: Harry Freitas

SUBJECT: SEE BELOW

DATE: January 4, 2016

SUBJECT:

- GPT15-006: General Plan Text amendment to: 1) strengthen goals and policies to protect existing mobilehome parks in the City of San José as a component of housing choice and a source of existing affordably-priced housing in established neighborhoods, and to improve protection from conversion to other uses; and 2) add General Plan goals, policies, and actions to preserve mobilehome parks and other housing in each Urban Village until the preservation of affordable housing can be comprehensively addressed by adoption of an Urban Village Plan specific to that Urban Village.**
- PP15-130 a: Zoning Code amendments to Title 20 of the San José Municipal Code, (the Zoning Code) Chapter 20.100 (Administration and Permits) Sections 20.100.220, 20.100.720, and 20.100.940, and addition of a subsection C to Section 20.180.010 to Chapter 20.180 (Mobilehome Parks Conversions to Resident Ownership or to Any Other Use) Part 1 (General), and to make other technical, formatting or other non-substantive changes within those sections of the Zoning Code to: make the City Council the initial decision-making body for consideration of all proposed mobilehome park conversions to another use after the Planning Commission considers these proposals for recommendations to Council; and add provisions for making findings of consistency with the Envision San José 2040 General Plan for Conditional Use Permits.**
- PP15-130 b: Incorporate into a new City Council Policy new provisions for consideration of mobilehome park conversion to other uses. The proposed Council Policy is intended to facilitate implementation of the requirements in the Zoning Code regarding mobilehome park conversions to another use.**

RECOMMENDATION

Recommend that the City Council adopt items 1, 2, and 3 as itemized above (see attached Draft General Plan Text amendment, Draft Ordinance, and Draft City Council Policy).

OUTCOME

The proposed changes are intended to further implement the Housing Element and the Housing Goals, Policies, and Actions set forth within the Envision San José 2040 General Plan (General Plan) and add measures that strengthen the protection of the City's existing range of housing options and residential communities.

BACKGROUND

The conversion of mobilehome parks to another use is a land use issue regulated both by the State Planning Law and the Mobilehome Residency Law and by the City under the San José Municipal Code and the General Plan. The City is allowed, but not required, by State law to have a mobilehome park conversion ordinance. In 1986, the City adopted an ordinance now found in Chapter 20.180 of the Zoning Code to regulate, among other items, the conversion of mobilehome parks consisting of four or more mobilehomes to other uses (the mobilehome park conversion ordinance). Such conversions require approval of a Conditional Use Permit (CUP) or a Planned Development Permit (“PD Permit”). No mobilehome park conversions have been processed under this ordinance.

Attributes of Existing Mobilehome Parks in San José

Staff research shows that the City of San José has 59 mobilehome parks with approximately 10,836 mobilehomes that house approximately 35,000 residents, which is the largest number of mobilehomes and households in any city in California. A mobilehome is typically owned by its occupant and located on rented space in a mobilehome park. Mobilehome parks’ space-rents are regulated by the City’s Mobilehome Rent Control Ordinance in the San José Municipal Code, Chapter 17.22, and its Regulations, and many spaces in these mobilehome parks have rents that are affordable to lower-income households.

Mobilehome parks in San José vary in size, age, location, type of mobilehomes, and in composition of residents. Approximately half of the City’s 59 mobilehome parks were built between 1961 and 1974.

Some mobilehome parks consist exclusively of mobilehomes, and others contain a mix of recreational travel-trailers and mobilehomes; some are well-maintained, and others are in need of maintenance; some are in central urban areas served by public transit, and others are in more outlying areas of San José. The mobilehome parks in San José also vary in terms of their zoning districts and General Plan land use designations. Some mobilehome parks are located in Industrial Zoning Districts or in areas that are designated in the General Plan for industrial or other nonresidential uses and are predominantly surrounded by industrial uses, and others are located in areas with residential land use designations and residential zoning districts.

Discussion of the Work Plan at City Council, Community and Economic Development (CED) Committee, and Housing and Community Development Commission (HCDC) Meetings

In recent years, the Council has expressed an interest in enhancing the protection of existing mobilehome parks in San José from conversion to other uses. This interest has informed the Council’s consideration of amendments to the Envision San José 2040 General Plan and State-mandated Housing Element updates. At its priority-setting session on September 9, 2014, the Council added consideration of an update to the mobilehome park conversion ordinance to the ordinance priority list.

On June 22, 2015, staff provided a report on a proposed work plan for the Mobilehome Park Preservation Policies/Conversion Ordinance Update to the Community and Economic Development (CED) Committee. The work plan listed the following proposed policy and ordinance changes: a) amend the General Plan text to strengthen protection for mobilehome parks from conversion; b) amend the Zoning Code to make the City Council the decision-making body for mobilehome park conversions to another use; c) amend the mobilehome park conversion ordinance to authorize that guidelines be adopted via a Council Policy and d) adopt a City Council policy with guidelines for implementation and clarification of the mobilehome park conversion ordinance's provisions applicable to conversion of use.

At its June 22, 2015 meeting, the CED Committee accepted the work plan and directed staff to meet with mobilehome park owners and operators to include their input on the work plan prior to presenting it to Council for discussion and action. Staff facilitated two focus group meetings with mobilehome park owners and operators on July 16 and 23, 2015. In addition, two focus groups with residents were held by staff on July 30 and August 6, 2015. Staff also presented a status report on the work plan and stakeholder meetings to the CED Committee at its meeting held on November 16, 2015.

The report to CED and the work plan were presented to the City Council on August 11, 2015.

In response to recommendations made by Councilmembers in two separate Councilmembers' memoranda, the City Council adopted two motions as follows:

1. The report and proposed work plan were accepted, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Chappie Jones, Manh Nguyen and Tam Nguyen, dated August 7, 2015, to (1) accept staff's report and work plan to further the preservation of mobilehome parks; and (2) direct staff to return in two weeks with an urgency ordinance, and with a standard ordinance to establish a moratorium on mobilehome park conversions for six months.
2. Acceptance of Councilmember Johnny Khamis's recommendations: (a) direct Housing staff to meet with stakeholders and mobilehome park owners, to discuss their "Opt-In; Stay in Business" proposal regarding alternative methods of maintaining mobile home inventory, and (b) return to Council with a review of the 2040 General Plan to examine mobilehome parks with Urban Village designations and the implications for mobilehome park residents with respect to conversion.

Staff presented status reports on the work plan for the Mobilehome Park Preservation Policies/Conversion Ordinance Update to the HCDC at its meetings held on June 11, August 13, September 10, October 8, and November 12, 2015. At the November 12, 2015 HCDC meeting, the Commission recommended to the CED Committee that the City slow down the work-plan implementation process, determine costs of analyzing policy alternatives to staff's recommendations, and consider recommendations in the Law Foundation's letter to HCDC dated November 12, 2015 (see attached public correspondence).

Discussion of the Moratorium on Conversions at City Council, Planning Commission, and Housing and Community Development Commission (HCDC) Meetings

On August 25, 2015, the City Council adopted an interim ordinance, as an urgency measure (“urgency ordinance”), establishing a temporary 45-day moratorium on the conversion or closure of mobilehome parks pending the review and possible amendment of the land use regulations applicable to such conversions and closures. The Council also directed staff to refer to the Planning Commission for its review and recommendation, at its earliest possible regular meeting, a substantially similar non-urgency ordinance establishing a temporary moratorium on the conversion or closure of mobilehome parks pending the review and possible amendment of the land use regulations applicable to such conversions and closures.

At its September 9, 2015 public hearing, the Planning Commission recommended to the City Council a non-urgency ordinance establishing a temporary moratorium on mobilehome park closure and conversion. The Council adopted this non-urgency ordinance on September 15, 2015 to establish a temporary moratorium through February 25, 2016 on the conversion or closure of mobilehome parks pending the review and possible amendment of the land use regulations applicable to such conversions and closures.

ANALYSIS

Pursuant to the Work Plan approved by Council, staff’s proposed General Plan Text amendment, Zoning Code changes, and new City Council Policy could strengthen the protection of existing mobilehome parks in San José by providing stronger policy language in the General Plan for protection of the use; a City Council Policy with guidelines regarding procedures and findings for mobilehome park conversion of use proposals, and Zoning Code changes designating the City Council as the decision-making body for mobilehome park conversion of use.

General Plan Text Amendment

- Staff proposes adding General Plan text to strengthen Policies and Actions to protect existing mobilehome parks in the City of San José as a component of housing choice, as a source of existing affordably-priced housing in established neighborhoods, and to improve protection from conversion to other uses; and
- To address Council’s concern about more imminent pressure for conversion of mobilehome parks in Urban Villages and also to avoid displacement of renters in homes and apartments, staff proposes to add General Plan text to Goals and Policies to help preserve mobilehome parks and other housing in each Urban Village until the preservation of affordable housing can be comprehensively addressed by adoption of an Urban Village Plan specific to that Urban Village.

Zoning Code Changes

Conversion of a mobilehome park to another use requires approval of either a PD Permit or CUP. The decision-making body for these permits can vary, depending on whether the permit applications are concurrently processed with a rezoning application, or if the permits are appealed. For these reasons, most PD Permits and CUPs are not decided by the City Council.

- Staff proposes changes to the Zoning Code to make the City Council the initial decision-making body for consideration of all proposed mobilehome park conversions of use after the Planning Commission considers these proposals for recommendations to Council.
- Staff proposes to add provisions for making findings of consistency with the General Plan for CUPs and for PD Permits.
- Staff proposes to add a new subsection to Zoning Code Chapter 20.180 authorizing the adoption of additional rules and regulations for the implementation of that Chapter to facilitate utilization of the Council Policy described below.

City Council Policy

The proposed new City Council Policy is intended to clarify Zoning Code Chapter 20.180 and provide guidelines to facilitate implementation of the requirements in the Zoning Code regarding mobilehome park conversion to other uses including but not limited to:

- Clarifying that the intent of Council direction is to encourage the preservation of mobilehomes;
- Providing guidelines for good-faith negotiations between mobilehome park residents (including mobilehome owners and mobilehome tenants) and mobilehome park owners;
- Providing guidelines regarding relocation impact reports and appraisals; and
- Providing guidelines regarding a satisfactory program of relocation and purchase assistance, including but not limited to compensation to residents, purchase price for the existing mobilehomes, and relocation benefits.

GENERAL PLAN CONSISTENCY

As proposed by Planning staff, the General Plan Text amendment, Zoning Code changes, and new City Council Policy are consistent with the Housing Element, as well as the General Plan's Housing Goals, Policies, and Actions that contribute to the protection of the City's existing range of housing options and residential communities. Staff's proposed ordinance changes and new City Council Policy are intended to help implement these General Plan Goals, Policies, and Actions in a manner that is consistent with the General Plan.

Conclusion

The proposed General Plan Text amendments, Zoning Code changes, and new City Council Policy can improve protection of existing mobilehome parks by: 1) strengthening General Plan Goals, Policies, and Actions for protecting this type of existing housing stock in San José; 2) in the Zoning Code, clarifying existing provisions, strengthening findings, and making the City Council the decision-maker for consideration of conversion of mobilehome parks to other uses; and 3) in the City Council Policy, providing additional guidance for the City's review of applications for Planning permits for such conversions.

PUBLIC OUTREACH/INTEREST

Staff posted information about the proposed General Plan Text amendment, Zoning Code changes, and new City Council Policy on the Planning Division's and the Housing Department's websites in compliance with applicable requirements of the San José Municipal Code and State law. Staff has been available to discuss this item with interested members of the public. Staff will also send e-mail notification of this agenda item to its list of self-subscribed e-mail addresses that have requested notification. The City has a webpage dedicated to information regarding the Mobilehome Park Preservation Policies/Conversion Ordinance Update, and staff regularly updates this webpage as the status of the work plan progresses. For focus groups, staff notified stakeholders by written correspondence and by phone. For community meetings, staff notified stakeholders by written correspondence sent by e-mail and by regular mail.

Staff facilitated two focus group meetings with mobilehome park owners and operators on July 16 and 23, 2015. In addition, two focus groups with residents were held by staff on July 30 and August 6, 2015.

Staff provided additional public outreach and received further public input from community meetings held on August 13, 29, and 31, 2015 after Council adoption of the previously imposed temporary moratorium by urgency ordinance. This input provided more insight on the housing constraints in the San José area, and suggestions on modifications to include in Zoning Code changes and new Council policies to address the problems related to mobilehome park closure and conversion. There were more than 70 attendees per meeting, including Vietnamese and Spanish speakers, as well as people in wheelchairs and seniors.

Feedback that staff has received from stakeholders includes comments that the existing mobilehome park conversion ordinance in the Zoning Code is "untested" and that there are many ways to interpret the use of the word "may" in the provisions relating to relocation and purchase assistance. Suggestions specific to policy and code changes include the following:

- Re-designate in the General Plan all mobilehome parks to allow only the mobilehome park use.
- Re-designate in the General Plan mobilehome parks that are currently in Urban Villages to be outside of the boundaries of Urban Villages.
- Re-zone mobilehome parks in San José so that they all allow only the mobilehome park use.

- Require the City Council to be the decision-maker on all mobilehome park conversion applications (and Planning Commission can be a recommending body).
- Calculate fair market value from comparable mobilehomes that are outside of the mobilehome park that is the subject of a pending application for conversion.
- Define and provide a measure for equivalent quality of replacement housing.
- Mandate relocation requirements by Council Policy.
- Require no net loss of mobilehome park spaces or at least no net loss of housing units in San José if a conversion is approved.
- Establish an arbitration process when agreement between the mobilehome park owner/applicant and the mobilehome park residents cannot be reached.
- Slow down, and explore policy alternatives.
- Help mobilehome park residents get organized.
- Maintain no net loss of mobilehome parks.
- Mobilehome parks in other cities are closing, resulting in fewer available spaces for relocation of residents if conversion to other uses occurs.
- “Preserve” is stronger than “Protect.”
- Winchester mobilehome park conversion to other uses could offer 1:1 residential unit replacement, with affordable units at 60% Area Median Income (AMI).

The existing provisions in the Zoning Code already address some of these issues to some extent. For example, the Zoning Code provides for mediation when agreement for purchase of a mobilehome park cannot be reached, and there are provisions for relocation assistance and compensation.

General Plan land use amendments to apply a mobilehome park overlay or a mobilehome park specific land use designation on existing mobilehome park sites in San José as suggested by stakeholders, such as the Law Foundation, are not recommended by staff. First, staff cannot prepare such land use proposals for Council consideration during the timeframe that the temporary moratorium is in effect, due to the need for additional environmental analysis and public engagement.

Where feasible from a legal and practical standpoint, staff has attempted to address many of the issues raised by stakeholders through the proposed General Plan Text amendment, a new City Council Policy, and changes to the Zoning Code, as discussed in this staff report and in the attached documents.

COORDINATION

Preparation of this report, the proposed General Plan Text and Zoning Code Changes, and new City Council Policy for Mobilehome Parks were coordinated with the Housing Department and the City Attorney's Office. The proposed General Plan Text amendment, File No. GPT15-006, was referred to the Santa Clara Valley Airport Land Use Commission (ALUC) on December 10, 2015. ALUC staff is reviewing the referral, as of the writing of this staff report.

CEQA

PP10-068. Not a Project. General Procedure and Policy-making: Code or Policy change that involves no changes in the physical environment.



HARRY FREITAS, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Jenny Nusbaum, Supervising Planner, Ordinance and Policy Team at 408-535-7872.

Attachments: Draft General Plan Text amendment
Draft Ordinance
Draft City Council Policy
Public Correspondence

Mobilehome Park Protection – Proposed General Plan Text Amendments

DRAFT 10/30/2015

Chapter 4 page 29

Goal H-1 Housing – Social Equity and Diversity

Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.

Policies – Housing – Social Equity and Diversity

H-1.1 Through the development of new housing and the **preservation and** rehabilitation of existing housing, facilitate the creation of economically, culturally, and demographically diverse and integrated communities.

H-1.2 Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.

H-1.3 Create housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

H-1.4 Encourage the location of housing designed for senior citizens in neighborhoods where health and community facilities and services are within a reasonable walking distance and are accessible by public transportation.

H-1.5 Facilitate the development of multi-generational housing in compact form that meets the needs of families living together.

H-1.6 Foster the production of housing to serve the “starter” housing market by leveraging financial resources such as purchasing assistance programs and by encouraging market-rate building typologies that serve the “starter” housing market.

H-1.7 Comply with State and Federal laws prohibiting discrimination in housing and that support fair and equal access to housing.

H-1.8 Encourage investments in infrastructure in order to maintain high-quality living environments in existing mobilehome parks.

H-1.9 Facilitate the development of housing to meet San José’s fair share of the County’s and region’s housing needs.

H-1.10 Preserve existing mobilehome parks throughout the City in order to reduce and avoid the displacement of long-term residents, particularly senior citizens, the disabled, low-income persons, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing, and to maintain a variety of individual choices of tenure, type, price, and location of housing.

Actions – Housing – Social Equity and Diversity

H-1.11 (see CC action 12/16/2014) adopting new H-1.10 which would now be H-1.11

Increase, preserve and improve San José’s affordable housing stock. Preserve and improve San José’s existing affordable housing stock and increase its supply such that 15% or more of the new housing stock developed is affordable to low, very low and extremely low income households. Nothing in this language is intended, directly or indirectly, to impose any requirement on any individual housing project to include an amount or percentage of affordable units. Nothing in this language is intended to, directly or indirectly, result in a finding or determination that an individual housing project is inconsistent with the General Plan, if it does not contain any affordable housing units.

H-1.10 1.12 Develop a program to promote the “starter” housing market that leverages all financial resources and facilitates production of “starter” housing.

H-1.11 1.13 Continue to work in close cooperation with other entities, public, private and non-profits, to foster information, techniques, and policies to achieve the Housing Goals, Policies, and Implementation Actions in this Plan and make such information readily available.

H-1.12 1.14 Continue to partner with local agencies, non-profits, and businesses to provide fair housing information, legal services, foreclosure prevention assistance, and anti-predatory lending assistance.

H-1.13 1.15 Continue to monitor and participate in anti-predatory lending practices by partnering with local agencies.

H-1.16 Encourage all proposed conversions of mobilehome parks to other uses to include mitigation measures that provide displaced residents with housing options that are affordable once any short-term subsidy has elapsed.

Chapter 6 page 6

General Land Use Goal LU-2 – Growth Areas

Focus new growth into identified Growth Areas to **preserve and** protect the quality of existing neighborhoods, **including mobilehome parks**, while establishing new mixed use neighborhoods with a compact and dense form that is attractive to the City’s projected demographics i.e., a young and senior population, and that supports walking, provides opportunities to incorporate retail and other services in a mixed-use format, and facilitates transit use.

Chapter 7 page 15

Implementation Goal IP-5 – Urban Village Planning

Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly “Urban Villages” (also referred to as “Villages” within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

Policies – Urban Village Planning

Implementation Policy IP-5.1 – Urban Village Planning Prepare a comprehensive Urban Village Plan prior to the issuance of entitlements for residential development within any of the Urban Village areas identified on the Land Use / Transportation Diagram. Commercial projects, including those with ancillary residential uses, and “Signature Projects”, as defined in Policy IP-5.10, may proceed in advance of the preparation of a Village Plan. Use the Village Plan to clearly address:

1. **Job and Housing Growth Capacity:** Identify suitable areas for retail and other employment uses, giving careful consideration to existing and future demand for retail space, the appropriate location and design of retail spaces, opportunities for large-scale and small-scale retail uses, and adequate and appropriate sites for other employment uses consistent with the total planned job capacity for the particular Growth Area. Identify suitable areas for residential development, capable of supporting the full amount of planned residential growth capacity. Apply corresponding Land Use / Transportation Diagram or zoning designations to support the proposed employment and residential density ranges.
2. **Urban Village Boundaries and Land Uses:** Identify potential adjustments to the identified Urban Village Boundaries and potential modifications to the Land Use / Transportation Diagram as

necessary to best utilize existing land use growth capacity, address neighborhood context, and promote economic development through the identification of optimal sites for retail and other employment uses. Provide adequate job growth capacity for retail, office and other employment uses to accommodate both the existing levels of activity plus the planned amount of growth for each job type category. Identify and designate existing land uses, **including but not limited to residential uses such as existing mobilehome parks**, within the Urban Village Area boundaries, **if any**, which should be retained rather than made available for redevelopment. Match the planned land uses for any areas within the Urban Village Area which have already been addressed through an overlapping Urban Village plan.

Chapter 7 page 17

Implementation Policy IP-5.4 – Urban Village Planning Prepare and implement Urban Village Plans carefully, with sensitivity to concerns of the surrounding community, **residents**, and property owners and developers who propose redevelopment of properties within the Urban Village areas. Proceed generally in the order of the following timeline, although some steps may be taken concurrently:

1. City Council approves commencement of the Plan growth Horizon which includes the Urban Village Area during a Major General Plan Review. Completing Urban Village Plans for Urban Villages within the current Horizon is of greatest priority, but it is possible to prepare an Urban Village Plan for an Urban Village in an upcoming Horizon.
2. The City completes preparation of and Council reviews an Urban Village Plan.
3. The City or private property owners initiate rezoning for specific properties within the Urban Village as needed to implement the Urban Village Plan. Because most Urban Village sites initially have commercial zoning, rezoning will be necessary to provide for redevelopment and intensification with residential or residential mixed use projects on those sites.
4. Private property owners or developers propose individual site designs and building architecture to be reviewed and determined through a Development Permit application and review process.

Implementation Policy IP-5.7 – Urban Village Planning Carefully consider the best land uses and urban design standards for properties located along an Urban Village periphery to minimize potential land use conflicts with adjacent properties. In particular, address interfaces with established **single family Residential Neighborhood areas including mobilehome parks**.

CHAPTER 20.100 ADMINISTRATION AND PERMITS

Part 2 - COMMON PROCEDURES

20.100.220 - Appeal - Hearing body.

Decisions on permits or approvals pursuant to this chapter are subject to appeal as set forth in Table 20-260 which lists the initial decision maker and the decision making body which will hear any appeal.

Table 20-260 Appeal Hearing Body		
Application	Initial Decision Making Body 1	Appeal Decision Making Body 2
Administrative permit	Director of Planning	No Appeal
Site development permit	Director of Planning	Planning Commission
Site development permit - projects within downtown districts and exceeding 150 feet and FAR of 6:1	Director of Planning	City Council
Single-family house permit	Director of Planning	
Administrative decision	Director of Planning	No Appeal
Director's hearing	Director of Planning	Planning Commission
Planned development permit	Director of Planning	Planning Commission
Special use permit	Director of Planning	Planning Commission

Special use permit - for schools that are elementary or secondary (public or private), post secondary, trade and vocational, or driving (class C & M license) in the PQP public/quasi-public zoning district	Director of Planning	City Council
Special use permit - for church/religious assembly in the PQP public/quasi-public zoning district	Director of Planning	City Council
Special use permit - for privately-operated museums, libraries, parks, playgrounds, or community centers in the PQP public/quasi-public zoning district	Director of Planning	City Council
Conditional use permit	Planning Commission	City Council
Conditional use permit - stadium, more than 2,000 seats including incidental support uses	City Council	No Appeal
Conditional use permit - drinking establishments with an approved maximum occupancy load of over 250 persons that operate between 12:00 midnight and 6:00 a.m.	City Council	No Appeal
Conditional use permit involving off-premises sale of alcoholic beverages requiring a determination under Chapter 6.84 where findings required by planning commission under Section 6.84.030.B.1. through 4. cannot be made	City Council	No Appeal
Conditional Use Permit or Planned Development Permit for Mobilehome Park Conversion of Use	City Council	No Appeal
Variance	Director of Planning	Planning Commission
Exception	Director of Planning	Planning Commission
Sidewalk café permit	Director of Planning	City Council
Tree removal permit	Director of Planning	

Administrative decision	Director of Planning	No Appeal
Director's hearing	Director of Planning	Planning Commission
Zoning code verification certificate	Director of Planning	No Appeal

1. The city council is the initial decision making body for a project that requires certification of an environmental impact report for environmental clearance unless the project as proposed includes all mitigation measures identified in the draft environmental impact report for the project as necessary to reduce the impacts of the project to a less than significant level.
2. The city council is the appeal decision making body for all projects in which appeals have been filed for both approval of the project under this chapter and environmental clearance for the project under Title 21 of this Code.

Part 6 - CONDITIONAL USE PERMITS

20.100.700 - Applicability.

- A. The provisions of this part apply to and govern the issuance of all permits made subject to the provisions of this part. All permits governed under this part shall hereinafter be referred to as conditional use permits, and shall be issued by the planning commission or by the city council as described in this Chapter 20.100.
- B. Use exception permits, legal nonconforming use enlargement permits, permits for parking areas or structures in residence districts, development permits in the T-M district, quarry permits, cluster permits and low density cluster permits issued under previously existing provisions of this title shall be deemed to be conditional use permits and shall be governed by this part.

(Ords. 26248, 28731.)

20.100.710 - Action by director.

Upon finding an application for a conditional use permit complete pursuant to this chapter, the director shall review the application and shall set a public hearing thereon before the planning commission or city council, as appropriate pursuant to the provisions of this Chapter 20.100.

(Ords. 26248, 28731.)

20.100.720 - Findings.

- A. The planning commission, or the city council, may issue a conditional use permit only after finding that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

4. The Conditional Use Permit, as issued, is consistent with and will further the policies of the General Plan.

- B. The planning commission, or the city council, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.730 - Term.

- A. A conditional use permit may be time-conditioned, as appropriate, by the planning commission or city council.
- B. If the use authorized by the conditional use permit is discontinued for a period of 12 months, the conditional use permit will expire and the conditional use permit will no longer be in effect.

20.100.740 - Renewal.

- A. The permit holder may seek renewal of a time-conditioned conditional use permit by filing a timely renewal application on the form provided by the director.
- B. An application for renewal must be filed more than ninety calendar days but less than one hundred eighty calendar days prior to the expiration of the conditional use permit.
- C. Once a renewal application has been filed in a timely manner, the expiration date of the conditional use permit is automatically extended until either the issuance or denial of the application for renewal has become final.
- D. Any application filed after the renewal filing period has expired shall be deemed to be an application for a new conditional use permit. If a new conditional use permit is not issued prior to the expiration of the conditional use permit, the continuation of any use which requires such permit shall be in violation of this title.

- E. The procedures set forth in this chapter for the processing of an application for a conditional use permit shall equally apply to a renewal application except as hereinafter expressly set forth.

20.100.750 - Renewal findings.

- A. Consideration of a renewal application shall be based on a rebuttable presumption that the use as permitted by the conditional use permit meets the findings of this part.
- B. The presumption shall be rebutted by any evidence of noncompliance with any condition of any prior permit or law or ordinance, or by evidence of any changed condition in the neighborhood, or by evidence that the continued use creates a nuisance as defined by this title, or an impairment of public peace, health, safety, morals or welfare.
- C. Once the presumption has been rebutted, the conditional use permit shall not be renewed unless the findings required by this part have been made and the planning commission, or city council, is satisfied that full compliance with all conditions, laws and ordinances is assured.

20.100.760 - Amendment findings.

- A. An amendment may be granted by the planning commission, or the city council, upon a finding that the amendment does not negate any findings required by this part.
- B. Nothing in this section shall preclude the commission or the city council from modifying, adding or deleting any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.770 - Appeal.

The appeal of any action taken under this part shall be governed by the procedures set forth in Section 20.100.220 - 20.100.280.

Part 8 - PLANNED DEVELOPMENT PERMITS

20.100.900 - Applicability.

The provisions of this part shall apply to and govern the issuance of planned development permits, commonly referred to as "PD permits" for planned developments in combined base and planned development districts, hereinafter also referred to in this part as "combined districts" or "planned development zonings." A planned development permit is a use permit as well as a permit which addresses aesthetic and functional aspects of development. Any planned development permit issued under this part shall be subject to the general provisions of this chapter related to development permits and the provisions of said section shall control over any inconsistent provisions of this part.

20.100.910 - Planned development permit required.

Unless the base zone is being utilized:

- A. No building or structure shall be erected, constructed, enlarged, placed or installed or moved onto any site nor shall there be any exterior alteration of any structure which is in a planned development district, and no building permit or installation permit shall be issued for such work, except pursuant to and in accordance with a planned development permit.
- B. No use shall be added, changed, modified, enlarged or altered on any site which is in a planned development district except pursuant to and in accordance with a planned development permit.
- C. A planned development permit may be issued for all or any part of the property situated in a planned development district.
- D. A planned development permit or amendment to a planned development permit may be issued for:
 - 1. The use of new dwelling units, which are not yet occupied for residential purposes, as model homes or sales offices in connection with the sale of dwelling units in a planned development district.
 - 2. The use of structures, such as mobile homes, as sales offices in connection with the sale of dwelling units in a planned development district.
 - 3. The use of land in the planned development district for off-street parking or other uses incidental to the sales office or model home operation. Such use shall be limited to the duration of the sales office or model home operation.
- E. A planned development permit is not required for building additions, exterior alterations, and accessory structures on parcels six thousand square feet or less which are used for single-family detached residential use if the additions, alterations, or structures:
 - 1. Meet the development regulations of the R-1-8 residence district; and
 - 2. The construction would not require the issuance of a single-family house permit, pursuant to Part 9 of this Chapter 20.100, if the property were not situated in a planned development zoning district; and
 - 3. The addition, alterations or accessory structures otherwise conform to the requirements of the planned development zoning district.
- F. A planned development permit is not required for mechanical equipment in planned development districts consisting solely of detached, one family dwelling uses. The setbacks for all mechanical equipment in these planned development districts must meet the setback requirements set forth in the particular planned development district. If no setback standards have been set forth for a particular planned development district, the setbacks requirements shall be those standards set forth in Section 20.60.080.
- G. A valid planned development permit, issued under this part, is required prior to the issuance of any building permit or installation permit for the creation, replacement, alteration or reconfiguration of impervious surface on any portion of a site not used solely for one single-family residence within a planned development district.

20.100.920 - No right to issuance.

- A. Pursuant to and in accordance with the provisions of this part, the director, or the planning commission on appeal, may issue planned development permits. For projects which require certification of an environmental impact report for environmental clearance, the planning director or planning commission may issue planned development permits only if the project as proposed includes all mitigation measures identified in the draft environmental impact report for the project as necessary to reduce the impacts of the project to a less than significant level. The city council may issue planned development permits for projects which require certification of an environmental impact report for

environmental clearance and the project as proposed does not include all mitigation measures identified in the draft environmental impact report for the project as necessary to reduce the impacts of the project to a less than significant level.

- B. Under no circumstances shall any applicant have the right to have a planned development permit issued for any property in a planned development district and nothing contained in this part shall, in any event or under any circumstances, be deemed or construed to confer on any applicant the right to have a planned development permit issued for any property.

20.100.930 - Action by director.

Upon finding of an application for a planned development permit complete pursuant to this chapter, the director shall review the application and shall set a public hearing on the application.

20.100.940 - Findings.

- A. The director, the planning commission on appeal, or the city council as appropriate, may issue a planned development permit only if all of the following findings are made:
 - 1. The Planned Development Permit, as issued, **is consistent with and** furthers the policies of the General Plan;
 - 2. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property;
 - 3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious;
 - 4. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.
- B. The director, the planning commission on appeal or the city council as appropriate shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.950 - Amendment findings.

- A. Amendments may be granted at the discretion of the director, planning commission on appeal, or city council as appropriate upon a finding that the amendment does not negate any findings required by Section 20.100.940.
- B. Nothing in this section shall preclude the director, planning commission or city council from making reasonable modifications, additions or deletions to any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.960 - Public open space - City council approval.

The director shall not issue a planned development permit providing for public open space, and no planned development permit issued by the director which provides for public open space shall be valid, unless before the issuance of such permit, the city council shall have approved the provisions of such public open space and the size, shape, location, and dimensions thereof. As used in this part, "public open space" means public park or playground land which shall be owned in fee by the City of San José.

The city's title to and ownership of public open space shall be vested and complete as soon as such public open space shall have been conveyed to the city pursuant to the provisions of any planned development permit, and immediately upon such conveyance the city shall have exclusive right to the possession and use of such public open space for public park or playground purposes, including, without limiting the generality of the foregoing, the right to construct buildings or structures thereon for such purposes; and nothing contained in this part or in any other section of this title, shall be construed to defeat the title or ownership of city to any public open space which shall have been conveyed to the city, nor to deny the city such right of possession and use.

20.100.970 - Conditions in planned development permits involving building relocations.

A planned development permit for the relocation of a building or part thereof may be conditioned upon the applicant providing a performance bond, or some equivalent satisfactory to the director of planning, ensuring that all work permitted and/or required by the planned development permit be completed in a timely manner. The permit shall include time limitations on the commencement and completion of the relocation, and on the commencement and completion of any required architectural and other required improvements.

20.100.980 - Appeal.

The appeal of any action taken under this part shall be governed by the procedures set forth in Sections 20.100.220 - 20.100.280.

Chapter 20.180 - MOBILEHOME PARK CONVERSIONS TO RESIDENT OWNERSHIP OR TO ANY OTHER USE

Part 1- GENERAL

20.180.010 Purpose of chapter.

A. This chapter is enacted to establish requirements and procedures for the control and approval of the conversion of mobilehome parks to community mobilehome park, mobilehome park condominium, and non-mobilehome park uses. By their nature, mobilehome park conversion projects differ specifically from other types of projects. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare, and economic prosperity of the City of San José. Such projects may conflict with the policies of the City of San José to provide a variety of individual choices of

tenure, type, price, and location of housing and to maintain the supply of mobilehome housing for low and moderate income persons and families. To ensure that such problems are avoided in both short- and long-term, it is the express intent of the council of the City of San José to treat mobilehome park conversion projects differently from other projects, and to establish rules and standards regulating such projects in the City of San José.

B. This chapter is enacted to ensure that approval of proposed conversions is consistent with policies and objectives of the City of San José, particularly the following:

1. To make adequate provision for the housing needs of all economic segments of the community;
2. To facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks;
3. To provide a reasonable balance between mobilehomes and other types of housing;
4. To inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase;
5. To reduce and avoid the displacement of long-term residents, particularly senior citizens, the handicapped, those who are of low income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

C. Notwithstanding Section A above, the City Council may adopt additional rules and standards for implementation and interpretation of this Chapter. Proposals for any change of use of a mobilehome park, other than conversions to ownership, shall be reviewed in conformance with the definitions, rules and standards in City Council Policy.

City of San José, California

COUNCIL POLICY

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE Page 1 of 9	POLICY NUMBER
EFFECTIVE DATE	REVISED DATE	
APPROVED BY COUNCIL ACTION	<u>DRAFT</u>	

BACKGROUND

“Immobile” Homes on Rented Land

Mobilehomes may look like single-family detached houses, but in most cases they are manufactured (factory-built) homes installed in mobilehome parks that may or may not be affixed to a foundation. Unlike other homes where the home-owner owns the land or at least the airspace, the land beneath the mobilehome is, typically, not owned by the purchaser of the mobilehome. The mobilehome owner pays space-rent to the mobilehome park owner for the privilege of use of the space. Mobilehomes have purchase prices that are substantially less than single-family detached houses due to mobilehomes’ factory construction and non-ownership of the land. The result is a hybrid type of housing arrangement, where the resident owns the housing unit, but leases or rents the land on which the housing unit is placed. This arrangement might not be so challenging to set up or maintain if the mobilehome owner could easily move to another mobilehome park, but once a mobilehome is installed in one mobilehome park it is extremely difficult to move the mobilehome to another mobilehome park. In particular, older mobilehomes that are not constructed up to current codes cannot be moved into another mobilehome park. Lack of available spaces in mobilehome parks throughout the region could severely limit the ability to relocate mobilehomes. For practical purposes, the immobility of mobilehomes means if a mobilehome park converts to another use, the mobilehome will very likely be destroyed, the mobilehome owner will lose that significant asset, and any compensation that the mobilehome owner recovers will be that provided in accordance with State and local law.

Parks in San José and the Surrounding Area

San José has had mobilehome rent control since 1979. Approximately 10,800 mobilehome park spaces received plumbing, electrical, and sewer permits on or before September 7, 1979 and are thus subject to rent control under San José Municipal Code Chapter 17.22. This rent control ordinance allows automatic annual rent increases of 75% of the Consumer Price Index (CPI), but not less than 3% or more than 7%. San José’s rent control ordinance also imposes vacancy control that limits rent increases when a mobilehome is sold, which allows residents to protect their investments. Although according to staff’s research in Fall 2015 there were approximately 21,750 mobilehome spaces in the Santa Clara, Alameda, San Mateo and Santa Cruz counties (the four-county area) surrounding (but not including) San José, only approximately 9,700 of them were rent-controlled spaces.

City of San José, California

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 2 of 9	POLICY NUMBER
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Park Residents in San José

San José's mobilehome parks are occupied by a variety of individuals and families, including low-income or fixed-income seniors and families. Most residents are owners of their mobilehomes. Additionally, since the ordinance regarding mobilehome park conversions (the Ordinance), now in Chapter 20.180, was adopted in 1986 as an ordinance amending Title 20 (the Zoning Code) of the San José Municipal Code, many more mobilehome park residents have limited English proficiency.

Decreasing Number of Spaces for Relocation

No new mobilehome parks have been built in the City of San José in the last 30 years, and few new mobilehome parks have been built in the State during this time. According to data from the State Department of Housing and Community Development in the last 15 years, approximately 900 mobilehome spaces have been lost in the four-county area due to park closure. As housing and land prices increase, it is reasonable to assume these losses may escalate making it more difficult over time to relocate residents to mobilehome parks in San José and even within the four-county area addressed in Chapter 20.180.

Inability to Afford Available Mobilehomes

As housing costs and land values escalate, interest in mobilehome park conversion to other uses increases, as does demand for rent-controlled mobilehome park spaces. Mobilehomes available for sale and vacant spaces in the City of San José rent-controlled mobilehome parks are unlikely to be sufficient to address the demand created by closure of a relatively large mobilehome park, and unless new parks are constructed this imbalance will increase as mobilehome parks close in the four-county area.

Based on the data submitted to the Housing Department over the last several years, space-rents in the City of San José's mobilehome parks are typically between \$550 and \$1550 per month. Mobilehome owners who have occupied their mobilehome parks for a long period of time are more likely to have lower rent. Thus, even if the lower-income or fixed-income mobilehome park residents are able to find a mobilehome to purchase in another San José mobilehome park, their incomes may not allow them to meet the other mobilehome park's income requirements because space-rent and the mortgage for the purchased mobilehome will be more than their monthly costs were in their previous mobilehome park location. Consequently, it may be challenging to mitigate the economic impact of conversion and relocation on lower-income and fixed-income mobilehome owners.

Existing Conversion Ordinance

Under Section 20.180.630 of Chapter 20.180 of the Zoning Code, when a mobilehome park owner files an application for mobilehome park conversion, the mobilehome park residents become eligible for benefits under the required program of relocation and purchase assistance. Since this Ordinance was adopted in 1986, there has not been a conversion of a mobilehome park to another use in the City that has been subject to the conversion provisions in the Zoning Code. Over the last several years, several questions have arisen regarding mobilehome

City of San José, California

TITLE CONVERSION OF MOBILEHOME PARKS TO OTHER USES	PAGE 3 of 9	POLICY NUMBER
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park conversion requirements and procedures under Chapter 20.180. Staff has concluded that several of the procedures and definitions would benefit by additional clarification.

Council Direction

The City is concerned that conversions of existing mobilehome parks in the City of San José to other uses may result in (a) the permanent displacement of a substantial number of mobilehome residents, (b) the risk of homelessness for lower-income mobilehome residents due to the inability to afford and qualify for available mobilehomes in San José, (c) the loss of a large amount of relatively affordably-priced housing, (d) the reduction of housing-type choice, and (e) the destruction of established residential communities. The City is also concerned that there is a lack of clarity regarding a sufficient program of relocation and purchase assistance.

As land and housing prices have escalated, there have been more questions to staff regarding mobilehome park conversion requirements and procedures. At least one mobilehome park owner has indicated to the residents of that mobilehome park an interest in converting to another use. As a result of this interest, in 2014 many mobilehome park residents expressed concerns about potential displacement from their homes, and asked the City Council to strengthen regulations for the preservation of existing mobilehome parks and the protection of mobilehomes as affordably-priced housing. In response, the City Council directed staff to prepare a Council Policy to further clarify the provisions in Chapter 20.180 and provide additional guidance for the review of applications of mobilehome park conversion to other uses as described herein.

GUIDING PRINCIPLES

As stated in Chapter 20.180, proposed conversions of mobilehome parks to other uses (conversions), should only be approved when findings can be made that the following guiding principles are furthered by such approval:

1. Make adequate provision for the housing needs of all economic segments of the community;
2. Facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks;
3. Provide a reasonable balance between mobilehomes and other types of housing;
4. Inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase; and
5. Reduce and avoid the displacement of long-term residents, particularly senior citizens, people with disabilities, those who are of low-income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

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PURPOSE

The purpose of this City Council Policy (Policy) is to provide clarification regarding how the above principles should be implemented on a project-specific basis so that the City’s decisions on proposed conversions are consistent with these guiding principles.

POLICY

1. Clarification of Certain Definitions in Chapter 20.180

- a. “Designated Resident Organization” as described in Section 20.180.110 should be interpreted to include any association formed by the residents that has provided the owner or manager of the mobilehome park written notice of the name and address of the organization and the name and address of the representative of the organization to whom all notices under Chapter 20.180 shall be given. An association may be formed at any time, but for the purpose of negotiating to purchase the park, written notice of the exercise of this right shall be provided to the park owner within sixty days of the date of issuance of the notice of intention to convert. There may be more than one such association. If there is at least one Designated Resident Organization representing at least 10% of the spaces, then any association representing less than 10% of the spaces shall not be considered Designated Resident Organizations.
- b. “Mobilehome” should be interpreted to include all structures meeting the criteria in California Civil Code Section 798.3 including trailers, motorhomes, recreational vehicles or similar units, as may be amended from time to time.
- c. “Handicapped Mobilehome Owner” should be interpreted to include all persons who are disabled under State disability law and the Americans with Disabilities Act.
- d. “Good Faith Negotiations” should be interpreted to include the following characteristics:
 - i. Sufficient information provided to each Designated Resident Organization so that the value of the mobilehome park as a mobilehome park can be established. The mobilehome park owner may require such information to be held in confidence by a third party.
 - ii. A detailed response by the applicant within the 180 day period based on the price and terms in the offer should be provided to any written offer by any Designated Resident Organization provided within 15 business days.
- e. The definition of “Mobilehome park conversion of use” should not be interpreted to exclude projects described as “park closure” from the requirements of Chapter 20.180.

2. Clarification of Standards for Program of Relocation and Purchase Assistance

In evaluating whether a satisfactory program of relocation and purchase assistance has been provided the following considerations should be taken into account:

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- a. Appraiser hired by the mobilehome park owner should be acceptable to the Designated Resident Organization(s). On request of the mobilehome park owner, any objecting Designated Resident Organization should provide a list of at least three appraisers acceptable to the Designated Resident Organization. In the event more than one such Designated Resident Organization objects, the Designated Resident Organizations must jointly provide a single list to the mobilehome park owner.
- b. Appraisals should list in-place value of mobilehomes, both current and prior to any public discussion or communication regarding sale or conversion of the mobilehome park and should contain the elements described in item 3 below.
- c. The consultant(s) hired by the mobilehome park owner to provide the Relocation Impact Report (RIR) should be acceptable to the Designated Resident Organization(s). If the Designated Resident Organization rejects the mobilehome park owner's candidate it should provide a list of at least two consultants with specialized experience in the preparation of such reports that are acceptable to the Designated Resident Organization(s) to the mobilehome park owner. In the event more than one such Designated Resident Organization objects, the Designated Resident Organizations must jointly provide a single list to the mobilehome park owner.
- d. No unjust or unreasonable evictions should have occurred and no residents should have been coerced to sell without relocation benefits.
- e. All sales occurring after the delivery of notice of intention pursuant to Section 20.180.340 but before the application is filed should include a signed statement acknowledging that by selling the unit prior to the filing of the application, the mobilehome owner is waiving the benefits under the program of purchase and relocation assistance. The mobilehome owner may not waive benefits for renters occupying the units.
- f. For any eligible mobilehome owner whose home cannot be relocated to a comparable mobilehome park in the City of San José or relocated to another mobilehome park chosen by the mobilehome owner, the program of relocation and purchase assistance should provide the mobilehome at 100% of its in-place value consistent with Section 20.180.430.1.e as determined by the selected appraiser.
- g. A program of relocation and purchase assistance should provide payments for the costs of relocation and purchase assistance listed in the contents of the RIR as described in item 3 below, as that are applicable in each resident's circumstances. The applicant should provide a fair and transparent process for appeal of the determination of applicable assistance.
- h. A program of relocation and purchase assistance should provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a housing burden. Pursuant to the City of San José's Housing Element for 2014-2023, housing costs that do not create a housing burden are housing costs that do not exceed 30% of gross income.
- i. A program of relocation and purchase assistance should provide for payment of the costs to reinstall or replace any accessibility improvements made to a resident's mobilehome

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and surrounding area such as wheelchair ramps, lifts, and grab-bars. Such payments should be provided to displaced residents who made such accessibility improvements.

- j. It is desirable that conversion projects with proposed residential uses contain housing that is affordable to all income levels of existing residents and provide a first priority opportunity to purchase or rent such units to existing residents. Units with rents and purchase prices restricted by recorded covenants will be considered desirable for mitigation of relocation impacts to lower-income residents.
- k. The above standards may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that applying the standards in this Policy would take property in violation of the United States or California Constitutions.

3. **Clarification of Standards regarding Contents of RIR to supplement requirements in Section 20.180.630 of the Zoning Code.** In evaluating whether the RIR provided is consistent with a satisfactory program of relocation and purchase assistance, the following considerations should be taken into account:

- a. The RIR should identify space vacancies and units for sale, including price and space rent, and required purchaser income (if available) in the Santa Clara, Alameda, San Mateo, and Santa Cruz counties (the four counties) and should indicate which, if any, may be subject to rent stabilization ordinances. If the number of available rent-stabilized mobilehome park spaces in the four counties is fewer than the number of mobilehomes in the subject mobilehome park that are eligible for relocation, then a list should be provided of comparable mobilehome parks within a 100-mile radius of the subject mobilehome park and for each such mobilehome park, the space-rents, whether the park is rent-stabilized and the qualifications for residency in each mobilehome park (e.g., age restrictions, no pets, minimum income), whether the mobilehome park has any available space and will accept mobilehomes being relocated and, if so, any restrictions such as size and age, on the relocated mobilehomes that would be accepted.
- b. The RIR should indicate number of residents in the following categories: earning less than 30% Area Median Income (AMI), 50% AMI and 80% AMI, disabled under State or Federal definitions or by declaration of the resident; senior citizens; and families with minor children.
- c. The RIR should discuss space-rent affordable for residents in the above 80% AMI and the various lower-income categories, assuming that space-rent plus typical mobilehome mortgage does not exceed 30% of income.
- d. The RIR should indicate the difference between the actual cost of housing available to the residents in the four counties (actual market rent) and the Federal Department of Housing and Urban Development's (HUD) fair market rent, and if this difference is more than 5%, the RIR should adjust the subsidies to reflect actual market rent. The rent subsidy should be the difference of rent paid by the resident in the mobilehome park and any higher rent for either a space at another mobilehome park if the mobilehome is relocated, or rent for comparable housing if the resident moves to other rental housing.

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- e. The RIR should include a discussion of measures available to ensure residents have options to relocate to housing that will be affordable once the rent subsidy is no longer available. Such measures might include provision of affordable housing (rental or for-sale) in the proposed conversion project, provision of additional mileage and other benefits needed for a move outside of the four counties, and phasing of resident relocation to allow residents to find new housing within their means.
- f. The RIR should list the other mobilehome parks that are in the closure/conversion process in the four counties and their size. The RIR should also list the mobilehome parks that have closed in the period commencing six months prior to the notice of intention in the four counties, and the outcomes (e.g., new city of residence, rent and space rent) for the former residents of those closed mobilehome parks.
- g. At a minimum, the RIR should include the following information with monetary values determined by the selected appraiser:
 - i. A description of proposed new use(s) for the subject site including, but not limited to appraisals of the mobilehome park site with the proposed uses on-site, and appraisal of the most profitable use of the mobilehome park site;
 - ii. A proposed timetable with phases of relocation of existing residents and development of the new project delineated for conversion of the subject mobilehome park to another use;
 - iii. A legal description of the mobilehome park; and
 - iv. The number of spaces in the mobilehome park.
 - v. For each space in the mobilehome park:
 - 1. The size in square feet, type (e.g., single-wide, recreational vehicle, stick-built), number of bedrooms, manufacturer, and date of manufacture of the mobilehome on the space, or if space is unoccupied indicate date of last occupation;
 - 2. The number of occupants of the mobilehome and their length of residency in the mobilehome park;
 - 3. The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other charges paid by the resident to the park owner;
 - 4. The in-place value the mobilehome would have if the mobilehome park were not being closed; and
 - 5. Any improvements to the mobilehome, including but not limited to patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to a new roof or new siding.
 - 6. Any information available to the mobilehome park owner concerning any disability or special need of the occupants, which may be kept confidential by the City.
 - 7. An appraisal of the mobilehome park site if continued in use as a mobilehome park; and

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8. An appraisal of the mobilehome park site if used for the highest and best use allowable under the existing General Plan land use designation for the subject site; and
 9. If the appraiser identifies lack of maintenance, or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the appraiser should determine the value of the home with an upward adjustment in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.
 10. The purchase price of mobilehomes with similar size, age and number of bedrooms in comparable mobilehome parks including rent-controlled mobilehome parks. For this purpose, “comparable mobilehome park” means a mobilehome park that is similar in size, age, condition, and amenities to the mobilehome park that is proposed for closure, is located within a community similar to that in which the subject mobilehome park is located, and has similar access to community amenities such as the job market where a displaced resident is employed, schools, shopping, medical services, recreational facilities, and transportation.
- h. The RIR should also enumerate the costs of obtaining other comparable housing for rent and for sale, including but not limited to the purchase price of comparable condominiums and the costs of moving into a comparable house or comparable apartment, including such items as first months’ rent, security deposits and higher mortgage and Homeowner Association fee payments or rent of the comparable housing. The moving costs should include the cost to move furniture and personal belongings, temporary lodging, moving insurance, and the appraised value of personal property that cannot be reasonably relocated. For this purpose, “comparable housing” is defined as housing that meets or exceeds the minimum standards of the Housing Code, and is similar to the subject home in terms of rent, size, number of bedrooms and bathrooms, proximity to the resident’s place of employment, amenities, schools, and public transportation.
- i. The RIR should also include estimates from two moving companies acceptable to the Designated Resident Association that are licensed and bonded to move mobilehomes on public streets and highways, of the cost of moving each mobilehome in the mobilehome park up to a maximum distance of 100 miles, including transportation to the new site identified by the resident, the cost of permits, and tearing down and setting up the mobilehome at the new location, including the cost of any upgrades to comply with applicable Federal, State, and local building, plumbing, electrical, housing, mobilehome park, accessibility, and health and safety regulations, and the cost of moving any improvements, including but not limited to patios, porches and pop-out rooms, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups, and any upgrades required by the mobilehome park or State or local law.

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4. **Procedural Guidance.**

- a. ***Pre-application Voluntary Agreement regarding Purchase.*** Prior to submitting an application for conversion of a mobilehome park, mobilehome park owners may enter into a voluntary agreement with the mobilehome owners for relocation-impact and purchase-assistance that best addresses their particular situation. Mobilehome owners should have legal representation in the negotiation of such agreements.

- b. ***Translation of Documents related to Notice and Relocation Benefits.*** Consistent with the City Housing Department and State policy, translated notices of intention, notices of rights, mobilehome purchase offers, and descriptions of relocation and purchase assistance benefits should be made available by the mobilehome park owners on request for limited English proficiency mobilehome residents and owners or their representatives. Such translations should be available in Spanish, Vietnamese, Chinese, Korean, and Tagalog. All documents provided in English should provide clear information in those languages on how to obtain translated copies.

- c. ***Voluntary Agreement regarding satisfaction of Negotiation Requirements Allowed.*** If the Designated Resident Organization(s) and the mobilehome park owner agree in writing that negotiations required under Section 20.180.390 have occurred, the City may determine that the requirement for negotiations has been met prior to the initiation or completion of the 180-day negotiations period required by Section 20.180.390.

FAIR HOUSING LAW PROJECT

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November 12, 2015

Via Electronic Mail

Housing and Community Development Commission

San José City Hall

200 East Santa Clara Street

San José, CA 95113

**Re: HCDC Meeting, November 12, 2015
Agenda Item “e,” Mobilehome (Preservation) Strategy**

Dear Chair, Vice Chair and members of the HCDC:

The City Council has tasked the Planning and Housing Departments with evaluating and proposing changes to San José’s land use regulations, including to the Mobilehome Conversion Ordinance, to further the City’s goal of preserving its 59 mobilehome parks. San José’s 59 parks are a source of affordable homeownership housing for approximately 35,000 residents, many of whom are senior, disabled and low-income.

As we have recommended in prior correspondence, the City must adopt a comprehensive policy of mobile home park preservation. Such a policy should include amendments to both the General Plan and to the zoning of mobilehome parks in order to encourage the preservation of this important land use in San José. And, in the event that a mobilehome park owner does seek to convert a mobilehome park to another use, the City must condition that conversion on mitigation measures that, at a minimum:

1. Compensate mobilehome park residents for the loss of their investment in their mobilehomes;
2. Ensure that displaced residents receive sufficient relocation benefits to allow them to relocate to comparable housing in the same or a comparable community; and
3. Mitigate the loss of affordable housing on the larger community.

With these goals in mind, we submit the following policy recommendations for consideration by the Commission.

I. Background

The City’s Mobilehome Conversion Ordinance is approximately 30 years old, and many mobilehome park residents are confused by what it requires. They also fear that if triggered, San José’s conversion ordinance will result in their rapid displacement from their long-time neighborhoods or even in their becoming homeless.

In furtherance of their workplan, over the summer staff elicited comments from the community regarding how San José could strengthen its mobilehome protections. Comments submitted by the public powerfully relate the value of preserving mobilehome parks, which provide a unique source of ownership housing that adds to our diverse housing stock. These comments, and staff’s previous memos, also highlight several of the critical impacts that the loss of this housing will have on displaced residents and the community at large.

After conducting further research and considering the community’s comments, during HCDC’s meeting staff will present their November 6, 2015, memo and recommendations. Among other things, staff will discuss their General Plan text amendment recommendations, and they will request that the Housing and Community Development Commission (HCDC) provide comments regarding this and other matters, including a proposal for creating a Council Policy (in place of substantially amending San José’s existing Mobilehome Conversion Ordinance).

We appreciate staff’s recommendations for how to improve the City’s policy toward preserving mobile home parks. However, we are concerned that other recommendations put forth by the public have not been thoroughly analyzed by staff. In some instances, staff has pre-determined that some of the public’s recommendations are too budget or staff intensive to be undertaken, despite being the potentially better vehicles for accomplishing the City’s established preservation goals. We are also concerned that staff is recommending the creation and adoption of a Council Policy (in place of amending the Mobilehome Conversion Ordinance) without first advising the public what, specifically, can and cannot be realized through a Council Policy. This approach denies the public, Commissions, Council Committees and the Council, the ability to thoughtfully weigh their options about which approach to take.

II. Policy Recommendations

A. General Plan Changes

For more than one year, the Law Foundation has advocated for the adoption of a specific General Plan designation for mobilehome communities and a No Net Loss policy. As discussed in more detail below, we continue to advocate for these changes. However, we also support staff’s other recommended General Plan changes, and believe that the creation of a specific General Plan mobilehome designation, the creation of a No Net Loss policy, and other General Plan text amendments will better position our City to preserve its 59 mobilehome parks.

1. Create a General Plan Designation and No Net Loss Policy

Currently, San José has no General Plan designation for mobilehome parks. Although most mobilehome parks are designated as “Residential Neighborhood,” others do not have residential designations.¹ These other parks carry designations for industrial and

¹ City of San José, San José General Plan Map. February 3, 2014, available at <https://maps.google.com/gallery/details?id=zLATztx267ok.kKIN6ctRSWZc&hl=en>.

commercial uses.² The City should rectify this problem by amending its General Plan to include and apply this designation.

At the same time, the City should amend the General Plan to establish a policy of “no net loss” of land zoned for mobilehome use. The City should use San José’s existing industrial lands policy as a context and example for an effective anti-conversion policy relating to mobilehome parks.³ This policy enables the City to preserve its valuable employment lands in order to promote economic growth. The vehicle for this policy is a series of clear statements in San José’s General Plan which integrates the industrial lands policy with many of the General Plan’s broad goals and policies.⁴ Council should take a similar approach here, using the General Plan as the vehicle for preserving mobilehome parks.

We continue to recommend that the City move forward with this approach, since staff’s own analysis in their November 6, 2015, memo is that a General Plan (overlay) designation could protect mobilehome communities from conversion. However, in light of staff’s statement that major constraints to undertaking this approach are insufficient budget and staff resources, at a minimum, we ask the Commission to recommend that staff estimate the necessary staff time and budget to create these so that the Council may evaluate whether this approach should be undertaken.

2. Specific Amendments to General Plan Policies and Programs that Strengthen Preservation Goals

Although not as protective as the creation of a no-net loss policy or application of a specific mobilehome park designation, staff has proposed several intriguing General Plan text amendments that, if adopted, may help San José maintain an affordable and diverse housing stock, which includes mobilehomes. We support staff’s proposals (described at page 5 of their November 6, 2015, memo) to add General Plan text to strengthen our goal of preserving mobilehome communities and other sources of affordable housing located in Urban Villages while preservation can be comprehensively addressed during the Urban Village Planning process. In furtherance of these proposals, we believe that several of the goals and actions that staff have drafted will promote critical analyses that are needed prior to any park conversion and potential displacement of our community members. In addition to these, we recommend that

² Three parks are designated as Combined Industrial/Commercial, 5 are Heavy Industrial, 2 are Light Industrial, 3 are Neighborhood/Community Commercial, and 45 are Residential Neighborhood and Urban Residential. Many of these General Plan Designations are inconsistent with the land’s zoning designations.

³ Sunnyvale and Santa Cruz serve as examples for two approaches to a “no net loss” policy. Together Sunnyvale’s Housing Element and General Plan take an approach that preserves the amount of mobilehome park acreage within the City through the City’s policy to “maintain at least 400 acres of mobile home park zoning.” Sunnyvale currently has 413.45 acres of mobilehome park zoning, making the “400 acre” policy effectively a no net loss policy. Alternatively, Santa Cruz implements a “no net loss policy” by preserving its current number of mobilehomes through a similar provision in its Housing Element, which expresses the goal to “Maintain current mobilehome [...] conversion regulations to preserve 360 mobilehomes in parks in the community.”

⁴ Envision San José 2040 General Plan, Chapter 1, pp. 17, 29, and 42; Chapter 2, pp. 4 and 19; and Chapter 6, pp. 5 and 11; available at <https://www.sanjoseca.gov/DocumentCenter/Home/View/474>.

Letter to the Housing and Community Development Commission

Re: HCDC Meeting, November 12, 2015

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other proposed amendments be clarified, expanded and/or strengthened to ensure that their purpose is achieved. We have identified other goals that can be amended to further preserve our 59 mobilehome communities. More specifically, in addition to several of staff’s recommended General Plan text amendments (at H-1.1, H-1.8, H1.10, General Land Use Goal LU-2 - Growth Areas, Implementation Policy IP-5.1(2), and Implementation Policy IP-5.7), we ask that the Commission also support and recommend the following changes (as underlined):

Goal H-1 Housing - Social Equity and Diversity

H-1.3 - Create, preserve, and rehabilitate housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

H-1.9 - Facilitate the development, preservation, and rehabilitation of housing to meet San José’s fair share of the County’s and region’s housing needs.

Actions H.1.11 Housing – Social Equity and Diversity

H-1.16 ~~Encourage~~ Require that all proposed conversions of mobilehome parks to other uses to include mitigation measures that provide displaced residents with housing options that are affordable and equivalent, including but not limited to their location and amenities, once any short-term subsidy has elapsed.

H-1.17 Develop and fund a program to educate and support mobilehome park residents so they may create associations to further the City’s goals of maintaining high quality living environments and park preservation.

Implementation Goal IP-5 – Urban Village

Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly “Urban Villages” (also referred to as “Villages” within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods, including existing mobilehome parks. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

Policies – Urban Village Planning

Implementation Policy IP-5.4

Prepare and implement Urban Village Plans carefully, with sensitivity to concerns of the surrounding community, residents, and property owners and developers who propose redevelopment of properties within the Urban Village areas. Urban Village Plans must protect

against the displacement of low- and moderate-income tenants and mobilehome park residents who live in the Urban Village, and they must also plan for the mitigation of the loss of any mobilehome housing, rent controlled housing, and other affordable housing options that are lost to the community as a result of redevelopment. As part of the Urban Village Planning process, outreach to and community meetings for residents who face displacement, particularly those in mobilehome communities and multifamily housing, must be conducted.

B. Zoning Changes

In addition to amending the City's Mobilehome Conversion Ordinance, which is part of the Zoning Code, for more than a year we have advocated that the City uniformly zoning all parks R-MH. However, staff has recommended other Zoning Code changes, and we believe that doing both - uniformly zoning all parks R-MH and adopting staff's recommended Zoning Code changes - will help San José achieve its goal of preserving its 59 mobilehome communities.

1. Uniformly Zone Mobilehome Parks Throughout the City

San José has an R-MH mobilehome zoning designation which reserves some lands for mobilehome park uses.⁵ Currently, one third of the City's 59 mobilehome parks are not zoned R-MH.⁶ Updating the zoning on mobilehome parks would both demonstrate the City's commitment to mobilehome preservation and enable consistent regulation of R-MH lots. The City should update every mobilehome park to the R-MH designation to help ensure that these lands may only be used as mobilehome parks. Staff has stated that this approach could protect mobilehome parks from conversion to other uses, but it also cited a lack of budget and resources to undertake this approach. We continue to recommend that the City evaluate and implement this approach. However, at a minimum, we ask that the Commission recommend that staff quantify the necessary time and budget that staff needs to evaluate and undertake this approach so that it and the Council and its Committees may evaluate whether such action should be undertaken.

2. Ensure that the City Council Has Decision-Making Authority in Mobilehome Park Conversion Applications

Per the current Mobilehome Conversion Ordinance, the City Council is not expressly identified as a decision maker if a proposal to convert a mobilehome park is made via application for a Planned Development (PD) permit. This must be clarified, since the potential impacts on mobilehome park residents and the larger community is very significant. Staff is recommending that the Council be the decision maker for all proposed mobilehome park conversions, and we support this recommendation.

⁵ San José Municipal Code § 20.30.010(C)(4).

⁶ Thirty nine parks are zoned R-MH, 2 are Light Industrial, 2 are High Industrial, 4 are zoned R-1(PD), and 11 are A(PD). City of San José, San José Land Use Zoning Map. February 3, 2014, available at <https://maps.google.com/gallery/details?id=zLATztx267ok.kVtwQ6CBAW10&hl=en>.

3. Require Specific Findings of Consistency with the General Plan in Conditional Use Permitting for Mobilehome Park Conversions

The City’s General Plan is our plan for future development. As such, any change in use that potentially displaces hundreds of families (including those whose members are disabled, are at low- and moderate-income, and/or have members who are in school) will create considerable hardship. The impacts of such a potentially disruptive change must be analyzed to ensure that it aligns with our values and goals, specifically those contained in our General Plan’s Housing Element. As such, we support staff’s recommendation that findings (for consistency with the General Plan, particularly the Housing Element) for Conditional Use Permits should be required.

III. Strengthen the City’s Mobilehome Conversion Ordinance’s Requirements to Ensure Adequate Mitigation Measures for Displaced Residents and the Larger Community

While our ultimate goal—and the stated goal of the City—is to preserve mobilehome parks as a source of affordable housing for the individuals and families who live there now, as well as for our larger San José community, the City should also have a strong Mobilehome Park Conversion Ordinance that requires appropriate and adequate mitigation measures as a condition of any mobilehome park closure. The Mobilehome Conversion Ordinance (found at Chapter 20.180 of the Municipal Code) was enacted with the purpose of preserving this affordable homeownership type, but it is now decades old and has never been enforced. Its language is vague, and it provides little certainty to mobilehome park residents, park owners, or the community. We have advocated that the Ordinance should be amended to provide clarity and greater legal protections for displaced residents. However, with one exception,⁷ instead of amending the Conversion Ordinance, staff is recommending that Council pursue a Council Policy to clarify and effect the purpose of the Conversion Ordinance. In the following sections, we discuss our recommendations for strengthening the Conversion Ordinance, whether through amendments to the Ordinance, a City Council Policy, or both.

A. Staff should Analyze and Report to Council which Clarification and Updates can and cannot be accomplished through a Council Policy

In staff’s November 6, 2015, memo, and at least one previous memo, staff has stated that although the Council Policy can clarify and effect the Conversion Ordinance, some clarifications and updates sought by stakeholders may not be realized through a Council Policy. Recommending the use and adoption of a Council Policy prior to creating a table that specifies which of stakeholders’ clarifications and updates can and cannot be accomplished using a Council Policy is far from optimal. As such, we ask that the Commission recommend that staff

⁷ Instead of substantially amending the Mobilehome Conversion Ordinance, found at Chapter 20.180 of the Zoning Code, in their November 6, 2015, memo, staff are proposing to narrowly amend the Conversion Ordinance to add a new section that will enable the Council to adopt additional rules and regulations to implement the intent of the Conversion Ordinance and facilitate adoption of a Council Policy.

analyze and report back regarding which clarifications and updates can and cannot be accomplished through a Council Policy so that Council may be informed *prior* to selecting a path – Council Policy or Conversion amendments – to pursue.

B. Clarifications, Updates, and Amendments to the Mobilehome Conversion Ordinance That Should Be Incorporated

Although we may have additional comments as the process for clarifying the Conversion Ordinance continues, the Law Foundation takes this opportunity to present its recommendations, many of which have already been submitted, for clarifying, updating, and amending San José’s Mobilehome Conversion Ordinance. Whether through amendments to the Ordinance, or via a City Council Policy that clarifies and elaborates on the existing Ordinance, the City should ensure that no mobilehome park conversion proceeds without mitigation measures that:

1. Fully compensate mobilehome park residents for the loss of their investment in their mobilehomes;
2. Ensure that displaced residents receive sufficient relocation benefits to allow them to relocate to comparable housing in the same or a comparable community; and
3. Mitigate the loss of affordable housing on the larger community.

With these goals in mind, we make the following policy recommendations.

1. Create a Realistic Opportunity for Park Preservation by Encouraging a Resident Purchase

The Ordinance seeks to encourage negotiation between park owners and park residents for the resident purchase of a mobilehome park before a proposed conversion can move forward. However, park residents may not be organized and must rely on the park owner to provide the financial information necessary to construct a competitive offer. To give park residents a chance to participate meaningfully in negotiations with the park owner, we suggest that the City:

- a. Require park owner and/or developer to provide more notice to residents (from 60 to at least 90 days) of owners' intent to convert the park;
- b. To promote good faith negotiations between the residents’ association and/or its agent and the park owners and/or developers, well in advance of any negotiations between the parties require that park owners and developers to disclose ownership and maintenance and operating cost and other financial records, including those identified at 20.180.220 and 20.180.400(6), to any residents’ association or non-profit organization that has the right to negotiate for purchase of the park.
- c. Extend timeframes for when meetings/negotiations for park purchase and mediation must occur. Currently, the residents’ association must meet with the owner/developer soon after notifying them of their interest in purchasing the park, and mediation must occur soon after one of the parties requests it.

2. Fully Compensate Displaced Residents for the Loss of Their Homes

The benchmark for ensuring that residents are adequately compensated is requiring payment for the in-place value of their mobilehomes. In-place value takes into account not only the value of the structure itself but also its particular location. In-place value must be calculated to reflect the value of the home if the park were not closing. The City should set forth guidelines to ensure that in-place value is not impacted by the downward pressure the threat of closure creates on comparable sales in the park.

Because the in-place value will almost certainly be determined by appraisals, it is essential for the City to ensure that appraisals will be fair and not undervalue residents’ homes. Based on our experience and review of other cities’ ordinances, we believe that San José should:

- a. Make clear that City staff will select the mobilehome appraiser who will conduct valuations;
- b. Make clear that it is the developer, not residents, tenants, or the Association, who must pay for the initial appraiser and appraisals; and
- c. Make clear that if there is a dispute over the appraised value of a coach that resident has the right to obtain a second appraisal and that the higher valuation will be awarded to the resident.

3. Require Sufficient Relocation Benefits to Allow Residents to Move to a Comparable Home in the Same or Comparable Community

Mitigation measures should be sufficient to provide displaced residents with meaningful opportunities to relocate to similar homes in their same neighborhood or in a comparable community. Such relocation benefits should be structured so as not to limit displaced residents’ housing choices. In considering relocation benefits, the Ordinance and/or the Council Policy should:

- a. Clarify that both mobilehome owners and tenants are eligible for relocation assistance;
- b. Ensure that residents receive sufficient relocation assistance so they may relocate to comparable housing in comparable communities;
- c. Ensure that relocation and purchase assistance are sufficient to enable residents to relocate to comparable housing that meets the minimum standards of the Uniform Housing Code, and is at least equivalent to the subject home in terms of long-term rent, size, number of bedrooms and bathrooms, and other relevant factors such as location and proximity to the resident’s place of employment, amenities, network of support, medical providers, schools and public transportation;
- d. Increase the period for payment of the rent differential (from 24 months to 36 months);
- e. Ensure that moving and relocation costs encompass, but are not limited to, things like the cost to move furniture and personal belongings, rent for first and last month, security and pet deposits, and temporary lodging;

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- f. Ensure that the moving companies from whom estimates will be obtained are licensed and bonded;
- g. Require a relocation specialist;
- h. Require that relocation and purchase assistance be timely provided to residents so that they may have ample time to secure replacement housing; and
- i. Require that park residents have the right to occupy replacement housing proposed at the site and that any construction schedule will not result in their long-term displacement.

4. Mitigate the Loss of Affordable Housing on the Larger Community

Because mobilehome park closures mean the loss of rare homeownership opportunities that are affordable for lower-income households, the Ordinance and/or Council Policy should include a 1:1 replacement requirement for these lost affordable homes.

5. Additional Recommendations

Following are additional recommendations that compliment and/or address our recommendations and goals identified above.

- a. Include a specific purpose or policy statement, in the Council Policy, Conversion Ordinance and/or in the General Plan, that a park owner cannot simply close a mobilehome park (as confirmed in the City Attorney's August 6, 2015, memo);
- b. Create an appeal process for individual residents to appeal their specific relocation benefits—even after the conversion has been granted;
- c. Provide examples to help residents identify owners' coercive acts, which are prohibited by the Ordinance. These can include posting undated notices of the owners'/developer's intent to convert the park, conducting inspections and requiring expensive repairs to coaches when the owner has never routinely conducted inspections and has announced their intention to close the park, and reducing services after residents have advocated at City Hall;
- d. Revise the definition of disability ("handicapped homeowner" in the ordinance) to that found in the California's Fair Employment and Housing Act;
- e. Specify when the Conversion Impact Report (CIR) will be prepared – prior to or concurrent with the development application;
- f. Require that a copy of the CIR be provided to each resident, resident association and their designated advocate(s);
- g. Ensure that the CIR is a robust and thorough analysis that verifies that sufficient, comparable housing is available for relocating residents and preventing displacement;
- h. Ensure that a proposed conversion will not result in the displacement of low-income individuals or households who cannot afford rents in other parks;
- i. Define which, if any, Committees and Commissions should consider the Conversion Impact Report;

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- j. Condition approval of any mobilehome park closure on a set of requirements that ensures that the public's interests are not compromised;
- k. Include provisions to ensure that developers, including property owners, comply with all required mitigation measures, including for all forms of timely compensation and relocation payments; and
- l. Require property owners and developers to pay for 6 months of counseling services by licensed mental health services providers for all displaced residents who request these services.

Thank you for your attention and consideration. I welcome the opportunity to discuss the Law Foundation's letter with Commission members. I may be reached at 408-280-2448 or dianac@lawfoundation.org.

Sincerely,

/s/

Diana E. Castillo
Senior Attorney

The following
items were
received after
packets were
distributed.

From: Diana Castillo <DianaC@lawfoundation.org>

Sent: Tuesday, January 12, 2016 6:10 PM

To: dyob@hopkinscarley.com; edesab@yahoo.com; ballardshiloh@gmail.com; nick@nickpham.com; Ed@Abelite.com; brian.ohalloran@att.net; msyesney@gmail.com

Cc: City Clerk; Kyra Kazantzis; Melissa Morris; Nusbaum, Jenny; Morales-Ferrand, Jacky; Marcus, Adam; Nadia Aziz; Matthew Warren; Freitas, Harry

Subject: January 13, 2016, Planning Commission Meeting, Agenda Items "4.c.1.2 & 6.a.1.," Mobilehome Preservation/General Plan Text Amendments and Council Policy

Dear Chair, Vice Chair and members of the Planning Commission:

Attached please find the Law Foundation's comment letter regarding Agenda Items "4.c.1.2 & 6.a.1.," Mobilehome Preservation, General Plan Text Amendments and Council Policy, which will be heard by the Commission tomorrow evening.

Thank you for considering the Law Foundation's comments. I may be reached at 408-280-2448 or dianac@lawfoundation.org regarding the attached comment letter.

Diana Castillo | Senior Attorney

Fair Housing Law Project

dianac@lawfoundation.org | p 408.280.2448 | f 408.293.0106

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FAIR HOUSING LAW PROJECT

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January 12, 2016

Via Electronic Mail

Planning Commission

San José City Hall

200 East Santa Clara Street

San José, CA 95113

**Re: Planning Commission Meeting, January 13, 2016
Agenda Items “4.c.1.2 & 6.a.1.,” Mobilehome Preservation, General Plan Text
Amendments and Council Policy**

Dear Chair, Vice Chair and members of the Planning Commission:

The City Council has tasked the Planning and Housing Departments with evaluating and proposing changes to San José’s land use regulations, including to the Mobilehome Conversion Ordinance, to further the City’s goal of preserving its 59 mobilehome parks. San José’s 59 parks are a source of affordable homeownership housing for approximately 35,000 residents, many of whom are senior, disabled, and low-income.

Since July of 2014, the Law Foundation has asserted that a comprehensive policy of preserving San José’s mobilehome parks should include creating a General Plan designation for mobilehome parks (since none currently exists) as well as the creation of a no-net loss policy; uniform zoning of all mobilehome parks throughout the City, since some parks contain industrial zoning designations; and amending and updating the City’s Mobilehome Conversion Ordinance in a variety of ways.¹

However, staff has recommended a substantially different strategy, outlined in its January 4, 2016, memo. Although these recommendations likely strengthen the mitigation measures for mobilehome park conversions, we continue to believe that staff’s recommendations do not constitute a very robust program of long-term preservation as long as they omit the General Plan and zoning changes that we recommended.

And, with regard to the mitigation measures proposed by staff, we have a number of recommendations, outlined below, based on our belief that the City must condition conversions on measures that, at a minimum:

¹ The Law Foundation’s November 13, 2015, letter to the CED Committee, and its earlier memos dated July 31, 2014, and June 9, 2015, provide more detailed discussions about our recommendation approach to mobilehome park preservation. Our November 13, 2015, letter also contained comments regarding and suggested changes and additions to the draft General Plan Text Amendments and Zoning changes that will be presented to the Commission on January 13.

Letter to the Planning Commission

Re: Planning Commission Meeting, January 13, 2016; Agenda Items “4.c.1.2 & 6.a.1.”

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1. Compensate mobilehome park residents for the loss of their investment in their mobilehomes;
2. Ensure that displaced residents receive sufficient relocation benefits to allow them to relocate to comparable housing in the same or a comparable community; and
3. Mitigate the effects of the loss of affordable housing on the larger community.

As follow are our comments on staff’s recommendations.

I. Policy Recommendations

A. General Plan Changes (GPT15-006; PP15-130 b)

Although not as protective as the creation of a no-net loss policy or application of a specific mobilehome park designation, staff has proposed several General Plan text amendments that, if adopted, may help San José maintain an affordable and diverse housing stock, which includes mobilehomes. Although we support much of the text as drafted, we urge the Commission to recommend the changes that follow.

1. Specific amendments to General Plan policies and programs that strengthen preservation goals

In our letter to the CED Committee dated November 12, 2015, we supported some of staff’s General Plan text amendments but proposed changes to others. Unfortunately, none of the Law Foundation’s text amendment changes were incorporated into staff’s recommendation. We continue to request that the Law Foundation’s recommendations be incorporated into the General Plan Text amendments, since they will further strengthen the City’s efforts to preserve San José’s 59 mobilehome communities.

Staff’s proposed text amendments need to be clarified, expanded and/or strengthened to further strengthen mobilehome preservation efforts. We also believe that the additional goals and actions that we included below will further preserve our City’s 59 mobilehome communities. More specifically, in addition to several of staff’s recommended General Plan text amendments (specifically H-1.1, H-1.8, H1.10, General Land Use Goal LU-2 - Growth Areas, Implementation Policy IP-5.1(2), and Implementation Policy IP-5.7), we ask that the Planning Commission also support and recommend the following changes. Underlined text is language we recommend adding while struck-through language is that which we recommend deleting.

Policies - Housing - Social Equity and Diversity

H-1.3 - Create, preserve, and rehabilitate housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

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H-1.9 - Facilitate the development, preservation, and rehabilitation of housing to meet San José’s fair share of the County’s and region’s housing needs.

Actions - Housing – Social Equity and Diversity

H-1.16 ~~Encourage~~ Require that all proposed conversions of mobilehome parks to other uses to include mitigation measures that provide displaced residents with housing options that are affordable and equivalent, including but not limited to, their location and amenities, once any short-term subsidy has elapsed.

H-1.17 Develop and fund a program to educate and support mobilehome park residents so they may create associations to further the City’s goals of maintaining high quality living environments and park preservation.

(Note: Our recommendation that the City add section H-1.17 has become more significant since staff’s Council Policy, as examined in more detail below, provides certain resident organizations with opportunities to identify an appraiser who is acceptable to their organization. Although this specification is very helpful, to locate a competent appraiser, resident organizations will need help in understanding the Conversion Ordinance, the Council Policy and what the appraisal under the Conversion Ordinance entails. As such, a program to educate and support mobilehome park residents is necessary and we urge the Commission’s support for this proposal.)

Implementation Goal IP-5 – Urban Village Planning

Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly “Urban Villages” (also referred to as “Villages” within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods, including existing mobilehome parks. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

Implementation Policy IP-5.4, Urban Village Planning

Prepare and implement Urban Village Plans carefully, with sensitivity to concerns of the surrounding community, residents, and property owners and developers who propose redevelopment of properties within the Urban Village areas. Urban Village Plans must protect against the displacement of low- and moderate-income tenants and mobilehome park residents who live in the Urban Village, and they must also plan for the mitigation of the loss of any mobilehome housing, rent controlled housing, and other affordable housing options that are lost to the community as a result of redevelopment. As part of the Urban Village Planning process, outreach to and community meetings for residents who face displacement, particularly those in mobilehome communities and multifamily housing, must be conducted.

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2. Proposal for General Plan Text Amendments to Add Goals, Policies and Actions for Mobilehome Parks and Other Housing in Urban Villages

We support staff’s proposals (described at page 5 of their November 3, 2015, memo) to add General Plan text to strengthen the City’s goal of preserving mobilehome communities and other sources of affordable housing located in Urban Villages while preservation can be comprehensively addressed during the Urban Village Planning process. In furtherance of these proposals, several of the goals and actions that staff have drafted will promote critical analyses that are needed prior to any park conversion and potential displacement of our community members.

B. Zoning Changes (PP15-130 a)

In addition to amending the City’s Mobilehome Conversion Ordinance, which is part of the Zoning Code, for more than a year we have advocated that the City uniformly zoning all parks R-MH. However, staff has recommended other Zoning Code changes, and we believe that doing both—uniformly zoning all parks R-MH and adopting staff’s recommended Zoning Code changes—will help San José achieve its goal of preserving its 59 mobilehome communities.

1. Uniformly Zone Mobilehome Parks Throughout the City

San José has an R-MH mobilehome zoning designation which reserves some lands for mobilehome park uses.² Currently, one third of the City’s 59 mobilehome parks are not zoned R-MH.³ Updating the zoning on mobilehome parks would both demonstrate the City’s commitment to mobilehome preservation and enable consistent regulation of R-MH lots. The City should update every mobilehome park to the R-MH designation to help ensure that these lands may only be used as mobilehome parks. We continue to recommend that the City implement this approach. In addition to this prior recommendation, we again assert our support for staff’s other zoning proposal change as noted below.

2. Ensure that the City Council Has Decision-Making Authority in Mobilehome Park Conversion Applications

Per the current Mobilehome Conversion Ordinance, the City Council is not expressly identified as a decision maker if a proposal to convert a mobilehome park is made via application for a Planned Development (PD) permit. This must be clarified, since the potential impacts on mobilehome park residents and the larger community is very significant. Staff is recommending that the Council be the decision maker for all proposed mobilehome park conversions, and we support this recommendation.

² San José Municipal Code § 20.30.010(C)(4).

³ Thirty nine parks are zoned R-MH, 2 are Light Industrial, 2 are High Industrial, 4 are zoned R-1(PD), and 11 are A(PD). City of San José, San José Land Use Zoning Map. February 3, 2014, available at <https://maps.google.com/gallery/details?id=zLATztx267ok.kVtwQ6CBAW10&hl=en>.

3. Require Specific Findings of Consistency with the General Plan in Conditional Use Permitting for Mobilehome Park Conversions

The City’s General Plan is our community’s plan for future development. As such, any change in use that potentially displaces hundreds of families (including those whose members are disabled, are at low- and moderate-income, and/or have members who are in school) will create considerable hardship. The impacts of such a potentially disruptive change must be analyzed to ensure that it aligns with our values and goals, specifically those contained in our General Plan’s Housing Element. As such, we support staff’s recommendation that findings (for consistency with the General Plan, particularly the Housing Element) for Conditional Use Permits should be required.

II. Strengthen the City’s Mobilehome Conversion Ordinance’s Requirements to Ensure Adequate Mitigation Measures for Displaced Residents and the Larger Community

While our ultimate goal—and the stated goal of the City—is to preserve mobilehome parks as a source of affordable housing for the individuals and families who live there now, as well as for our larger San José community, the City should also have a strong Mobilehome Park Conversion Ordinance that requires appropriate and adequate mitigation measures as a condition of any mobilehome park closure. The Mobilehome Conversion Ordinance (found at Chapter 20.180 of the Municipal Code) was enacted with the purpose of preserving this affordable homeownership type, but it is now decades old and has never been enforced. Its language is vague, and it provides little certainty to mobilehome park residents, park owners, or the community. We have advocated that the Ordinance should be amended to provide clarity and greater legal protections for displaced residents. However, with one exception,⁴ instead of amending the Conversion Ordinance, staff is recommending that the City pursue a Council Policy to clarify and effect the purpose of the Conversion Ordinance. Although we continue to believe that amending the existing Conversion Ordinance is a superior way to strengthen mobilehome preservation, we take this opportunity to comment on and make suggestions about how to strengthen the City’s draft Council Policy.

A. Staff should Analyze and Report to Council which Clarification and Updates can and cannot be accomplished through a Council Policy

In staff’s November 3, 2015, memo to the CEDC Committee, and at least one previous memo, staff has stated that although the Council Policy can clarify and effect the Conversion Ordinance, some clarifications and updates sought by stakeholders may not be realized through a Council Policy. Recommending the use and adoption of a Council Policy prior to creating a table that specifies which of stakeholders’ clarifications and updates can and cannot be accomplished using a Council Policy is far from optimal. We previously requested that staff analyze and report

⁴ Instead of substantially amending the Mobilehome Conversion Ordinance, found at Chapter 20.180 of the Zoning Code, in their November 6, 2015, memo, staff are proposing to narrowly amend the Conversion Ordinance to add a new section that will enable the Council to adopt additional rules and regulations to implement the intent of the Conversion Ordinance and facilitate adoption of a Council Policy.

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back regarding which clarifications and updates could and could not be accomplished through a Council Policy so that Council may be informed *prior* to selecting a path—Council Policy or Ordinance amendments—to pursue. Unfortunately, this was not done prior to the release of the draft Council Policy, and staff’s memo to the Planning Commission on the proposed Council Policy does not identify which of the public’s requests could not be accomplished through the Council Policy. Although we continue to believe that this analysis is pertinent, we have focused our comments on the draft and our recommendations for amending the draft.

B. The Council Policy Requires Amendments to Further the Intent of and Clarify the Conversion Ordinance

Staff has thoughtfully considered the public’s comments regarding what the Council Policy should contain, other jurisdictions’ mobilehome conversion ordinances, and, through its Council Policy draft, made San José’s 30-year old Conversion Ordinance more relevant to our existing and future market conditions. Although we have proposed several edits that further clarify the Policy, we do agree with a number of aspects of this policy and believe they further the health, safety and welfare of our community. In particular, we are pleased that the Policy:

1. Includes a broad definition of “mobilehome” that is necessary, since it comports with California State law and reflects the variety of manufactured housing that San José’s 35,000 residents call home.
2. Recognizes that State and Federal definitions of disability have changed and that disabled residents may rely on these definitions to access any disability-related benefits that accrue under the Conversion Ordinance.
3. Clarifies that appraisals must consider mobilehomes that are similar in characteristics to the subject mobilehomes but should not factor in the downward pressure that the park’s potential closure has on the values of those mobilehomes.
4. Recognizes that our mobilehome housing is unique and that analyses must consider the impacts and measures that relocation may have on park residents, even after a limited subsidy is no longer available.
5. Includes components and analyses that the appraisals and Relocation Impact Reports should contain, which are vital to ensuring that our Councilmembers have an opportunity to fully assess the impacts that a proposed park closure will have on some of our most vulnerable residents and our larger community.
6. Discusses what a comparable park and mobilehome should be, which is necessary to help our residents have a chance to be rehoused in a comparable area or community if their parks must close.

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7. Recognizes the needs of our diverse community and strives to ensure that our members receive document translations so that they may be appraised of their rights.

C. Clarifications, Updates, and Amendments to the Council Policy That Should Be Incorporated

As follows are our recommendations for strengthening the Council Policy:

1. Explain that the Conversion Ordinance’s Guiding Principle of providing a “reasonable balance between mobilehomes and other types of housing,” means that mobilehome parks should be preserved. According to the 2010 Census and San José’s 2014-2023 Housing Element, San José had approximately 314,000 housing units. San José’s 59 parks contain fewer than 11,000 mobilehomes. Mobilehomes represent about 3.5% of San José’s total housing stock, and it is unlikely that additional parks will be constructed in the City or the region. As such, San José should make clear that this principle supports preservation of mobilehome parks, since San José’s parks represent a small fraction of the housing type that is available.

2. Specify different purposes and minimum membership thresholds required for Designated Resident Organizations. In the current draft of the Council Policy, a Designated Resident Organization (DRO) is eligible to bargain for purchase of the mobilehome park if it represents at least 10% of the spaces in the park. This 10% threshold should be 10% of spaces that are not owned by the park owner so that a park owner cannot affect the creation or viability of a DRO by purchasing spaces.

3. Clarify the “Good Faith Negotiations” section of the Council Policy by:

a. Specifying that “sufficient information” provided to DROs for offers for park purchase includes, but is not limited to, documents referenced at sections 20.180.220 and 20.180.400(6) of the Conversion Ordinance. Residents interested in park purchase are buying and will need to operate a business. As such, documents like reports on the condition of the park and the estimated life of certain park structures and systems—those mentioned in the referenced sections of the Ordinance—are vital to a DRO and should be available to it so it may participate in good faith negotiations.

b. Ensuring that the third party that the park owner (applicant) may require hold “sufficient information” in confidence (as described in section 1(d)(i)) is an agent of the Designated Resident Organization (DRO). To engage in good faith negotiations, the DRO will need to access sufficient information to make a credible offer or counter offer for park purchase. As such, if the owner demands that certain information be held in confidence, this information will need to be held by a third-party agent of the DRO.

c. **Specifying that the park owner should provide a written and detailed response to any DRO within 15 days of the DRO’s purchase offer.** The language at 1(d)(ii) of the Council Policy should be improved so that all parties understand its meaning.

4. **State that the Planning Director will maintain a list of relocation specialists and appraisers competent to perform the studies identified in the Ordinance and Council Policy.** As drafted, the Council Policy provides DROs with the ability to object and propose an alternate list that contains the names of 3 appraisers or 2 Relocation Impact Report (RIR) specialists if they object to the appraiser or specialist selected by the park owner. Although we support DROs’ option to object to the owner’s selection, this provision assumes that all DROs are on the same footing with park owners and have access, means and the capacity to propose alternate providers. In light of this, and similar to the provision contained in Sunnyvale City’s Mobilehome Conversion Ordinance at 19.72.060, the Council Policy should be amended to state that the City Planning Director will maintain a (non-exclusive) list of qualified persons or firms with proven expertise in housing, relocation of displaced persons, and who are familiar with the region’s housing market from whom the DROs could select. A DRO should not be bound to utilize an appraiser or specialist from this list, but having this list would make this section of the Council Policy more meaningful in light of residents’ unequal bargaining power and likely inexperience in hiring such professionals.

5. **Specify a dispute resolution mechanism that the parties to a conversion may utilize.** A conversion application may take several months, or years, to process. The Conversion Ordinance and the proposed Council Policy identifies several instances in which the parties will interact (i.e. before and during good faith negotiations or while an appraiser or RIR consultant is engaged, for example). However, the Council Policy does not specify how the City will timely resolve any disputes that arise between the parties. More troubling, however, is the proposal that the park owner (applicant) should provide a fair and transparent process for appeal of the determination of applicable (relocation and purchase) assistance. This provision seems like it will lead to considerable dispute between the parties, since even if the owner (applicant) supplies a third party to oversee this “fair and transparent” process, this agent will likely be beholden to the owner. As such, the Council Policy should improve the manner in which disputes will be resolved.

6. **Require appraisals to provide valuation of mobilehomes as if a park conversation were not contemplated.** As we have seen in San José, the market may learn about the proposed sale and conversion of a park well before a sale is finalized, and this proposed sale will have an adverse effect on the value of mobilehomes in a park. Similarly, policies being evaluated in San José that may be adopted—like the “Opt-In/Stay in Business” policy—could mean that discussions related to the sale or conversion of a park could occur 20 years before a park closed. The Law Foundation favors a provision that requires valuation of a mobilehome at its in-place value as if park conversion were not public knowledge. However, the valuation of mobilehomes prior to public discussion of a proposed sale or conversion of a park (section 2 (b)) might not produce the results that the City seeks, since the overall market could have drastically changed since that time. The policy should not limit the appraiser to reporting this point-in-time

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data, but rather require the appraiser to use his or her expertise to value the mobilehomes as if park closure had not been noticed.

7. Correct the language relating to “coercion” and provide examples. The Conversation Ordinance requires that no coercion occur. However, the Council Policy says that “no unjust or unreasonable evictions *should have* occurred...” The Council Policy should be strengthened to reflect ordinance’s definitive prohibition against coercion and state that in order for a conversion to be approved, *no coercion can have occurred*. Unjust evictions can occur before a conversion application is filled up through the date that the last mobilehome owner leaves the premises. As such, the park owner may assert undue influence during the pre-conversion application phase, during when a “voluntary” agreement regarding satisfaction of negotiation requirements might be executed, and/or after a conversion permit had been filed and the DRO and park owner were in a dispute about the appraiser or RIR consultant that will be utilized. As such, language at this section should be corrected and examples of impermissible coercive acts should be provided.

8. Provisions that discuss waiver of relocation and purchase assistance should be consistent. An owner may announce their intention to close a park well in advance of serving a notice of intent to sell to residents or filing their conversion application. Both of these events will depress the value of mobilehomes. As such, all sections in the Council Policy relating to relocation and purchase assistance paid or waived prior to the owner’s filing of a conversion application should consistently urge mobilehome owners to seek legal representation before entering into such agreements. Further, as part of the documents they are required to submit, park owners should submit written verification that any agreement they reached with mobilehome owners relating to the waiver or payment of relocation and purchase assistance contained the Council Policy’s/Conversion Ordinance’s admonishment in 16-point font.

9. From the “Clarifications of Standards” section, remove the superfluous word “eligible,” correct the cited Mobilehome Conversion section reference, and provide an alternate index or document since the index or document referenced will be updated and/or superseded. Section 2(f) refers to an “*eligible* mobilehome owner” when the word “eligible” is not defined in the Council Policy. The word “eligible” is superfluous at this section and should be removed. Further, 2(f) refers to section 20.180.430.1.e. of the Conversion Ordinance, when the section should probably be corrected to refer to section 20.180.630.2.e. Lastly, section 2(h) references San José’s 2014-2023 Housing Element. The Housing Element will be updated in 2024. As such, reference to a second document that provides the same measure for housing cost burden should also be referenced in the Council Policy.

10. Payment of costs to replace and reinstall accessibility improvements should encompass costs paid to a third parties qualified to replace and reinstall these improvements. Seniors and disabled residents living in mobilehome parks may have incurred thousands of dollars to make their homes accessible. These accessibility features, including ramps and lifts, may have been professionally installed by contractors. As such, the Council Policy should make clear that payment for the costs to replace and/or reinstall (versus replace *or*

Letter to the Planning Commission

Re: Planning Commission Meeting, January 13, 2016; Agenda Items “4.c.1.2 & 6.a.1.,”

Mobilehome Preservation, General Plan Text Amendments and Council Policy

January 12, 2016

Page 10

reinstall) by a party qualified to install these improvements is what is contemplated in the Council Policy.

11. The Policy should take into account the specific nature of mobilehome park living in evaluating the mitigation value of replacement housing. Section 2(j) states that “it is desirable” that conversions of mobilehome parks result in the development of affordable properties that give mobilehome park residents first priority opportunities in that housing. However, the Policy should recognize that the degree of mitigation that replacement housing constitutes should depend on a comparison of the characteristics of the new housing versus the characteristics of the mobilehome park that is being converted. For example, the degree of mitigation should be determined by answering questions such as: Does the replacement housing offer an ownership opportunity? Does the replacement housing include outdoor recreation space? Does the replacement opportunity include adjacent parking? As such, we believe that evaluation of mitigation value must consider the specific nature of mobilehome park living.

12. The City should maintain any information relating to a mobilehome resident’s disability confidential. We anticipate and agree that information concerning park residents’ disabilities is important and relevant to determining their eligibility for certain relocation and purchase assistance. However, in the course of assessing this eligibility, residents may provide significantly more information than is necessary. In light of this, we urge the City to keep all records and information concerning a resident’s disability confidential and make public only that which is essential for the public record.

13. The terms “most profitable” should be replaced with the term “highest and best use” so that this verbiage is consistent in the document. At section 3(g)(i), the Council Policy seeks an appraisal of the “most profitable” use of the mobilehome park site and later, at section 3(g)(v)(8), seeks an appraisal of the site if used for the highest and best use. To the best of our knowledge, there is no recognized appraisal for “most profitable,” since this could lead to absurd results, since this evaluation would consider several assumptions that may not be realistic and premature. As such, the Council Policy should make the language at these two sections uniform as “highest and best use.”

14. In determining the “actual cost of housing,” the Council Policy should specify that the park owner should obtain a statistically valid rent survey. At present, the Council Policy notes that the owner’s RIR will need to specify the difference between actual market rent and HUD fair market rent. The Council Policy goes on to say that if the difference in these two figures is more than 5% that the subsidies should be adjusted to reflect actual market rent. We note that HUD’s fair market rent calculations have recently come under fire as being inaccurate and artificially low in the Bay Area. (See: <http://www.scribd.com/doc/287329929/Oakland-Fremont-MSA-Comments-on-HUD-Fair-Market-Value-Changes>) As such, the Council Policy should specify that the park owner should obtain a statistically valid rent survey. Lack of specificity in this area will likely lead to a dispute between the park owner and DROs. Therefore, we ask the City help avoid conflicts and so state this in its Council Policy.

15. Evaluation of “comparable housing” should take into account additional costs, including property taxes, vehicle registration fees, and mortgage and loan balances, which will likely increase if a mobilehome owner is forced to move. Sections 2 and 3 of the Council Policy take care to specify several things that an analysis of replacement or comparable housing costs should consider. Things like property taxes, registration fees, existing mortgage and other loan balances, and prospective loans that may be needed to obtain replacement housing, may increase housing costs for residents facing relocation. We believe that it is necessary that all analyses—appraisals and/or RIR’s—consider these housing costs.

16. The RIR should include the impact on locally employed residents who may need to relocate outside of the four counties specified in the Conversion Ordinance. Although housing may be more affordable in outlying areas for employed residents, they may lose their jobs or substantially increase their commuting costs and impact on our environment, which contradicts the energy conservation goals in San José’s 2014-2023 Housing Element. As such, the RIR should consider this impact.

17. Any “Voluntary Agreement regarding Satisfaction of Negotiation” entered into by a DRO and park owner should contain, in 16-point font, an admonishment that the DRO should have legal representation before entering into and in negotiating such an agreement and that by entering into this agreement the DRO is giving up important rights. Further, the Council Policy should specify that the 60-day period identified at 20.180.380 is still be available to another DRO at the park.

18. Park owners should provide a relocation specialist to assist residents facing displacement. Some mobilehome residents will be overwhelmed at the prospect of displacement. In particular, some senior and disabled residents may need assistance in relocating to other parks or housing. As such, park owners should provide relocation specialist services that can assist residents in relocating.

19. The park owner should pay for 6 months of counseling services by licensed mental health services providers for all displaced residents who request these services. Mobilehome park residents who face park conversion and closure will lose their connections to their neighbors and park neighborhood. As such, they will grieve this loss, which may have existed for decades. As such, the park owner should pay for 6 months of counseling services.

20. A copy of the RIR should be provided to each resident, resident association and DRO and their designated agents. Since the RIR will contain data and reports that are crucial to residents’ relocation and purchase assistance packages, the Council Policy should state that the park owner will provide each resident, resident association and DRO and their designated agents with copies of these reports.

21. When the RIR is prepared in relation to the development permit should be described. At present, the Council Policy is that it doesn’t shed light on the timeline of events related to the processing of a conversion application and when the RIR will be prepared.

Letter to the Planning Commission

Re: Planning Commission Meeting, January 13, 2016; Agenda Items "4.c.1.2 & 6.a.1.,"

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Page 12

Including some discussion about this in the Council Policy would help clarify the permit process, which the Conversion Ordinance notes will be unique.

22. The Council Policy should specify a provision to ensure that property owners comply with all required mitigation measures, including all forms of timely relocation and purchase assistance they are required to pay. Timely payment of relocation and purchase assistance is crucial to helping displaced residents resettle with the least amount of impact. As such, specification about when relocation payments will be made should be incorporated into the Council Policy.

23. Appeal or reconsideration processes that the parties to a conversion application have under the Mobilehome Conversion Ordinance should be specified in the Council Policy.

Thank you for your attention and consideration. I welcome the opportunity to discuss the Law Foundation's letter with Commission members. I may be reached at 408-280-2448 or dianac@lawfoundation.org.

Sincerely,

/s/

Diana E. Castillo

Senior Attorney

new Council Policy

Kent Greathouse <ekentg1@yahoo.com>

Wed 1/6/2016 11:33 AM

To: Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov>;

 1 attachment (13 KB)

Proposed Council Policy on mobilehome park conversions paper.docx;

Hello Jenny,

Our WRSHOA committee has studied the proposed new Council Policy, and we want to compliment you and all who worked on the proposal. I personally had reservations about this course of action, but I am impressed by what has been done, and I believe that I understand the reasoning behind it. The committee does have some comments and questions for your consideration, a sort of fine tuning for the most part. We have attached a paper expressing our thoughts, some of which regard small details, and a few of which are larger issues. We look forward to discussing them with you when mutually convenient, though we hope it can be soon as the schedule is beginning to be compressed by time.

Sincerely,

Kent Greathouse (for the committee)
ekentg1@yahoo.com
408-244-3379

Life is what is happening now, in this present moment. Remember that part of the past which is beneficial to the present moment. Forget and forgive anything in the past which degrades the quality of this present moment. Act in this moment in such a way that the present moments which follow will be beneficial and happy. Do no harm.

To: Jenny Nusbaum

With regard to the draft of the proposed Council Policy on mobilehome park conversions, we deeply appreciate all of the work done by the Housing and Planning staffs. The proposal is well-written and comprehensive.

There are a few areas where we would like to see clarification of what is meant by the proposed wording, and a few other concerns regarding certain points in prescribed procedures:

- 1) On page 5, in section 2.a., line 2, we request that the phrase "Upon request of the mobilehome park owner" be deleted, leaving the remainder as is. The DRO should have the right to propose alternate appraisers without the park owner initiating it. There is ambiguity regarding how and by whom the appraiser is chosen after alternates are suggested. A specific procedure needs to be described.
- 2) On page 5, in section 2.b., line 1, we request that the words "*both current and*" be deleted., and that the words "*in-place*" be replaced by "*market rate*". "Market rate" means the price on the open market of equivalent mobile home units in equivalent parks. We believe that the appraisal should be based upon the definition of "comparable mobilehome park" as stated on page 8, section 3.g. 10.
- 3) On page 5, in section 2.c., regarding selection of "consultants" who will provide the RIR, there is the same ambiguity as in 1) above, as to how and by whom the consultant would be chosen when the DRO objects and submits alternate candidates.
- 4) On page 5, in section 2.f., line 4, replace "in-place" with "market rate" as in 2) above.
- 5) On page 5, in section 2.g., line 3, does this mean that home purchases and/or payment of any mitigation benefits will be bargained separately for each homeowner? If so, we approve of that provision.
- 6) On page 6, in section 2.j., line 1, we ask you to insert "equivalent" between "contain" and "housing". It is not right nor acceptable that homeowners be displaced into a reduced quality of living by reducing the square footage of their home or by depriving them of conveniences which they now enjoy, such as ground level living, immediately adjacent parking, gardening spaces, multiple window lighting, pets, etc. No high-rise housing is equivalent to free-standing mobile homes. "Affordability", however defined, is not the deciding factor.
- 7) Additionally, two concepts need to be addressed which affect the entire process:
 - a) How will disputes between the parties be settled? If there is no agreement about choice of appraiser, choice of consultant, choice of mover, appraised value of a house, approval of a new location, or any other matter, how will that be resolved?
 - b) How, and by whom or what agency, will the entire displacement and relocation process be overseen? After the mitigation package is approved and set in motion, who will make sure it is done as agreed? What recourse will a displaced homeowner have if he or she feels that the agreement is not being adhered to?

We look forward to meeting with you to answer any questions you may have about these suggestions and concerns.

Sincerely,

WRSHOA Mobilehome Ordinance Committee
John Dowling, Dave Johnsen, Warren Gannon, and Kent Greathouse

Council Policy (Draft) on Mobile Homes

James Reyner <jdreyner@yahoo.com>

Wed 1/6/2016 8:11 PM

To: Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov>;

 1 attachment (29 KB)

EMAIL TO JENNY 101616.doc;

Jenny,

Here's my comments on the general staging of the subject document.

I do have thoughts on the conversion details, which I will keep out of this email.

Hope this helps!

Cheers,

Jim Reyner

EMAIL TO JENNY 010616

Comments to the document entitled "Council Policy"

- 1. Reorganize the document** – Readers shouldn't have to wait until Page 3 to find out the purpose of the document. Consider opening the document with "Council Direction", and then state "Guiding Principals", followed by "Background". **Reason:** I got confused until I saw that the document is limited to dealing with conversions. I had erroneously believed that the document was addressed to more than this very limited scope.
- 2. Guiding Principles** – I love these! However, only one or two is answered by conversions argument. To be honest, there are more options than conversions that need to be explored. Suggest a sentence or two that recognize this fact. **Reason:** The remaining Guiding Principals are not addressed in the "Council Policy" document.
- 3. Beyond conversions** – I'm sure we all recognize that the planning for preserving mobile home assets goes beyond imposition of an extremely restrictive ordinance for conversions. For example, the Opt-In/Stay in Business is a valuable concept (if it includes a concern for new ownership). Suggest that this "Council Policy" include a mention of the other efforts that are being explored to preserve San Jose's invaluable mobile home assets. **Reason:** Sow that planning is considering more than conversion.

Council Policy on Conversion of Mobilehome Parks to other uses

John Dowling <john.r.dowling126@gmail.com>

Tue 1/12/2016 11:44 AM

To: Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov>;

Hi Jenny,

I want to thank Staff for all their hard work in putting together this policy to strengthen the Conversion Ordinance.

In my review of the Conversion Ordinance I did find a few things that needed fixing. I thought the Policy would be a good place to list them.

Under Section 1 Clarification of certain definitions in Chapter 20.180.

1) You should include the updated references to the California Civil Code. The Davis Stirling Act rewrite, which became effective on Jan. 01, 2014, simplified the code for mobilehomes and moved all sections referring to mobilehomes to Section 4000 in the civil code and removed section 1351. Sections 20.180.050 and 20.180.070 should be amended to show the new Civil Code Section numbers.

Suggested statements to add to the Policy:

1.f. In Section 20.180.050 - Civil Code Section 1351(c) has been replaced by Civil Code Section 4100*.

1.g. In Section 20.180.070 - Civil Code Section 1351(f) has been replaced by Civil Code Section 4125*.

* by Davis Stirling Act rewrite effective Jan. 01, 2014

2) In Section 20.180.340.B. of the Conversion Ordinance, the last sentence which lists the sections of the ordinance listing the rights of mobilehome owners, tenants, residents and DROs needs to be rewritten.

Sections 20.180.360 and 20.180.370 lists the rights of the mobilehome owners, mobilehome tenants and residents.

Section 20.180.340.B. currently refers to Sections 20.180.370 and 20.180.380.

Sections 20.180.380 and 20.180.390 lists the rights of the Designated Resident Organization. Section 20.180.340.B. currently refers to Section 20.180.390 only.

I believe that Sections 2 and 3 of the Policy should apply to Sections 20.180.630 and 20.180.430 so that any conversion would have the same benefits to the residents who require relocation and purchase assistance.

Under Section 2 Clarifications of standards for Program of Relocation and Purchase Assistance, I found a typo.

In Section 2.f.(last line): Change "Section 20.180.430.1.e" to "Section 20.180.430.2.e". Section 20.180.430.1.e. does not exist.

Thank you for your consideration,

--

John R. Dowling

<http://www.linkedin.com/in/johnrdowling>

Council Policy on Conversion of Mobilehome Parks to other uses

John Dowling <john.r.dowling126@gmail.com>

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To: Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov>;

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Thank you for your consideration,

--

John R. Dowling

<http://www.linkedin.com/in/johnrdowling>

From: Anthony Rodriguez [<mailto:arodesq@pacbell.net>]

Sent: Wednesday, January 13, 2016 2:58 PM

To: Dori L. Yob

Cc: arodesq@pacbell.net

Subject: Winchester Ranch Objection to the City of San Jose's proposed mobilehome park closure policy

This office represents the owner of Winchester Ranch Mobilehome Park. Attached please find my client's objection to the City of San Jose's proposed mobilehome park closure policy.

Anthony C. Rodriguez

Law Office of Anthony C. Rodriguez

1425 Leimert Boulevard, Suite 101

Oakland, California 94602

Telephone: (510) 336-1536

Facsimile: (510) 336-1537

Email: arodesq@pacbell.net

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ANTHONY C. RODRIGUEZ

ATTORNEY AT LAW

1425 LEIMERT BOULEVARD

SUITE 101

OAKLAND, CALIFORNIA 94602 -1808

TELEPHONE (510) 336-1536

FACSIMILE (510) 336-1537

January 13, 2016

VIA EMAIL AND U.S. MAIL

The City of San Jose Planning Commission
200 East Santa Clara Street, 3rd Floor
San Jose, California 95113

Re: **Mobilehome Park Conversion and General Plan Public Hearing**
OBJECTION TO AGENDA ITEMS 4.C AND 6.A

Dear Planning Commission Members:

This office represents the owner of Winchester Ranch, which is a 111-space mobilehome park located at 500 Charles Cali Drive in San Jose, California. I am writing to object to the proposed revisions to the procedures governing the closure and/or conversion of mobilehome parks within the City of San Jose, which you are apparently scheduled to consider later this evening.

More specifically, the United States Supreme Court has held that under the takings clause of the federal constitution, landlords have a constitutional right to "exclude" others from their properties. Based on the agenda items currently before the Planning Commission, it would appear that the City of San Jose is attempting to make the cost of closing a park so onerous, no parkowner will be able to exercise that right.

The simple fact is that mobilehome parks have a limited life span, and that the infrastructures at many of the mobilehome parks in San Jose are near the end of their useful lives. As a result, it does not make sense to attempt to preserve mobilehome parks in perpetuity, as few if any of those mobilehome parks are likely to be viable fifty or one hundred years from now.

In short, it is a virtual certainty that every one of the mobilehome parks in San Jose will be required to close at some point in time. Rather than attempting to make it impossible

for parkowners to go out of business, the Planning Commission should focus on establishing policies that will enable the land on which those parks are built to be converted to their highest and best use, thereby benefitting all of the citizens of San Jose. Below is a more detailed summary of my client's objection to the matters on your January 13, 2016 agenda.

I. Any Attempt to Require Parkowners to Pay the “In Place” Value of Mobilehomes in Order to Go out of Business is Prohibited by the Federal Constitution.

The United States Constitution is the supreme law of the land. *Public Utilities Commission of California v. United States* (1958) 355 U.S. 534, 544-545. Under the Supremacy Clause, no law may be enacted or applied in a manner that is inconsistent with the United States Constitution. *Mulkey v. Reitman* (1936) 64 Cal. 2d 529, 533. The Supremacy Clause provides as follows:

“This Constitution, and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution *or laws of any State to the contrary notwithstanding.*” U.S. Const. Art. VI, Sec. 2 (Emphasis added).

The Takings Clause of the Fifth Amendment to the United States Constitution prohibits the taking of private property for a public purpose, without the payment of just compensation. U. S. Const. Amend. V. Originally, the Takings Clause applied only to the actual physical occupation of land by a governmental agency. *Lucas v. South Carolina Coastal Council* (1992) 505 U. S. 1003, 1014. However, it has now been expanded to prohibit the taking of all types of property interests, including a taking caused by the enforcement of a governmental regulation that “goes too far.” *Pennsylvania Coal Co. v. Mahon* (1922) 260 U. S. 393, 415.

One of the most important rights of any property owner is the power to “exclude” others. Of course, the denial of that right requires the payment of just compensation to the landowner. As stated by the United States Supreme Court in *Kaiser Aetna v. United States* (1979) 444 U.S. 164:

“In this case, *we hold that the ‘right to exclude,’* so universally held to be a fundamental element of the property right, falls within this category of interests that the Government cannot take without compensation.” (*Id.* at 179-180). (Emphasis added).

As stated above, it is a virtual certainty that every mobilehome park in San Jose will eventually be closed at some point in time, for one reason or another. At that point, each parkowner will be entitled to exercise its constitutional right to “exclude” others from its property. Rather than respecting that right, the City of San Jose is proposing that parkowners be required to pay tenants the “in place” value of their mobilehomes, as a condition of closing their parks, as well as rent subsidies for a period spanning up to twenty-four months.¹

As you may know, the California Department of Housing and Community Development (HCD) keeps detailed records regarding the sale of mobilehomes throughout the state. That information includes not only the sales price of the mobilehome, but the year in which the mobilehome was manufactured.

Enclosed for your review is a summary regarding the mobilehomes sold at 48 of the parks in San Jose for which records are currently available. Based on those records, it would appear that 1,152 of the mobilehomes from the 10,051 spaces at the reporting parks were sold during the past two years, or 11.46%. It would appear also that at least 508 of those 1,152 mobilehomes were replacement mobilehomes, as they were manufactured after January 1, 1986.²

More important, based on the average price of the mobilehomes sold during the past two years, the cost of purchasing the mobilehomes at each of those 48 parks can be estimated, by multiplying the average purchase price by the number of spaces at the relevant

¹ It must be stressed also that any taking must be for a “public purpose.” *Hawaii Housing Authority v. Midkiff* (1984) 467 U.S. 229, 245. [“A purely private taking could not withstand the scrutiny of the public use requirement.”]. Because the sole beneficiaries of the City’s proposed policy would be the tenants at the time of the closure, my client reserves the right to challenge any such policy on the ground that it does not advance a legitimate “public purpose.”

² Thus, those records dispel any notion that tenants are “captive,” that mobilehomes are not “mobile,” or that they are “too expensive” to move. The true fact is that mobilehomes are sold, moved and replaced in San Jose all the time.

park. Of course, that estimate is extremely conservative, as prices have been trending up during the past six months, not down.

As you can see, even when using the average price of the mobilehomes sold during the past two years, at least 39 of the parkowners would be required to pay more than \$10,000,000 in order to close their parks, for mobilehomes they probably do not want, and for which they almost certainly have no use for. Incredibly, at least nine of those parkowners would be required to pay more than \$40,000,000 for such mobilehomes, while three parkowners would be required to pay more than \$60,000,000.

Of course, purchasing unwanted mobilehomes is not the only device the City of San Jose apparently intends to employ to prevent parkowners from exercising their constitutional right to “exclude” others. Although the City’s current and revised procedures are riddled with a number of other unnecessary and wasteful expenditures that no reasonable person would make, the second most burdensome device to prevent closure is the payment of rent subsidies for up to twenty-four months.

According to the United States Department of Housing and Urban Development (“HUD”), the 2016 fair market rent for a two-bedroom apartment in San Jose-Sunnyvale-Santa Clara is \$1,994 per month. According to the City of San Jose, the average rent at the San Jose mobilehome parks is “typically between \$550 and \$1,550 per month.” Again, however, this is a conservative estimate, because some of the information the City is relying upon is “several years” old.

For purposes of this analysis, my client has assumed that the difference between the current average rent at the mobilehome parks in San Jose and the current rent for a two-bedroom apartment in San Jose is \$1,000 per month. Under the City of San Jose’s proposed procedures, a \$1,000 per month differential in those rents would result in a \$24,000 rental subsidy per space. ($\$1,000 \text{ per month} \times 24 \text{ months} = \$24,000 \text{ per space}$).

Again, as demonstrated by the enclosed summary, 42 of the 48 parkowners could be required to pay more than \$2,000,000 in rental subsidies in order to exercise their constitutional right to “exclude” others. In fact, four of those parkowners could be required to pay more than \$10,000,000 in such rent subsidies.

When coupled with the in place purchase price of the mobilehomes, those two expenditures make it clear that the City of San Jose is planning to make it impossible for

parkowners to exercise their constitutional rights. When added to the other unnecessary and wasteful expenditures the City apparently intends to require, it is clear the City has no interest in allowing any parkowner to close or convert their property to another use.

Because such a system would effectively prevent parkowners from closing their properties, it would amount to a taking, requiring the City of San Jose to pay just compensation to the parkowners, rather than the parkowners paying unjust compensation to the tenants. *Kaiser Aetna v. United States* (1979) 444 U.S. 164, 179-180. Because the City's plan is likely to lead to years of litigation, with the tenants ultimately receiving nothing, the Planning Commission is urged to refrain from supporting that plan at this time.³

II. Parkowners Have a Constitutional Right to Go out of Business under the Due Process Clause.

In *Textile Workers v. Darlington Co.*, (1965) 380 U.S. 263, 272, the owner of a textile mill decided to go out of business, rather than allow his company to be unionized. The union sued, claiming that the decision to go out of business was an unfair labor practice. In rejecting that claim, the United States Supreme Court held as follows:

“Although employees may be prohibited from engaging in a strike under certain circumstances, no one would consider it a violation of the Act for the same employees to quit their employment en masse, even if motivated by a desire to ruin their employer. . . . ***The employer's right to go out of business is no different.***” (*Id.* at 172). (Emphasis added).

Similarly, in *Robinson v. Diamond Housing Corporation* (D.C. Cir. 1972) 463 F. 2d 853, 867, the Court found that a landlord had an absolute right to go out of business, writing as follows:

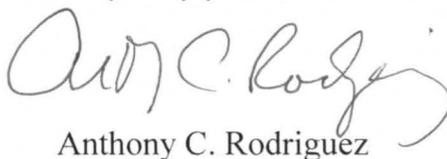
³ See also *Yee v. City of Escondido* (1992) 503 U.S. 519, 528 [“A different case would be presented were the statute, on its face or as applied, to compel a landowner over objection to rent his property or to refrain in perpetuity from terminating a tenancy.”]; See also *Loretto v. Teleprompter Manhattan CATV Corp.*, (1982) 458 U.S. 419, 439, N. 17 [A landlord's exercise of one constitutional right “may not be conditioned on his forfeiting the right to compensation for a physical occupation.”]

“There would be severe constitutional problems with a rule of law which required an entrepreneur to remain in business against his will.”

Again, the City of San Jose’s proposed plan not only improperly attempts to force parkowners to pay tens of millions of dollars in order to exercise their constitutional right to go out of business, the cost of exercising that right would be so high it would render that right meaningless. Because the City of San Jose’s proposed plan would trample on numerous constitutional rights, the Planning Commission is again urged not to endorse that plan at this time.⁴

Thank you for your reviewing my client’s objection with respect to the items on your agenda. If you have any questions or comments, or if you would like to discuss this subject in detail, please do not hesitate to contact me.

Very truly yours,



Anthony C. Rodriguez

cc: The Mayor and City Council
200 East Santa Clara Street
San Jose, California 95113

Client

⁴ In addition to violating the takings and the due process clauses, the City’s proposed plan would be so onerous that it may also result in involuntary servitude, in violation of the Thirteenth Amendment of the United States Constitution. See *United States v. Kozminski* (1988) 487 U.S. 931, 944 [The Thirteenth Amendment prohibits “involuntary servitude enforced by the use or threatened use of force or legal coercion.”].

**SAN JOSE CLOSURE AND/OR CONVERSION COSTS
FOR MOBILEHOME PARKS**

IN-PLACE VALUE AND RENT-SUBSIDY ONLY

(Sales from January 12, 2014 through January 12, 2016)

Park Name	Number of Spaces	Number of Sales	Average Sales Price	Cost to Purchase all Homes at Park	\$1,000 Per Month Subsidy (24 Months)	Total
Arbor Point	120	13	77,986.46	9,358,375.20	2,880,000	\$12,238,375.20
Bella Rosa	64	6	64,650.00	4,137,600	1,536,000	\$5,673,600.00
Cal Hawaiian	412	55	98,728.04	40,675,952.48	9,888,000	\$50,563,952.48
Caribbees	442	54	71,949.07	31,801,488.94	10,608,000	\$42,409,488.94
Casa Alondra	199	29	110,796.55	22,048,513.45	4,776,000	\$26,824,513.45
Casa Del Lago	618	69	95,818.33	59,215,727.94	14,832,000	\$74,047,727.94
Chateau La Salle	433	63	177,030.32	76,654,128.56	10,392,000	\$87,046,128.56
Colonial Mobile Manor	200	25	96,334.08	19,266,816.00	4,800,800	\$24,067,616.00
Cottage Tr. Grove	34	1	75,000.00	2,550,000.00	816,000	\$3,366,000.00
County Fair	133	21	116,161.14	15,449,431.62	3,192,000	\$18,641,431.62
Coyote Creek	182	15	67,017.60	12,197,203.20	4,368,000	\$16,565,203.20
Eastridge Estates	187	7	108,642.86	20,316,214.82	4,488,000	\$24,804,214.82
Foothills Mobile Lodge	70	6	44,601.33	3,122,093.10	1,680,000	\$4,802,093.10
Golden Wheel	221	13	91,224.62	20,160,641.02	5,304,000	\$25,464,641.02
Hilton MHP	62	3	51,000.00	3,162,000.00	1,488,000	\$4,650,000.00
Imperial SJMHE	174	15	263,677.47	45,879,879.78	4,176,000	\$50,055,879.78
La Buona Vita	108	18	120,655.56	13,030,800.48	2,592,000	\$15,622,800.48
Lamplighter	265	27	123,759.07	32,796,153.55	6,360,000	\$39,156,153.55
Magic Sands	541	52	139,421.54	75,427,053.14	12,984,000	\$88,411,053.14
Mill Pond	309	40	159,559.45	49,303,870.05	7,416,000	\$56,719,870.05
Monterey Oaks	344	40	154,684.72	53,211,543.68	8,256,000	\$61,467,543.68
Moss Creek	107	7	120,771.43	12,922,543.01	2,568,000	\$15,490,543.01
Mountain Shadows	108	6	131,066.67	14,371,200.36	2,592,000	\$16,963,200.36

Mountain Springs	144	24	157,027.08	22,611,899.52	3,456,000	\$26,067,899.52
Oakcrest	158	12	190,416.67	30,085,833.86	3,792,000	\$33,877,833.86
Old Orchard	102	4	125,370.00	12,787,740.00	2,448,000	\$15,235,740.00
Pepper Tree Estates	273	33	89,053.12	24,311,501.76	6,552,000	\$30,863,501.76
Quail Hollow	186	19	219,871.05	40,896,015.30	4,464,000	\$45,360,015.30
Rancho Santa Teresa	315	50	99,174.02	31,239,816.30	7,560,000	\$38,799,816.30
River Glen MHP	163	20	70,412.20	11,477,188.60	3,912,000	\$15,389,188.60
Riverbend MHP	124	13	114,915.38	14,249,507.12	2,976,000	\$17,225,507.12
San Jose TP	99	4	31,000.00	3,069,000	2,376,000	\$5,445,000.00
San Jose Verde MHP	148	7	145,557.14	21,542,456.72	3,552,000	\$25,094,456.72
Silver Creek ME II	240	24	149,751.25	35,940,300.00	5,760,000	\$41,700,300.00
South Bay MHP	214	23	100,073.91	21,415,816.74	5,136,000	\$26,551,816.74
Spanish Cove MHP	305	26	98,296.58	29,980,456.90	7,320,000	\$37,300,456.90
Summerset MHP	112	19	187,152.63	20,961,094.56	2,688,000	\$23,649,094.56
Sunshadow	121	8	82,987.50	10,041,487.50	2,904,000	\$12,945,487.50
Town/Country MV	191	22	136,131.27	26,001,072.57	4,584,000	\$30,585,072.57
Villa Teresa	147	27	215,387.15	31,661,911.05	3,528,000	\$35,189,911.05
Village Four Seasons	271	45	106,359.33	28,823,378.43	6,504,000	\$35,327,378.43
Walnut MHP	40	4	36,125.00	1,445,000.00	960,000	\$2,405,000.00
Western TP	54	1	3,000	162,000.00	1,296,000	\$1,458,000.00
Westwinds	723	121	91,904.62	66,447,040.26	17,352,000	\$83,799,040.26
Whispering Hills	211	23	139,820.87	29,502,203.57	5,064,000	\$34,566,203.57
Willow Glen ME	90	5	71,000.00	6,390,000.00	2,160,000	\$8,550,000.00
Winchester Ranch	111	16	141,462.50	15,702,337.50	2,664,000	\$18,366,337.50
Woodridge	176	17	130,070.59	22,892,423.84	4,224,000	\$27,116,423.84
TOTALS	10,051	1,152		\$1,196,696,712.48	\$241,225,800	\$1,437,921,512.48

During the two year period from January 12, 2014 through January 12, 2016, 1,152 of the 10,051 mobilehomes were sold in the above named parks in San Jose, or **11.46%**. In addition, at least 508 of those 1,152 mobilehomes were replacement homes (44.09%), as they were manufactured after January 1, 1986, or approximately five years after the last mobilehome park was opened in San Jose.



Memorandum

TO: PLANNING COMMISSION **FROM:** Harry Freitas
SUBJECT: SEE BELOW **DATE:** January 13, 2016

S U P P L E M E N T A L M E M O

SUBJECT: PP15-130 b: Incorporate into a new City Council Policy new provisions for consideration of mobilehome park conversion to other uses. The proposed Council Policy is intended to facilitate implementation of the requirements in the Zoning Code regarding mobilehome park conversions to another use.

REASON FOR SUPPLEMENTAL

Planning staff has received public correspondence (see attachment) requesting modifications of wording in the draft City Council Policy document that previously was distributed to the Planning Commission with the staff report dated January 4, 2016. Staff has considered these requests and has incorporated them into the draft Policy document where feasible in terms of consistency with Council direction regarding the scope of the proposed Council Policy, appropriateness for inclusion in a Council Policy document, and practicality of implementation. Some of the suggestions from the public that cannot be included in the draft policy document, for the reasons stated above, may be appropriate for draft permit conditions for individual proposals for conversions of mobilehome parks to other uses. Accordingly, staff has revised the draft language of the proposed City Council Policy as shown in strike-out and underlined text in the revised draft Policy document (see attachment).

HARRY FREITAS, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Jenny Nusbaum, Supervising Planner, Ordinance and Policy Team at 408-535-7872.

Attachments: Revised Draft City Council Policy
Public Correspondence

City of San José, California

COUNCIL POLICY

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EFFECTIVE DATE	REVISED DATE	
APPROVED BY COUNCIL ACTION	<u>DRAFT</u>	

BACKGROUND

“Immobile” Homes on Rented Land

Mobilehomes may look like single-family detached houses, but in most cases they are manufactured (factory-built) homes installed in mobilehome parks that may or may not be affixed to a foundation. Unlike other homes where the home-owner owns the land or at least the airspace, the land beneath the mobilehome is, typically, not owned by the purchaser of the mobilehome. The mobilehome owner pays space-rent to the mobilehome park owner for the privilege of use of the space. Mobilehomes have purchase prices that are substantially less than single-family detached houses due to mobilehomes’ factory construction and non-ownership of the land. The result is a hybrid type of housing arrangement, where the resident owns the housing unit, but leases or rents the land on which the housing unit is placed. This arrangement might not be so challenging to set up or maintain if the mobilehome owner could easily move to another mobilehome park, but once a mobilehome is installed in one mobilehome park it is extremely difficult to move the mobilehome to another mobilehome park. In particular, older mobilehomes that are not constructed up to current codes cannot be moved into another mobilehome park. Lack of available spaces in mobilehome parks throughout the region could severely limit the ability to relocate mobilehomes. For practical purposes, the immobility of mobilehomes means if a mobilehome park converts to another use, the mobilehome will very likely be destroyed, the mobilehome owner will lose that significant asset, and any compensation that the mobilehome owner recovers will be that provided in accordance with State and local law.

Parks in San José and the Surrounding Area

San José has had mobilehome rent control since 1979. Approximately 10,800 mobilehome park spaces received plumbing, electrical, and sewer permits on or before September 7, 1979 and are thus subject to rent control under San José Municipal Code Chapter 17.22. This rent control ordinance allows automatic annual rent increases of 75% of the Consumer Price Index (CPI), but not less than 3% or more than 7%. San José’s rent control ordinance also imposes vacancy control that limits rent increases when a mobilehome is sold, which allows residents to protect their investments. Although according to staff’s research in Fall 2015 there were approximately 21,750 mobilehome spaces in the Santa Clara, Alameda, San Mateo and Santa Cruz counties (the four-county area) surrounding (but not including) San José, only approximately 9,700 of them were rent-controlled spaces.

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Park Residents in San José

San José's mobilehome parks are occupied by a variety of individuals and families, including low-income or fixed-income seniors and families. Most residents are owners of their mobilehomes. Additionally, since the ordinance regarding mobilehome park conversions (the Ordinance), now in Chapter 20.180, was adopted in 1986 as an ordinance amending Title 20 (the Zoning Code) of the San José Municipal Code, many more mobilehome park residents have limited English proficiency.

Decreasing Number of Spaces for Relocation

No new mobilehome parks have been built in the City of San José in the last 30 years, and few new mobilehome parks have been built in the State during this time. According to data from the State Department of Housing and Community Development in the last 15 years, approximately 900 mobilehome spaces have been lost in the four-county area due to park closure. As housing and land prices increase, it is reasonable to assume these losses may escalate making it more difficult over time to relocate residents to mobilehome parks in San José and even within the four-county area addressed in Chapter 20.180.

Inability to Afford Available Mobilehomes

As housing costs and land values escalate, interest in mobilehome park conversion to other uses increases, as does demand for rent-controlled mobilehome park spaces. Mobilehomes available for sale and vacant spaces in the City of San José rent-controlled mobilehome parks are unlikely to be sufficient to address the demand created by closure of a relatively large mobilehome park, and unless new parks are constructed this imbalance will increase as mobilehome parks close in the four-county area.

Based on the data submitted to the Housing Department over the last several years, space-rents in the City of San José's mobilehome parks are typically between \$550 and \$1550 per month. Mobilehome owners who have occupied their mobilehome parks for a long period of time are more likely to have lower rent. Thus, even if the lower-income or fixed-income mobilehome park residents are able to find a mobilehome to purchase in another San José mobilehome park, their incomes may not allow them to meet the other mobilehome park's income requirements because space-rent and the mortgage for the purchased mobilehome will be more than their monthly costs were in their previous mobilehome park location. Consequently, it may be challenging to mitigate the economic impact of conversion and relocation on lower-income and fixed-income mobilehome owners.

Existing Conversion Ordinance

Under Section 20.180.630 of Chapter 20.180 of the Zoning Code, when a mobilehome park owner files an application for mobilehome park conversion, the mobilehome park residents become eligible for benefits under the required program of relocation and purchase assistance. Since this Ordinance was adopted in 1986, there has not been a conversion of a mobilehome park to another use in the City that has been subject to the conversion provisions in the Zoning Code. Over the last several years, several questions have arisen regarding mobilehome

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park conversion requirements and procedures under Chapter 20.180. Staff has concluded that several of the procedures and definitions would benefit by additional clarification.

Council Direction

The City is concerned that conversions of existing mobilehome parks in the City of San José to other uses may result in (a) the permanent displacement of a substantial number of mobilehome residents, (b) the risk of homelessness for lower-income mobilehome residents due to the inability to afford and qualify for available mobilehomes in San José, (c) the loss of a large amount of relatively affordably-priced housing, (d) the reduction of housing-type choice, and (e) the destruction of established residential communities. The City is also concerned that there is a lack of clarity regarding a sufficient program of relocation and purchase assistance.

As land and housing prices have escalated, there have been more questions to staff regarding mobilehome park conversion requirements and procedures. At least one mobilehome park owner has indicated to the residents of that mobilehome park an interest in converting to another use. As a result of this interest, in 2014 many mobilehome park residents expressed concerns about potential displacement from their homes, and asked the City Council to strengthen regulations for the preservation of existing mobilehome parks and the protection of mobilehomes as affordably-priced housing. In response, the City Council directed staff to prepare a Council Policy to further clarify the provisions in Chapter 20.180 and provide additional guidance for the review of applications of mobilehome park conversion to other uses as described herein.

GUIDING PRINCIPLES

As stated in Chapter 20.180, proposed conversions of mobilehome parks to other uses (conversions), should only be approved when findings can be made that the following guiding principles are furthered by such approval:

1. Make adequate provision for the housing needs of all economic segments of the community;
2. Facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks;
3. Provide a reasonable balance between mobilehomes and other types of housing;
4. Inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase; and
5. Reduce and avoid the displacement of long-term residents, particularly senior citizens, people with disabilities, those who are of low-income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

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PURPOSE

The purpose of this City Council Policy (Policy) is to provide clarification regarding how the above principles should be implemented on a project-specific basis so that the City's decisions on proposed conversions are consistent with these guiding principles.

POLICY

1. Clarification of Certain Definitions in Chapter 20.180

- a. "Designated Resident Organization" as described in Section 20.180.110 should be interpreted to include any association formed by the residents that has provided the owner or manager of the mobilehome park written notice of the name and address of the organization and the name and address of the representative of the organization to whom all notices under Chapter 20.180 shall be given. An association may be formed at any time, but for the purpose of negotiating to purchase the park, written notice of the exercise of this right shall be provided to the park owner within sixty (60) days of the date of issuance of the notice of intention to convert. There may be more than one such association. If there is at least one Designated Resident Organization representing at least 10% of the spaces, then any association representing less than 10% of the spaces shall not be considered Designated Resident Organizations. "Spaces" for the purposes of this paragraph should only include spaces that are not owned by the mobilehome park owner or a proposed developer.
- b. "Mobilehome" should be interpreted to include all structures meeting the criteria in California Civil Code Section 798.3 including trailers, motorhomes, recreational vehicles or similar units, as may be amended from time to time.
- c. "Handicapped Mobilehome Owner" should be interpreted to include all persons who are disabled under State disability law and the Americans with Disabilities Act.
- d. "Good Faith Negotiations" should be interpreted to include the following characteristics:
 - i. Sufficient information provided to each Designated Resident Organization so that the value of the mobilehome park as a mobilehome park can be established. The mobilehome park owner may require such information to be held in confidence by a third party.
 - ii. A detailed response by the applicant based on the price and terms in the offer should be provided within the 180-day period to any written offer by any Designated Resident Organization provided within 15 business days.
- e. The definition of "Mobilehome park conversion of use" should not be interpreted to exclude projects described as "park closure" from the requirements of Chapter 20.180.

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- f. The statement of the rights of mobilehome owners, mobilehome tenants and residents required to be included in the notice of intention to convert (notice of intention) in Section 20.180.340.B should be interpreted to mean those rights set forth in Sections 20.180.360 and 20.180.370, and the rights of Designated Resident Organization(s) should be interpreted to mean those rights set forth in Section 20.180.380.
- g. “Relocation Impact Report” should be interpreted to mean the report required pursuant to Government Code Section 65863.7 as may be amended from time to time and as may be supplemented pursuant to Chapter 20.180 or this Council Policy.

2. **Clarification of Standards for Program of Relocation and Purchase Assistance**

In evaluating whether a satisfactory program of relocation and purchase assistance has been provided the following considerations should be taken into account:

- a. The mobilehome park owner should hire an appraiser who is hired by the mobilehome park owner should be acceptable to the Designated Resident Organization(s). The mobilehome park owner should notify the Designated Resident Organization(s) of the mobilehome park owner’s proposed appraiser before conducting appraisals and provide an opportunity for the Designated Resident Organization(s) to object to the proposed selection of appraiser. If a Designated Resident Organization(s) rejects the mobilehome park owner’s proposed appraiser, On request of the mobilehome park owner, any objecting Designated Resident Organization the Designated Resident Organization(s) should provide a list of at least three appraisers that are acceptable to the Designated Resident Organization(s) to the mobilehome park owner. In the event more than one such Designated Resident Organization objects, the Designated Resident Organizations must jointly provide a single list of at least three appraisers to the mobilehome park owner.
- b. Appraisals should list in-place value of mobilehomes, both current and prior to any public discussion or communication regarding sale or conversion of the mobilehome park and should contain the elements described in item 3 below.
- c. The consultant(s) hired by The mobilehome park owner should hire a consultant(s) to provide prepare the Relocation Impact Report (RIR) should be who is acceptable to the Designated Resident Organization(s). The mobilehome park owner should notify the Designated Resident Organization(s) of the mobilehome park owner’s proposed RIR consultant before the consultant commences work and provide an opportunity for the Designated Resident Organization(s) to object to the proposed selection of the RIR consultant(s). If thea Designated Resident Organization(s) rejects the mobilehome park owner’s eandidate-proposed RIR consultant, the Designated Resident Organization(s)-it should provide a list of at least two consultants with specialized experience in the preparation of such reports that are acceptable to the Designated Resident Organization(s) to the mobilehome park owner. In the event more than one such Designated Resident

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Organization objects, the Designated Resident Organizations must jointly provide a single list of at least two consultants with specialized experience in the preparation of such reports to the mobilehome park owner.

- d. No unjust or unreasonable evictions should have occurred and no residents should have been coerced to sell without relocation benefits.
- e. All sales occurring after the delivery of notice of intention pursuant to Section 20.180.340 but before the application is filed should include a signed statement acknowledging that by selling the unit prior to the filing of the application, the mobilehome owner is waiving the benefits under the program of purchase and relocation assistance. The mobilehome owner may not waive benefits for renters occupying the units.
- f. For any eligible mobilehome owner whose home cannot be relocated to a comparable mobilehome park in the City of San José or relocated to another mobilehome park chosen by the mobilehome owner, the program of relocation and purchase assistance should provide for the purchase of the mobilehome at 100% of its in-place value consistent with Section ~~20.180.430.1.e~~20.180.630.2.e as determined by the selected appraiser.
- g. A program of relocation and purchase assistance should provide payments for the costs of relocation and purchase assistance listed in the contents of the RIR as described in item 3 below, as that are applicable in each resident's circumstances. The mobilehome park owner (also referred to as applicant herein)~~applicant~~ should ~~provide~~ include a fair and transparent process for appeal of the determination of applicable assistance in the RIR and provide advance notice to the residents of such process.
- h. A program of relocation and purchase assistance should provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a housing burden. Pursuant to This City Council Policy incorporates the definition of housing costs resulting in undue burden in the City of San José's Housing Element for 2014-2023; housing costs that do not create a housing burden are housing costs that do not exceed 30% of gross income.
- i. A program of relocation and purchase assistance should provide for payment of the costs to reinstall or replace any accessibility improvements made to a resident's mobilehome and surrounding area such as wheelchair ramps, lifts, and grab-bars. Such payments should be provided to displaced residents who made such accessibility improvements.
- j. It is desirable that conversion projects with proposed residential uses contain housing that is affordable to all income levels of existing residents and provide a first priority opportunity to purchase or rent such units to existing residents. Units with rents and purchase prices restricted by recorded covenants will be considered desirable for

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mitigation of relocation impacts to lower-income residents.

- k. The above standards may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that applying the standards in this Policy would take property in violation of the United States or California Constitutions.

3. **Clarification of Standards regarding Contents of RIR to supplement requirements in Section 20.180.630 of the Zoning Code.** In evaluating whether the RIR provided is consistent with a satisfactory program of relocation and purchase assistance, the following considerations should be taken into account:

- a. The RIR should identify space vacancies and units for sale, including price and space rent, and required purchaser income (if available) in the Santa Clara, Alameda, San Mateo, and Santa Cruz counties (the four counties) and should indicate which, if any, may be subject to rent stabilization ordinances. If the number of available rent-stabilized mobilehome park spaces in the four counties is fewer than the number of mobilehomes in the subject mobilehome park that are eligible for relocation, then a list should be provided of comparable mobilehome parks within a 100-mile radius of the subject mobilehome park and for each such mobilehome park, the space-rents, whether the park is rent-stabilized and the qualifications for residency in each mobilehome park (e.g., age restrictions, no pets, minimum income), whether the mobilehome park has any available space and will accept mobilehomes being relocated and, if so, any restrictions such as size and age, on the relocated mobilehomes that would be accepted.
- b. The RIR should indicate number of residents in the following categories: earning less than 30% Area Median Income (AMI), 50% AMI and 80% AMI, disabled under State or Federal definitions or by declaration of the resident; senior citizens; and families with minor children.
- c. The RIR should discuss space-rent affordable for residents in the above 80% AMI and the various lower-income categories, assuming that space-rent plus typical mobilehome mortgage does not exceed 30% of income.
- d. The RIR should indicate the difference between the actual cost of housing available to the residents in the four counties (actual market rent) and the Federal Department of Housing and Urban Development's (HUD) fair market rent, and if this difference is more than 5%, the RIR should adjust the subsidies to reflect actual market rent. The rent subsidy should be the difference of rent paid by the resident in the mobilehome park and any higher rent for either a space at another mobilehome park if the mobilehome is relocated, or rent for comparable housing if the resident moves to other rental housing.
- e. The RIR should include a discussion of measures available to ensure residents have options to relocate to housing that will be affordable once the rent subsidy is no longer

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available. Such measures might include provision of affordable housing (rental or for-sale) in the proposed conversion project, provision of additional mileage and other benefits needed for a move outside of the four counties, and phasing of resident relocation to allow residents to find new housing within their means.

- f. The RIR should list the other mobilehome parks that are in the closure/conversion process in the four counties and their size. The RIR should also list the mobilehome parks that have closed in the period commencing six months prior to the notice of intention in the four counties, and the outcomes (e.g., new city of residence, rent and space rent) for the former residents of those closed mobilehome parks.
- g. At a minimum, the RIR should include the following information with monetary values determined by the selected appraiser:
 - i. A description of proposed new use(s) for the subject site including, but not limited to appraisals of the mobilehome park site with the proposed uses on-site, and appraisal of the **most-profitable highest and best** use of the mobilehome park site;
 - ii. A proposed timetable with phases of relocation of existing residents and development of the new project delineated for conversion of the subject mobilehome park to another use;
 - iii. A legal description of the mobilehome park; and
 - iv. The number of spaces in the mobilehome park.
 - v. For each space in the mobilehome park:
 - 1. The size in square feet, type (e.g., single-wide, recreational vehicle, stick-built), number of bedrooms, manufacturer, and date of manufacture of the mobilehome on the space, or if space is unoccupied indicate date of last occupation;
 - 2. The number of occupants of the mobilehome and their length of residency in the mobilehome park;
 - 3. The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other charges paid by the resident to the park owner;
 - 4. The in-place value the mobilehome would have if the mobilehome park were not being closed; and
 - 5. Any improvements to the mobilehome, including but not limited to patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to a new roof or new siding.
 - 6. Any information available to the mobilehome park owner concerning any disability or special need of the occupants, which may be kept confidential by the City.
 - 7. An appraisal of the mobilehome park site if continued in use as a mobilehome park; and

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8. An appraisal of the mobilehome park site if used for the highest and best use allowable under the existing General Plan land use designation for the subject site; and
 9. If the appraiser identifies lack of maintenance, or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the appraiser should determine the value of the home with an upward adjustment in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.
 10. The purchase price of mobilehomes with similar size, age and number of bedrooms in comparable mobilehome parks including rent-controlled mobilehome parks. For this purpose, “comparable mobilehome park” means a mobilehome park that is similar in size, age, condition, and amenities to the mobilehome park that is proposed for closure, is located within a community similar to that in which the subject mobilehome park is located, and has similar access to community amenities such as the job market where a displaced resident is employed, schools, shopping, medical services, recreational facilities, and transportation.
- h. The RIR should also enumerate the costs of obtaining other comparable housing for rent and for sale, including but not limited to the purchase price of comparable condominiums and the costs of moving into a comparable house or comparable apartment, including such items as first months’ rent, security deposits and higher mortgage and Homeowner Association fee payments or rent of the comparable housing. The moving costs should include the cost to move furniture and personal belongings, temporary lodging, moving insurance, and the appraised value of personal property that cannot be reasonably relocated. For this purpose, “comparable housing” is defined as housing that meets or exceeds the minimum standards of the Housing Code, and is similar to the subject home in terms of rent, size, number of bedrooms and bathrooms, proximity to the resident’s place of employment, amenities, schools, and public transportation.
- i. The RIR should also include estimates from two moving companies acceptable to the Designated Resident Association that are licensed and bonded to move mobilehomes on public streets and highways, of the cost of moving each mobilehome in the mobilehome park up to a maximum distance of 100 miles, including transportation to the new site identified by the resident, the cost of permits, and tearing down and setting up the mobilehome at the new location, including the cost of any upgrades to comply with applicable Federal, State, and local building, plumbing, electrical, housing, mobilehome park, accessibility, and health and safety regulations, and the cost of moving any improvements, including but not limited to patios, porches and pop-out rooms, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups, and any upgrades required by the mobilehome park or State or local law.

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4. **Procedural Guidance.**

- a. ***Pre-application Voluntary Agreement regarding Purchase.*** Prior to submitting an application for conversion of a mobilehome park, mobilehome park owners may enter into a voluntary agreement with the mobilehome owners for relocation-impact and purchase-assistance that best addresses their particular situation. Mobilehome owners should have legal representation in the negotiation of such agreements.
- b. ***Translation of Documents related to Notice and Relocation Benefits.*** Consistent with the City Housing Department and State policy, translated notices of intention, notices of rights, mobilehome purchase offers, and descriptions of relocation and purchase assistance benefits should be made available by the mobilehome park owners on request for limited English proficiency mobilehome residents and owners or their representatives. Such translations should be available in Spanish, Vietnamese, Chinese, Korean, and Tagalog. All documents provided in English should provide clear information in those languages on how to obtain translated copies.
- c. ***Voluntary Agreement regarding satisfaction of Negotiation Requirements Allowed.*** If the Designated Resident Organization(s) and the mobilehome park owner agree in writing that negotiations required under Section 20.180.390 have occurred, the City may determine that the requirement for negotiations has been met prior to the initiation or completion of the 180-day negotiations period required by Section 20.180.390. Any “Voluntary Agreement regarding satisfaction of Negotiation Requirements” entered into by a Designated Resident Organization and the mobilehome park owner should contain, in 16-point font, an admonishment that the Designated Resident Organization should have legal representation before entering into and in negotiating such an agreement, that by entering into this agreement the Designated Resident Organization is giving up important rights, and that the 60-day period identified in Section 20.180.380 may still be available to another Designated Resident Organization at the mobilehome park.

Fw: Proposal for San Jose Mobile Home Owners

Shattuck, Carina

Fri 1/22/2016 10:22 AM

To: Nusbaum, Jenny <Jenny.Nusbaum@sanjoseca.gov>;

Cc: Clark, Cindy <Cindy.Clark@sanjoseca.gov>;

Carina Shattuck

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From: Dori L. Yob <dyob@hopkinscarley.com>
Sent: Wednesday, January 20, 2016 1:52 PM
To: Hughey, Rosalynn; Shattuck, Carina
Subject: FW: Proposal for San Jose Mobile Home Owners

FYI -

From: amandauk@netzero.net [mailto:amandauk@netzero.net]
Sent: Wednesday, January 20, 2016 1:48 PM
To: Dori L. Yob
Subject: Fw: Proposal for San Jose Mobile Home Owners

January 20, 2016

Mr. Don Yob
Chairman, Planning Commission

Dear Mr. Yob,

Needless to say, I am extremely shocked and disturbed by the proposals being put forth by the owners of Mobile Home parks in San Jose.

I have lived for almost 28 years in Mountain Shadows Mobile Home park. I am a single senior citizen

living on social security & a small pension. It goes without saying how hard it is to make ends meet, and even though my space rent is increased by 3% a year, my benefits certainly have not increased that much each year. In fact, social security had no increase this year & yet everything else has risen substantially.

The healthcare system in this country is a joke and proving more expensive each year. This year alone my premiums are twice the cost of last year and I've just started taking a new prescription which is outrageously expensive. I am in fear & trepidation of what it will all cost by the end of this year. Now the park owners want to increase our rent plus charge us for capital improvements as well?? I couldn't possibly remain here if that were to happen and more than likely would have to move far away from my family & friends, all of whom play a major role at this stage of my life - 73 years old. My church home is within walking distance of Mountain Shadows, my children & grandchildren are all living in San Jose, and I volunteer my time helping children who live in an under-privileged neighborhood, which also is within walking distance from my home. Can you imagine having to leave my entire life behind because of sheer greed from money hungry park owners? How disturbing is that??

We need more affordable living in San Jose, NOT less.

These proposals would present an unimaginable hardship on me and the many other senior citizens & other residents I have spoken with, not to mention the health issues this could cause.

Thank you for your consideration.

Amanda Schader
520 Mountain Home Drive
San Jose, CA 95136

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