



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: April 8, 2016

SUBJECT: PP15-084 ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON MOBILEHOME PARK CLOSURES AND CONVERSIONS TO OTHER USES PENDING THE REVIEW AND POSSIBLE AMENDMENT OR ADDITION OF LAND USE REGULATIONS APPLICABLE TO SUCH ESTABLISHMENTS

RECOMMENDATION

The Planning Commission voted 4-1-2 (Abelite opposed and Yob and Pham absent) to recommend that the City Council approve the proposed ordinance as recommended by the Director of Planning, Building and Code Enforcement.

OUTCOME

If the City Council approves the proposed ordinance extending a temporary moratorium on mobilehome park closures and conversions to other uses, the proposed ordinance would provide additional time for the City's review and possible amendment or addition of land use regulations applicable to mobilehome parks without the City concurrently accepting, reviewing, and processing applications for such closures or conversions.

BACKGROUND

On March 23, 2016, the Planning Commission conducted a public hearing on the proposed ordinance. See the attached Staff Report to the Planning Commission for the full analysis, description of public outreach, and coordination conducted on the proposed item.

ANALYSIS

Planning staff summarized the background of the proposed ordinance and noted that, prior to the start of the Planning Commission hearing, staff distributed to the Commission public

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correspondence that was received after the staff report had been sent to the Commissioners.

Public Testimony

At the Planning Commission hearing, two members of the public spoke in support of the proposed ordinance. The first speaker, a representative of the Law Foundation of Silicon Valley, urged the Planning Commission to recommend that the Council approve the proposed ordinance, noting that the Council had directed staff to continue working on mobilehome preservation measures beyond February 2016, and that a potential mobilehome park closure creates anxiety about mass displacement and potential homelessness for San José residents who live in mobilehome parks. She added that it is important to finish the preservation work before the City faces these possibilities.

A representative of Winchester Ranch Mobilehome Park residents commented that they are a senior citizen mobilehome park, with many of their residents on a limited income, and they would have to move out of the region if their mobilehome park closes. She said she supported the extension of the moratorium so that all the issues could be worked out. She emphasized that these are mobilehome communities, not parks.

Planning Commission Discussion

Commissioner Bit-Badal asked staff whether there was public outreach conducted on this topic since the last time it came before the Commission a few months ago. Staff responded that there was outreach done through e-mail blasts and the updating of the City's webpage on mobilehome park preservation and conversion. Staff added that it had also held one-on-one meetings with stakeholders who had expressed concerns with the proposed ordinances and policies, and staff had revised recommendations to Council in response to the input from these meetings. However, the Council deferred the proposed General Plan text amendments, and directed staff to return to Council with some changes to the adopted Council Policy and a proposed new closure ordinance, to clarify how a mobilehome park owner could go out of business without proposing a new use.

Commissioner Bit-Badal then made a motion to recommend to the City Council the approval of the proposed ordinance as recommend by staff. She said it is important for the City to preserve its existing affordable housing by preserving its mobilehome communities.

Vice Chair Abelite stated he would vote against the motion because, although he understood the plight of affordable housing, he did not think that 59 property owners should be held responsible for housing 35,000 people, and that the burden needs to be spread in different ways that have to be evaluated. He further remarked that whether the approach is considered a property taking, legally or not legally, in his view, it would still be a taking.

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

EVALUATION AND FOLLOW-UP

If the proposed ordinance is approved, a non-urgency ordinance would extend the 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.

POLICY ALTERNATIVES

Alternative 1: Do not adopt the non-urgency ordinance for extending a temporary moratorium on mobilehome park conversions to other uses.

Pros: If Council does not approve the non-urgency ordinance and repeals the urgency ordinance, then mobilehome park owners could file Conditional Use Permit (CUP) and Planned Development (PD) Permit applications for mobilehome park conversions to other uses and have such applications processed without delay.

Cons: CUP and PD Permit processing could result in such permit applications being considered for approval before City staff can complete additional analysis, formulate land use regulation recommendations, and schedule public hearings on more comprehensive provisions for additional protection of residents in existing mobilehome parks.

Reason for not recommending: The Council's goal of extending the temporary moratorium until August 24, 2017, is a reasonable period of time to maintain the status quo with a moratorium, and it is only prudent to draft the extension so that it would allow the moratorium to run as long as allowed by State law, until August 24, 2017, particularly given that during the prior six-month review period a substantial number of unanticipated issues arose.

PUBLIC OUTREACH/INTEREST

Council direction to staff to bring forward this proposed ordinance was discussed at the City Council hearing on March 1, 2016. Staff posted information about the proposed ordinance on the City's website and published a notice of public hearings on the proposed ordinance 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 also sent e-mail notification of this agenda item to a 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.

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COORDINATION

Preparation of this memorandum and the proposed ordinance were coordinated with the City Attorney's Office.

CEQA

The provisions of this proposed ordinance have been found to be not a project under the California Environmental Quality Act of 1970 ("CEQA"), together with regulations and guidelines promulgated thereunder (including without limitation Section 15378 of the CEQA Guidelines), and this proposed ordinance is also exempt from CEQA pursuant to Section 15061(b)(3) because it has no potential for causing a significant effect on the environment, and Section 15308 as a regulatory action under the City's police power to assure maintenance and protection of the environment pending evaluation and adoption of potential local legislation and regulation.

/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



Memorandum

TO: PLANNING COMMISSION

FROM: Harry Freitas

SUBJECT: SEE BELOW

DATE: March 14, 2016

SUBJECT: ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON MOBILEHOME PARK CLOSURES AND CONVERSIONS TO OTHER USES PENDING THE REVIEW AND POSSIBLE AMENDMENT OR ADDITION OF LAND USE REGULATIONS APPLICABLE TO SUCH ESTABLISHMENTS

RECOMMENDATION

Recommend that the City Council approve the proposed ordinance to extend a temporary moratorium on the closure and conversion of mobilehome parks to other uses pending the review and possible amendment of the land use regulations applicable to such closures and conversions.

OUTCOME

If Council adopts the proposed ordinance extending the temporary moratorium, such an ordinance would, when it becomes effective: 1) supersede the previously adopted urgency ordinance for a temporary moratorium; 2) continue to prevent the closure or conversion of mobilehome parks in the City of San José to other uses; and 3) avoid potential impacts that may be associated with such closures or conversions during the time period that the City reviews potential modifications to the San José Municipal Code, City Council Policies, the Envision San José 2040 General Plan (General Plan), and other land use regulations that pertain to mobilehomes and mobilehome parks ("proposed land use modifications").

The moratorium on the acceptance, processing, or approval of Conditional Use Permit (CUP) and Planned Development (PD) Permit applications for the closure or conversion of mobilehome parks to other land uses would continue for the duration stipulated in such an ordinance. Staff proposes that the ordinance allow the moratorium to run until such time as the review is completed, the City Council takes action on the proposed land use modifications, and they become effective, but not beyond August 24, 2017.

BACKGROUND

To further the protection of mobilehome parks in the City of San José, at the Council hearing on February 23, 2016, the City Council directed staff to bring back an ordinance extending the temporary moratorium on mobilehome park closures and conversions. On March 1, 2016, the City Council adopted an urgency ordinance that became effective immediately upon its adoption to extend the City's temporary moratorium on the acceptance, processing, or approval of CUP and PD Permit applications for the closure or conversion of mobilehome parks to other land uses until such time as the review is completed and the City Council takes action on the proposed land use modifications and they become effective, but not beyond August 24, 2017. 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 regular (non-urgency) ordinance extending 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. Staff now proposes a non-urgency ordinance as a follow-up to the adopted urgency ordinance to implement this Council direction.

The conversion of mobilehome parks to other uses 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 CUP or a 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 more than 10,000 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.

City Council Actions

At their 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 presented a proposed work plan on the Mobilehome Park Preservation Policies/ Conversion Ordinance Update to the Community and Economic Development (CED) Committee. The Committee accepted the work plan.

The CED report and the work plan that staff proposed was presented at a Council hearing held on August 11, 2015. In response to recommendations made by Councilmembers in two separate Councilmembers' memoranda submitted prior to the hearing, the City Council adopted two motions as follows:

1. The report was 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 if findings cannot be made, with a standard ordinance, to establish a moratorium on mobilehome park conversions for six months.
2. Acceptance of Councilmember Johnny Khamis's recommendations including meeting with stakeholders, mobilehome owners, with possible preparation of an "Opt-In; Stay in Business" alternative, including alternative methods of maintaining mobilehome inventory and review of the Envision San José 2040 General Plan to examine Urban Village designations in these locations and implications for mobilehome residents.

On August 25, 2015, the City Council adopted an 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 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.

On September 9, 2015, the Planning Commission recommended to the City Council that the Council approve a non-urgency ordinance establishing a temporary moratorium on the conversion or closure of mobilehome parks. At the September 15, 2015 City Council meeting, the Council adopted an ordinance re-establishing through October 30, 2015 the urgency ordinance for a temporary moratorium on the conversion or closure of mobilehome parks and approved a non-urgency ordinance to establish a temporary six-month 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.

On February 23, 2016, at the City Council meeting, the Council deferred consideration of a proposed General Plan text amendment (File No. GPT15-006), and directed staff to propose a mobilehome park closure ordinance as an amendment to the San José Municipal Code, which could include an amendment to Title 20 (the Zoning Code). The Council also directed staff to propose clarifying changes to the new City Council Policy on mobilehome park conversions to other uses. To preserve the status quo while the additional requests were studied, the Council additionally directed staff to bring back an ordinance extending the existing temporary moratorium on the closure or conversion of mobilehome parks to other uses, which had an expiration date of February 26, 2016.

ANALYSIS

The measures taken to alleviate the condition that led to the adoption of the temporary moratorium by the City Council are discussed in the separate memoranda and staff report dated January 28, 2016, transmitted to the City Council by the Planning Commission for the February 9, 2016, meeting and discussed at the Council meeting held on February 23, 2016. This memo and its attachments contain written information, consistent with the requirements of Government Code Section 65858(d), that describe the measures taken by the Administration during the period of the previously adopted urgency and non-urgency ordinances to alleviate the conditions that led to the adoption of these ordinances.

I. The Moratorium Procedure

The California Government Code provides a process by which a city may adopt an ordinance prohibiting any uses which may be in conflict with a contemplated change to the city's zoning ordinance. This type of ordinance is commonly called a "moratorium." The purpose of a moratorium is to allow a reasonable period of time for City staff, the Planning Commission, and Council to study the issue in question and consider regulatory modifications intended to resolve the issue.

An urgency ordinance establishing such a moratorium requires a vote of 4/5 of the City Council upon the making of legislative findings that:

1. There is a current and immediate threat to the public health, safety or welfare; and
2. The continued approval of the types of land use permits in question would result in that threat.

While it is questionable as to whether charter cities are required to comply with this procedure, San José traditionally has followed it to provide notice and certainty to property owners when imposing a land use moratorium. At the same time, the Zoning Code requires that Council-initiated ordinances be submitted to the Planning Commission for review and recommendation.

The process for consideration of the non-urgency ordinance is as follows:

The Council directs that it be referred to Planning Commission for review and recommendation. At that time, the Planning Commission decides whether to recommend that the Council:

- a. Repeal the urgency ordinance (which means the moratorium is repealed);
- b. Re-adopt the ordinance as is (which means the moratorium stays in place for the specified period); or
- c. Re-adopt the ordinance with modifications.

The non-urgency ordinance then goes back to Council for consideration of whether to repeal the urgency ordinance or re-adopt it. If adopted, the non-urgency ordinance would supersede the urgency ordinance upon its effective date.

Pursuant to the Government Code, the City Council may extend or re-establish the moratorium for a total maximum term of two years while the City assesses and potentially modifies land use regulations applicable to mobilehome park closures and conversions. After consideration by the Planning Commission, staff anticipates returning to Council to request that Council adopt a non-urgency ordinance for extension of the temporary moratorium until action is taken on all the land use regulations and they become effective, not to exceed the period allowed by the Government Code. This additional extension is needed because there has been an extensive debate by stakeholders during the prior outreach process, and a variety of regulations have been requested to be considered by Council and additional time will be needed to complete analysis, draft policy amendments and Zoning Code amendments, conduct related public outreach, and present recommendations to the Planning Commission and City Council.

II. Threat of Closure and Conversion of Mobilehome Parks in San José

The information below may support a recommendation from the Planning Commission to the City Council to approve a non-urgency ordinance extending the temporary moratorium on mobilehome park closures or conversions to other uses:

- There are 59 mobilehome parks located in the City, and they provide over 10,000 mobilehome spaces.
- On July 29, 2015, Winchester Ranch Mobilehome Park owners notified mobilehome park residents about plans to begin the formal process of mobilehome park closure in late 2015. Additionally, a spokesman for the mobilehome park owner testified at a public focus group meeting held on July 16, 2015, that, "Winchester Mobilehome Park will close." The mobilehome park has 111 spaces and is designated for residents who are 55 years and older.
- The pending park closure described above was delayed under the temporary moratorium, but the City Council has not yet completed review and adoption of the land use regulations. Thus, there is a need to extend the temporary moratorium until the review and adoption process for all of the land use regulations can be completed.
- Ten of the mobilehome parks in the City (a total of 1,610 homes) are restricted to seniors, who may face additional threats to their quality of life if displaced. Seniors are one of the fastest growing demographics in the City, and as they have stated in public focus groups, community, and Council meetings held on this topic, they often live on a fixed income. The community they build in mobilehome parks creates an environment that provides them with the network they need for access to health care or other necessary services. Given the high cost of rents and low vacancies in the region, it is possible that the closure of a mobilehome park may result in some residents, including senior citizens, becoming homeless.
- Several focus group and public hearing attendees noted that frail mobilehome park residents, who were too sick to attend public meetings, could suffer serious distress and health problems if they were displaced.
- In 2015, the City of San José processed residential building permits for 2,021 housing units of which 1,951 units were market-rate housing, and 70 units were low-income affordable housing (0-80% AMI). The 70 below-market units represent just 3.5% of the City's affordable housing annualized goal.
- Nearly all income-restricted affordable housing developments in the City, whether for families, seniors or single-room occupancy, have existing waiting lists, thereby not providing an immediate source of replacement housing. There are more than 22,000 individuals and families on the Housing Authority of Santa Clara County's waiting list for Section 8 vouchers, and the list has not been opened for new names since 2006.
- As documented in the City's 2015-2020 Consolidated Plan, 22,070 low-income renters in the City paid more than 50% of their income on rent in 2010 and were in need of income-restricted affordable housing. The City's limited affordable housing resources will enable it to assist in the production of approximately 425 new affordable apartments each year. This indicates a continuing gap between the demand and supply of income-restricted affordable housing.

- Nineteen of the City's mobilehome parks each contain more than 200 spaces. Closure of one of these mobilehome parks could displace a large number of people, which would be a significant event in an already tight housing market.
- In many cases it is not possible to simply relocate mobilehomes, and if it were, there may not be sufficient mobilehome parks willing to accept these residential units. The City needs time to obtain input from stakeholders, to research and analyze potential alternatives, and to identify an accurate catalogue of options available for relocation throughout the City and nearby jurisdictions.
- As of August 18, 2015, there were 78 active listings on the Multiple Listing Service (MLS) in Santa Clara County out of 19,781 spaces, which is a vacancy rate of 0.39%. In San José there were nine active mobilehome listings out of approximately 10,836 spaces, which is a vacancy rate of less than 1%. The average listing price in Santa Clara County was \$196,831.
- A relocation plan prepared on February 11, 2014 in connection with a conversion of a mobilehome park in Palo Alto reported that of 48 mobilehome parks in San Mateo, Alameda, and Santa Cruz Counties that responded to a survey of available spaces, 24 spaces were vacant and 23 mobilehomes were for sale out of a total 4,028 spaces in those mobilehome parks (a 1.2% vacancy rate for the combined vacant spaces plus homes for sale).
- In San José, market-rate apartment renters must earn \$110,000 per year to afford the average rent of \$2,750 for a two-bedroom apartment, based on average rents from Real Facts Q4 2015 assuming 30% of income is allocated for paying rent. Stakeholder testimony at the July and August 2015 focus group meetings that City staff held with mobilehome park residents indicated that many mobilehome park residents have lower than this level of income.
- Monthly space rents vary widely depending on mobilehome park location and amenities, and whether the residential-unit space is for a trailer or a single-, double-, or triple-wide coach. On August 19, 2015, the multiple listing service (MLS) showed 78 mobilehomes listed for sale in Santa Clara County with an average space rent of \$903. The lowest listed space rent was \$430 and the highest was \$2,000. For reference, the average rent for market-rate two-bedroom apartments was \$2,736, and for three-bedroom apartments the average rent was \$3,173 (Real Facts, Quarter 2, 2015).

A survey with an income profile of mobilehome residents is not available. However, what is known is that:

- In public meetings held with mobilehome park residents, mobilehome park owners and managers, and the general public held by the City July 16, 23, and 30, and August 6 and 13 of 2015, mobilehome park residents voiced concerns that if their mobilehome parks close, their homes would be greatly devalued, leading some residents to default on mortgages or to file for bankruptcy. Some residents had used their retirement savings to purchase their home, and they commented that they would be hard-pressed to afford anything else if their home was devalued.
- The Housing Department has made hundreds of mobilehome-repair loans and grants over the past 25+ years to low-, very low- and extremely low-income mobilehome park residents.

PLANNING COMMISSION

March 14, 2016

Subject: Ordinance to Extend a Temporary Moratorium on the Conversion of Mobilehome Parks

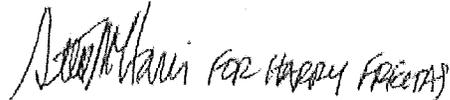
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EVALUATION AND FOLLOW-UP

Staff is scheduled to present the proposed ordinance for consideration by the City Council at a public hearing on May 3, 2016.

COORDINATION

The preparation of this memorandum was coordinated with the City Attorney's Office and the Housing Department. The provisions of this ordinance have been found to be not a project under the California Environmental Quality Act of 1970 ("CEQA"), together with regulations and guidelines promulgated thereunder (including without limitation Section 15378 of the CEQA Guidelines), and this Ordinance is also exempt from CEQA pursuant to Section 15061(b)(3) because it has no potential for causing a significant effect on the environment, and Section 15308 as a regulatory action under the City's police power to assure maintenance and protection of the environment pending evaluation and adoption of potential local legislation and regulation.



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 Ordinance

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE
EXTENDING AN INTERIM ORDINANCE OF THE CITY OF
SAN JOSE ESTABLISHING A TEMPORARY
MORATORIUM ON THE CONVERSION OR CLOSURE OF
MOBILEHOME PARKS PENDING THE REVIEW AND
POSSIBLE AMENDMENT OR ADOPTION OF LAND USE
REGULATIONS APPLICABLE TO SUCH CONVERSIONS
AND CLOSURES AND SETTING FORTH FINDINGS TO
SUPPORT SUCH TEMPORARY MORATORIUM AND THE
EFFECTIVENESS AND APPLICABILITY OF THE
PROVISIONS OF THIS ORDINANCE**

WHEREAS, there are 59 mobilehome parks located in the City of San Jose ("City"), and they provide more than 10,000 mobilehome spaces; and

WHEREAS, these mobilehome spaces are largely occupied by low income seniors and families who have purchased the mobilehomes; and

WHEREAS, mobilehomes cannot be readily moved to a new mobilehome park, and for those that could be moved, there are few destinations since most mobilehome parks will only accept new mobilehomes and few mobilehome parks in the City have a significant number of annual vacancies; and

WHEREAS, in 2015, the City of San José processed residential building permits for 2,021 housing units of which 1,951 units were market rate housing, 0 units were for moderate income housing (80-120% AMI), and 70 units were for low income affordable housing (0-80% AMI), which represents approximately 3.5% of the City's affordable housing annualized goal; and

WHEREAS, the current land use regulations for the conversion and closure of mobilehome parks were written in 1986 and have not been substantially amended since that time, although there have been changes to State law regarding conversions; and

WHEREAS, in response to the Council of the City of San José (“City Council”) questions regarding whether the current land use regulations provide sufficient specificity and whether they are sufficient to avoid significant displacement of the residents of mobilehome parks as a result of conversion or closure, on August 11, 2015 staff provided the City Council with an update on a work plan to study potential changes to the City’s mobilehome conversion regulations; and

WHEREAS, the City Council accepted the staff’s report and directed the City Administration to review, examine and make a report and recommendations on proposed amendments to the existing land use regulations applicable to conversion and closure of mobilehome parks in light of information provided to the City in connection with the land use issues posed by such conversions and closures; and

WHEREAS, the City Council further directed staff to return to the City Council on August 25, 2015 with a proposed urgency ordinance imposing an immediate moratorium on the conversion and closure of mobilehome parks, since during such period of review and examination the community would be in jeopardy of conversion and closure of mobilehome parks occurring under existing land use regulations prior to the potential adoption of new land use regulations intended to preserve and protect the public health, safety and welfare; and

WHEREAS, on August 25, 2015, the City Council adopted an interim ordinance on an urgency basis, Ordinance No. 29611, to establish a temporary moratorium on the conversion and closure of mobilehome parks in the City while the City Administration is conducting its review and formulating its report and recommendations on this matter until such time as the City Council has made a decision on the appropriate land use regulations applicable to conversion and closure of mobilehome parks and setting forth findings in support of such moratorium (the “Interim Urgency Ordinance”); and

WHEREAS, also on August 25, 2015, pursuant to San José Municipal Code Section 20.120.010, the City Council also directed staff to refer to the Planning Commission for its review and recommendation the establishment of a six (6) month moratorium on the conversion or closure of mobilehome parks to provide adequate time to the review and possibly amend the land use regulations applicable to such conversions and closures; and

WHEREAS, notice of the Public Hearings of the Planning Commission and City Council was published pursuant to Government Code Section 65090; and

WHEREAS, the Planning Commission held a noticed hearing on September 9, 2015 on a non-urgency ordinance establishing a temporary moratorium on mobilehome park closure and conversion through February 25, 2016 ("Interim Ordinance") and the City Council held a hearing on the Interim Ordinance on September 15, 2015 and the Interim Ordinance was subsequently adopted as Ordinance No. 29614; and

WHEREAS, by operation of its terms, the Interim Ordinance expired on February 26, 2016 and the City Council desires to extend the temporary moratorium imposed under the Interim Ordinance until such time as the Council has made a decision on all of the appropriate land use regulations applicable to conversion and closure of mobilehome parks including the modifications to the adopted Council Policy, General Plan amendments regarding mobilehome resident protections and a new mobilehome park closure ordinance; and

WHEREAS, on March 1, 2016, the City Council adopted an urgency ordinance, Ordinance No. 29703, extending the Interim Ordinance; and

WHEREAS, the City Administration has been conducting a review of the appropriate land use regulations applicable to mobilehome park closure and conversion in light of

historical and recent information provided to the City in connection with the land use issues posed by mobilehome park closure and conversion; and

WHEREAS, the City Administration brought forth to the City Council its recommendations related to the appropriate land use regulations for mobilehome park closure and conversion on February 23, 2016; and

WHEREAS, the City Council adopted some of the recommendations, deferred consideration of some regulations, requested modifications to other regulations, and directed the City Administration to consider some additional new regulations (collectively, the "proposed new regulations") and directed the City Administration to bring forward to the City Council an ordinance extending the moratorium after the Planning Commission holds a public hearing to consider such an ordinance for recommendation to the City Council; and

WHEREAS, in order to provide sufficient time for the City Administration's review and examination of such proposed new regulations, including outreach to the public and stakeholders, the City Administration has recommended to the City Council that the temporary moratorium established by the Interim Ordinance be extended until the sooner of the following to occur: (a) the City Council has taken action on the proposed new regulations and/or such other appropriate land use regulations for mobilehome park closure and conversion recommended by the City Administration, (b) two years from August 25, 2015; and

WHEREAS, in fairness to all businesses and citizens, the City Council desires to extend the temporary moratorium on the conversion and closure of mobilehome parks in the City while the City Administration continues to conduct and complete its outreach, and to review and formulate its updated report and recommendations on this matter and until such time as the City Council has made a decision on the proposed new

regulations and/or such other appropriate land use regulations for mobilehome park closure and conversion recommended by the City Administration; and

WHEREAS, consistent with California Government Code Section 65858, City may adopt an ordinance to extend the previously imposed temporary moratorium to continue to prohibit mobilehome park closures and conversions that may conflict with a contemplated zoning ordinance or general plan amendment that City wishes to study and consider within a reasonable period of time where City finds that there is a current and immediate threat to the public health, safety, or welfare and approval of such uses would result in that threat to public health safety or welfare; and

WHEREAS, the memorandum to the City Council from the Planning Commission dated January 28, 2016 and supplemental memos to the City Council from the Director of Planning, Building and Code Enforcement and the Director of Housing summarize public comment and testimony at meetings after adoption of the Interim Ordinance and written public comments received during this period. This input has provided additional insight on the housing constraints in the San José area, and suggestions on modifications and concerns to address in the proposed new regulations and/or such other appropriate land use regulations in order to address the problems related to mobilehome park closure and conversion; and

WHEREAS, in connection with the proposed new regulations, the City Administration will need to conduct additional research and schedule additional outreach meetings; and

WHEREAS, the City Administration has provided the City Council with written information consistent with the requirements of Government Code Section 65858(d) in the memorandum to the City Council from the Planning Commission dated January 28, 2016 and its attachments, which describe the measures taken by the Administration

during the period of the Interim Ordinance to alleviate the conditions that led to the adoption of the Interim Ordinance; and

WHEREAS, the provisions of this Ordinance have been found to be not a project under the California Environmental Quality Act of 1970 ("CEQA"), together with regulations and guidelines promulgated thereunder (including without limitation Section 15378 of the CEQA Guidelines), and is also exempt from CEQA pursuant to Section 15061(b)(3) because it has no potential for causing a significant effect on the environment, and Section 15308 as a regulatory action under the City's police power to assure maintenance and protection of the environment pending evaluation and adoption of potential local legislation and regulation; which determinations have not been challenged, protested or appealed; and

WHEREAS, the City Council of the City of San José is the decision-making body for this proposed Ordinance; and

WHEREAS, this City Council has read, considered and approves said Exemption prior to taking any approval actions on this proposed Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The temporary moratorium on acceptance or processing of an application for any permit, or the issuance of any permit, under the San José Municipal Code for the conversion or closure of a mobilehome park previously established and imposed as of August 25, 2015 by Ordinance No. 29614, and its predecessors Ordinance No. 29611 and Ordinance No. 29613, is hereby extended as provided for in this Ordinance.

SECTION 2. The extension of the temporary moratorium shall be retroactive to February 25, 2016.

SECTION 3. This temporary moratorium shall not prohibit a mobilehome park owner already operating in compliance with all applicable laws from applying to City for development or other permits or approvals necessary: (a) to address an immediate threat to public health or safety, (b) to comply with an order of a court or other tribunal of competent jurisdiction, or (c) to modify its business, or the site on which the business operates, in a manner that would not result in the partial or complete conversion or closure of the mobilehome park, and all such applications submitted pursuant to this Section 2 shall be subject to all laws and policies applicable to the proposed development or other activity described in such application.

SECTION 4. This temporary moratorium shall not prohibit a mobilehome park owner from applying to City for an approval governed by the Subdivision Map Act or from having such application processed as required by the Subdivision Map Act and/or Permit Streamlining Act, provided that and all such applications submitted pursuant to this Section 3 shall be subject to all laws and policies applicable to the proposed subdivision described in such application.

SECTION 5. For purposes of this Ordinance, a “mobilehome park” means an area of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation.

SECTION 6. This Ordinance and the temporary moratorium extended hereby shall remain in effect until the date that decisions by the City Council on the appropriate land use regulations applicable to conversion and closure of mobilehome parks has been made and, if necessary, effectuated by appropriate legislation or until superseding ordinance becomes effective, but in no event no later than August 24, 2017.

SECTION 7. The City Council of the City of San José hereby finds that there is a current and immediate threat to the public health, safety and welfare that warrants the

establishment and extension of this temporary moratorium on conversion and closure of mobilehome parks, which finding is based upon the facts stated above, in the memorandum to the City Council from the Director of Housing and the Director of Planning, Building and Code Enforcement dated August 21, 2015, in the memorandum to the City Planning Commission from the Director of Planning, Building and Code Enforcement dated August 31, 2015, in the supplemental memorandum to the City Council from the Director of Planning, Building and Code Enforcement dated on or about February 26, 2016 and all of the following elements:

- A. Members of the community living within mobilehome park located in City have alerted this Council to possible concerns related to the potential conversion and closure, which concerns generally relate to the lack of affordable replacement housing and the potential for significant displacement of low income families and seniors; and
- B. More specifically, on July 29, 2015, the owners of Winchester Ranch Mobilehome Park, a 111 space mobilehome park restricted to residents aged 55 and older, notified residents that it plans to begin the formal process of park closure by the end of 2015; and
- C. This Council has heard these community concerns and desires that they be examined in order to inform appropriate land use regulations applicable to conversion and closure of mobilehome parks; and
- D. The Council has accepted the written information describing the measures taken by the Administration thus far during the period of the Interim Ordinance to alleviate the conditions that led to the adoption of the Interim Ordinance; and
- E. The park closure described above was delayed under the temporary moratorium while appropriate land use regulations were

considered, but the City Council and City Administration have not yet completed review and adoption of the regulations and the temporary moratorium expired on February 26, 2016.

- F. Without a temporary moratorium prohibiting conversion and closure of mobilehome parks while these community concerns are being examined and appropriate regulations are being developed, there remains a current and immediate threat that conversion and closure of mobilehome parks may occur under existing land use regulations and could result in displacement of low income seniors and families.

SECTION 8. If any section, subsection, sentence, clause, or phrase of this ordinance adopted by the City Council is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of such ordinance. Each and every section, subsection, sentence, clause or phrase of any ordinance is severable from all other sections, subsections, sentences, clauses or phrases unless such ordinance contains a provision which states that the council would not have passed the remainder of such ordinance if it had known that any section, subsection, sentence, clause or phrase of the ordinance would subsequently be declared invalid or unconstitutional.

ADOPTED this _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

DRAFT

The following
items were
received after
packets were
distributed.

From: Diana Castillo <DianaC@lawfoundation.org>
Sent: Tuesday, March 22, 2016 3:21 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: March 23, 2016, Planning Commission Meeting, Agenda Items "4.a.," Mobilehome Conversion and Closure Moratorium

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

Attached please find the Law Foundation's comment letter regarding Agenda Item "4.a.," Mobilehome Conversion and Closure Moratorium, which will be heard by the Commission tomorrow evening.

We support the Planning Director's March 14, 2016, memorandum and recommendations, and we urge the Commission to recommend that the City Council approve the proposed ordinance to extend a temporary moratorium on the conversion and closure of mobilehomes.

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

Forty Years of Advancing Justice in Silicon Valley

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San Jose, California 95112
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LAW FOUNDATION of Silicon Valley

Fair Housing Law Project
152 North Third Street, 3rd Floor
San José, California 95112

Fax (408) 293-0106 • Telephone (408) 280-2435 • TDD (408) 294-5667

March 22, 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 Item "4.a.," Mobilehome Conversion and Closure Moratorium**

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

We are writing in connection with the above-referenced item on the March 23, 2016, Planning Commission Agenda.

We support the Planning Director's March 14, 2016, memorandum and recommendations, and we urge the Commission to recommend that the City Council approve the proposed ordinance to extend a temporary moratorium on the conversion and closure of mobilehomes.

Staff's memorandum and the proposed ordinance explain, in detail, why Council should act to extend the moratorium. Simply put, the Council directed staff to propose measures to strengthen preservation of mobilehome communities. This important work, which includes evaluating strong General Plan Text Amendments that will help our City meet its preservation goal, continues.

State law allows San José to adopt a moratorium to protect and preserve the public health, safety, and welfare. As such, we urge the Council to adopt staff's recommendations, including making the moratorium retroactive to February 25, 2016. Without the extension of the moratorium, closure of one of San José's 59 parks would likely force a significant portion of low-income residents, some of whom are disabled and/or senior, out of San José and away from their networks of support. Others would likely face homelessness. Extending the moratorium is necessary and will enable our community to work and propose solutions that avoid these outcomes.

Thank you for considering the Law Foundation's comments. Please contact us at 408-280-2448 or dianac@lawfoundation.org with any questions.

Sincerely,

/s/

Diana E. Castillo
Senior Attorney