



Memorandum

TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Harry Freitas
Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: June 5, 2015

Approved

Kim Walesh

Date

6/11/15

**SUBJECT: MOBILEHOME PARK PRESERVATION POLICIES/CONVERSION
ORDINANCE UPDATE WORK PLAN**

RECOMMENDATION

Provide comments on staff's proposed work plan for updating the Envision San José 2040 General Plan (General Plan) text and the provisions of Title 20 of the San José Municipal Code (the Zoning Code) to further the preservation of mobilehome parks.

OUTCOME

Feedback provided by the Community & Economic Development (CED) Committee to staff on the proposed work plan will help staff finalize and implement the work plan.

EXECUTIVE SUMMARY

To further the protection of mobilehome parks in the City of San José, the City Council has directed staff to research and recommend possible amendments to the General Plan and Zoning Code, as well as other policy proposals. Current Goals, Policies, and Actions in the General Plan, and provisions in the Zoning Code, offer some level of protection of existing mobilehome parks from conversion to other uses. The City Council now seeks to strengthen the City's policies and regulations for the preservation of existing mobilehome parks as housing that can be "naturally" affordable to residents in the City, taking into consideration that such housing is not deed-restricted affordable housing. Staff is proposing a work plan to implement this Council direction.

BACKGROUND

The conversion of mobilehome parks is a land use issue regulated both by the State 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 provisions for Chapter 20.180 of the Zoning Code that regulate the conversion of mobilehome parks consisting of four or more mobilehomes to ownership or to other uses (sometimes referred to as the “mobilehome park conversion ordinance”). Such conversions require approval of a Conditional Use Permit (CUP) or a Planned Development Permit (PD Permit). To date no mobilehome park conversions have been processed under this ordinance.

Discussion at City Council and Council Committee Meetings

Since adoption of the City’s mobilehome park conversion ordinance almost 30 years ago, the Council has continued to express an interest in enhancing the protection of existing mobilehome parks in San José from conversion to other uses. This interest has grown in recent years due to rapidly increasing housing costs, and has informed Council’s consideration of amendments to the General Plan, including but not limited to the comprehensive update of the General Plan in 2011 (Envision San José 2040) and State-mandated Housing Element updates.

On May 7, 2014, the Rules and Open Government (Rules) Committee considered recommending to Council adoption of an urgency ordinance for a moratorium on mobilehome park conversions, but did not forward such a recommendation to the full City Council, noting that obtaining the required super-majority vote from Council would be challenging. The Rules Committee did, however, recommend that the Council add mobilehome park preservation as a policy item for the September, 2014 Council ordinance-priority-setting session, and former Mayor Reed suggested a General Plan text amendment that would strengthen policy language in the General Plan for the preservation of mobilehome parks. The Rules Committee recommendations were reported out to the full Council who then accepted the Rules report.

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. Currently, there is no specific budget or staffing allocation associated with the work required for the City to complete this item.

At the May 20, 2015 Rules Committee meeting, staff proposed that the Committee approve the Mobilehome Park Preservation Policies / Conversion Ordinance Update as an addition to the current Work Plan for the CED Committee. Two residents spoke in favor of the proposal. They stated support for more equitable conversion regulations and the preservation of mobilehome parks as a critical component of the City’s affordable housing stock. One of the speakers commented that for first-time home buyers, mobilehome park preservation is a way for families to have potential access to a type of affordable housing, and for seniors it can provide an affordable and safe place to age in place. This speaker raised the question of whether a moratorium was possible.

A third resident spoke about balancing the property rights of the landowners of mobilehome parks with the needs of mobilehome park residents.

A fourth speaker commented that not all mobilehome park sites are owned by their operators; some are leased, and some of the leased ones have a 35-year lease or 50-year lease, with many

such mobilehome parks housing populations considered as special needs, such as senior citizens and people with disabilities, and that if such housing converted, displacement of these residents could create significant impacts.

The City Attorney stated at the May 20, 2015 meeting that there would need to be sufficient grounds for the City to make the findings to impose a moratorium and a super-majority vote by the Council. He noted that, typically, findings would have to identify an imminent need for such a moratorium.

The Committee then approved adding the Mobilehome Park Preservation Policies / Conversion Ordinance Update to the current Work Plan for the CED Committee and placed it on the June 22, 2015 CED Committee meeting agenda.

Existing General Plan Goals, Policies, and Actions for the Preservation of Mobilehome Parks

The Housing Element and several Goals, Policies, and Actions in other sections of the General Plan support the preservation of existing mobilehome parks in the City.

- *The Housing Element* (last revised and adopted by the City Council January 27, 2015) contains several Goals, Policies, and Actions to protect mobilehome parks as housing that is affordable to low-income households. State Law requires that the housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community.

The Housing Element implementation program/work plan contains a Goal to protect mobilehome parks as a source of “naturally affordable” housing, and an Action for the City to explore the efficacy of the City’s existing mobilehome conversion requirements and potential updates in order to protect an appropriate supply of mobilehomes.

- *Housing Policy H-1.2 Housing – Social Equity and Diversity* is to 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.
- *Housing Policy H-1.3 Housing – Social Equity and Diversity* is to 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.
- *Housing Policy H-1.4 Housing – Social Equity and Diversity* is to 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.

- Housing Policy H-1.8 Housing – Social Equity and Diversity is to encourage investments in infrastructure in order to maintain high-quality living environments in existing mobilehome parks.

Existing Provisions in the Zoning Code for the Preservation of Mobilehome Parks

The Zoning Code contains many provisions that support mobilehome parks as a land use in the City.

- Specific Zoning Districts
Almost all but approximately 360 mobilehome spaces in the City are either located on sites in the R-MH Mobilehome Park Zoning District, which is a zoning district that is intended primarily for mobilehome parks, or are in a Planned Development Zoning District, which is a customized zoning district that allows only mobilehome parks as a permitted use. Mobilehome parks in these zoning districts would need to be rezoned to another zoning district to allow most other land uses. Such rezonings require Council approval.
- Chapter 20.180 (Mobilehome Park Conversions to Resident Ownership or to Any Other Use)
To help address preservation of mobilehome parks, Chapter 20.180 (Mobilehome Park Conversions to Resident Ownership or to Any Other Use) of the Zoning Code is intended to ensure that the approval of any proposed mobile home park conversion is consistent with City policy. The ordinance explicitly states a goal “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.” Among other provisions, the ordinance requires that at least 60 days prior to filing a CUP or PD application for a mobilehome park conversion, an applicant must file a notice of intent to convert to another use. If residents make a request to negotiate, there is a 180-day period prior to any action that can be taken by the City to change the use.
- CUP and PD Findings for Conversion of Mobilehome Parks to Other Uses
Depending on the zoning district in which a mobilehome park is located, either a CUP or PD Permit is required to convert a mobilehome park to another use.

In compliance with Sections 20.100.720, 20.180.610, and 20.180.630 of the Zoning Code, prior to approval of a CUP for a mobilehome park conversion to another use, the following findings must be made by the Planning Commission or the City Council:

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.

In addition to the findings required pursuant to Section 20.100.720, a CUP may be issued for a mobilehome park conversion of use only if the Planning Commission or City Council finds that the applicant has provided a satisfactory program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.630 of Chapter 20.180 of the Zoning Code to mitigate the conversion impacts on displaced mobilehome owners and mobilehome tenants.

In compliance with Sections 20.100.940, 20.180.620, and 20.180.630 of the Zoning Code, prior to approval of a PD Permit for a mobilehome park conversion to another use, the following findings must be made by the Director, the Planning Commission on appeal, or the City Council as appropriate:

1. The PD Permit, as issued, furthers the policies of the General Plan;
2. The PD 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.

In addition to the findings required pursuant to Section 20.100.940, a PD Permit may be issued for a mobilehome park conversion of use only if the Director or Planning Commission finds that the applicant has provided a satisfactory program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.630 of Chapter 20.180 of the Zoning Code to mitigate the conversion on displaced mobilehome owners and mobilehome tenants.

ANALYSIS

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

both homes and households in any jurisdiction 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 households of low incomes.

The mobilehome parks in the City vary in size and in composition of residents. Of the 59 mobilehome parks, 19 mobilehome parks (32%) contain more than 200 spaces each. Additionally, 11 of the 59 mobilehome parks (17%) are considered senior parks, containing a total of approximately 1,793 homes, and restricted to households where generally one member of the household is at least 55 years of age. 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 the City; some are located in Industrial Zoning Districts or in areas that are designated in the General Plan for industrial or other non-residential uses and are predominantly surrounded by industrial uses, and others are located in areas with residential land use and zoning designations. Additionally, some mobilehome parks are in areas of the City that have aging or inadequate infrastructure or services for residents.

When the comprehensive update to the General Plan was adopted in 2011, five mobilehome parks were included within the boundaries of Urban Villages, which are identified growth areas in the City intended for mixed-use development after adoption of plans specific to each Urban Village. These mobilehome parks include Imperial San Jose Mobile Estates (District 10), La Buona Vita (District 5), Mobile Home Manor (District 3), Winchester Ranch (District 1), and Willow Glen Mobile Estates (District 6). In September 2014, when the Council added the Mobilehome Park Conversion Ordinance as a priority in their ordinance priority-setting session, several Councilmembers noted that the mobilehome parks located in Urban Villages could be likely targets for conversion, and that the City must do more to protect these existing mobilehome parks, in particular, as housing options.

Staff's preliminary analysis shows that 33 mobilehome parks are within a ½ mile of an Urban Village, 11 are within a ½ mile of a light rail station, and 3 are within a ½ mile of a proposed Bus Rapid Transit station. Thus, 47 out of 59 mobilehome parks (88%) are in proximity to Urban Village boundaries or high quality transit stations in addition to the five that are within Urban Village boundaries. These 52 such mobilehome parks arguably could be located in areas that are subject to greater market strength and propensity for future redevelopment.

Potential Impacts from Mobilehome Park Conversion

The impacts of a mobilehome park conversion to another use could be significant. Most mobilehomes cannot be moved, so displaced mobilehome owners would have to purchase a vacant mobilehome or move a new mobilehome into an existing vacant space in another mobilehome park. That vacant space may have a higher space rental cost than the mobilehome owner's existing space resulting in higher costs for housing for that residential household.

At the time of the writing of this memorandum, there would likely not be enough available vacant mobilehome park spaces and units for sale in mobilehome parks in the City of San José or in the nearby area (e.g., in Santa Clara, Alameda, Santa Cruz, and San Mateo counties) to which mobilehome park residents could relocate to if they were displaced. Displacement could also destroy the residents' neighborhood social networks and sense of community, which would be a significant impact for seniors or for others with special needs.

Policy and Ordinance Changes to Research and Assess for Possible Recommendation

Staff has begun to identify potential policy and ordinance changes that could strengthen the protection of existing mobilehome parks in the City. The selection of these potential changes for further research and analysis takes into account the level of staff effort and anticipated effectiveness of outcome in preserving mobilehome parks. In the "Policy Alternatives" section of this memorandum, alternative policy and ordinance changes are identified with reasons given that explain why staff is not recommending these alternatives at this time.

- ***General Plan Text Amendments*** Staff proposes adding General Plan text to strengthen a Goal to preserve existing mobilehome parks in the City as a source of existing affordable housing in established neighborhoods and to improve protection from conversion to other uses.

To address Council's concern about more imminent pressure for conversion of mobilehome parks in Urban Villages and to avoid displacement of renters, staff proposes adding a General Plan policy to preserve rental apartments and mobilehome parks 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 a PD Permit or CUP. The City Council is one of the potential decision-making bodies for a CUP, but not for a PD permit. Staff suggests an amendment to add the City Council as a possible decision-making body for consideration of a PD Permit for proposed mobilehome park conversions.

Rather than substantively amending the mobilehome park conversion ordinance at this time, staff proposes to add a new section to Chapter 20.180 to add provisions so that the City Council may adopt such additional rules and regulations as are needed to implement the intent of this Chapter to facilitate adoption of the Council Policy described below.

- ***Council Policy*** Staff suggests that new provisions be incorporated into a Council Policy to facilitate implementation of the requirements in the Municipal Code regarding mobilehome

park conversions including but not limited to: clarifying that the intent of Council direction is to encourage the preservation of mobilehomes; developing guidelines for good faith negotiations between residents and owners; and considering specific provisions for compensation to residents for displacement when conversions are proposed, including but not limited to considerations for an affordable housing replacement policy, purchase price for the existing mobilehome coach, relocation benefits, and community benefits/amenities within the proposed development. Such a Council Policy could also be used to help craft permit conditions for uses and development on mobilehome park sites. Such a Policy would need to be consistent with the existing terms of the mobilehome park conversion ordinance; therefore, some provisions that stakeholders want may not be realizable in such a Policy.

To respond to Council direction for policy and ordinance changes for the further protection of existing mobilehome parks in the City, staff proposes an approximately six-month work plan that includes the following tasks:

- Public outreach including webpage postings, e-mail blasts, community meetings, and one-on-one meetings with stakeholder groups;
- Additional research and analysis of existing attributes of mobilehome parks including but not limited to the City's inventory of mobilehome parks, availability of mobilehome park spaces to rent within a specified radius of the City, mobilehome-park related existing policies and ordinances in the City of San José and in other jurisdictions in California, analysis of State requirements related to mobilehome parks, and case law related to mobilehome park regulations; and
- Staff recommendations related to policy and ordinance proposals to be considered in public hearings with the CED Committee, the Housing and Community Development Commission (HCDC), the Planning Commission, and the City Council.

EVALUATION AND FOLLOW-UP

Staff's proposed work plan for the *Mobilehome Park Preservation/Conversion Update* includes several tasks. First, staff intends to conduct a more complete review of how existing relevant City policies and regulations for protection of mobilehome parks have been implemented and enforced. This task includes obtaining public input on the effectiveness of the City's current policies and regulations for protection of mobilehome parks and creating a list of stakeholder concerns. Staff would primarily obtain such input from stakeholder meetings to be held between June and August 2015. Staff also proposes to research how other cities in California may have addressed the protection of mobilehome parks from conversion to other uses. Staff further proposes to create a summary of the findings from the community meetings and research, with recommendations for possible Council action. Depending on the CED Committee recommendation for further action, policies and ordinance(s) may then be drafted and presented to the HCDC, Planning Commission and City Council by the end of this calendar year.

POLICY ALTERNATIVES

- *Alternative #1: Adopt an urgency ordinance establishing a moratorium on conversions of mobilehome parks to other uses.*

Pros:

A moratorium could provide an additional measure to protect existing mobilehome parks from conversion to other uses.

Cons:

Preparation of an urgency ordinance requires expenditure of City resources and consideration at public hearings, and if the ordinance is an urgency ordinance it requires the affirmative vote of eight Councilmembers for adoption. Urgency ordinances must be based on facts supporting findings that they are necessary for the immediate preservation of the public peace, health, or safety.

Conclusion: The efforts of the City to prepare findings for and enact such an urgency ordinance would be intensive and would divert staff resources from other City efforts to enhance protection of mobilehome parks. The urgency findings and supermajority vote requirements are a high burden, and it is uncertain whether such an urgency ordinance could be adopted.

- *Alternative #2: Amend the existing mobilehome park conversion ordinance.*

Pros:

The existing provisions of the mobilehome park conversion ordinance could be revised to provide more clarity, describing specific requirements for negotiation, and possibly to increase compensation to residents for relocation.

Cons:

Since adoption in 1986, the existing provisions in the mobilehome park conversion ordinance have not been implemented for conversion of any mobilehome park to other uses. Modifying the ordinance will be a lengthy process, its outreach would need to accommodate stakeholder groups, and it could result in unintended consequences.

Conclusion: Existing provisions in the mobilehome park conversion ordinance have not been shown to be ineffective in the protection of mobilehome parks from conversion. Given that there have been no conversion applications, it appears that the current requirements have provided protection. Staff has recommended that the initial approach to clarifying the requirements under the ordinance be accomplished by a Council Policy.

- *Alternative #3: Initiate City-conducted rezoning of mobilehome parks currently in other zoning districts to the R-MH Mobilehome Park Zoning District.*

Pros:

The R-MH Mobilehome Park Zoning District is intended primarily for mobilehome parks.

Cons:

City-initiated rezoning of private property could be protested by the owners of the

Rezoning of mobilehome parks currently in other zoning districts to the R-MH Mobilehome Park Zoning District could protect mobilehome parks from conversion to other uses.

affected properties. Such rezoning actions could be costly and time-consuming for the City to undertake with no guarantee of success.

Conclusion: Mobilehome parks need an approved CUP or PD Permit for conversion even in the absence of a need to rezone such sites. The City has not identified budget or staff resources to undertake such actions, and the outcome of such actions is uncertain.

- ***Alternative #4: Create a General Plan overlay designation for mobilehome parks adding conditions and apply it to all the existing mobilehome parks in the City.***

Pros:

Such an overlay designation would be intended exclusively for mobilehome parks so that certain conditions and restrictions apply regardless of the base land use designation or zoning district. Applying such an overlay to all existing mobilehome parks in the City could protect these mobilehome parks from conversion to other uses.

Cons:

City-initiated General Plan amendments to apply an overlay designation on all existing mobilehome parks in the City could be protested by the owners of the affected properties. Such General Plan land use amendment actions would have an uncertain outcome, and could be costly and time-consuming for the City to undertake with no guarantee of success.

Conclusion: The City has not identified budget or staff resources to undertake such actions, and the outcome of such actions is uncertain.

PUBLIC OUTREACH/INTEREST

An agenda for the CED Committee meeting listing and describing this item will be posted on the City's web site prior to the CED Committee meeting 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 a list of self-subscribed e-mail addresses that have requested notification.

As part of the public outreach program for the General Plan Housing Element Update for the 2014-2023 period, the City's existing regulations that pertain to mobilehome parks were discussed in community meetings and public hearings that were held periodically from the fall of 2013 through the winter of 2015.

In response to public inquiries about the City's land use regulations pertaining to mobilehome parks as they pertain to Winchester Ranch and to Urban Villages, a Frequently Asked Questions (FAQ) document was posted on the Department of PBCE's Urban Villages web site more than a year ago (<http://www.sanjoseca.gov/DocumentCenter/View/27913>).

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Public correspondence Councilmember Jones received a letter from Kent Greathouse, a resident of the Winchester Ranch Mobile Home Community, who recommends a moratorium on mobilehome park conversions until a revised ordinance is adopted, and includes specific recommended text changes to Chapter 20.180 of the Zoning Code to strengthen provisions for negotiation between land owners and mobilehome park residents and compensation to residents for displacement when conversions are proposed (attached public correspondence). Staff is considering these suggestions, and looking at possible inclusion of some of these suggestions in policy or ordinance documents. As mentioned above, one option is to include some of these suggestions in a new Council Policy.

COORDINATION

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

CEQA

Not a project: Staff report on proposed work plan. File Number PP10-069.

/s/

HARRY FREITAS
Director of Planning, Building
and Code Enforcement

/s/

JACKY MORALES-FERRAND
Interim Director of Housing

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

Attachments:

List of Existing Mobilehome Parks in San José
Public Correspondence