



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Mobilehome Park Closure  
Required Change of Use  
Process

**DATE:** August 6, 2015

## SUPPLEMENTAL MEMO

### BACKGROUND

Item 4.3 on the August 11, 2015 City Council meeting agenda is a status report on staff's work plan related to Mobilehome Park Preservation/Conversion. The purpose of this memorandum is to explain the process required to convert a mobilehome park to another use under the both the existing Mobilehome Park Conversion Ordinance, San Jose Municipal Code ("SJMC") Chapter 20.180 and State Mobilehome Residency Law.

### ANALYSIS

#### *A. Summary of Existing Minimum Requirements for Park Closure*

State Mobilehome Residency Law prohibits a mobilehome park owner from terminating a mobilehome owner's rental agreement except for specific listed causes, including failure to comply with a state law or regulation; being a substantial annoyance to other residents; conviction for prostitution or a felony controlled substance conviction that occurred in the park; failure to comply with a reasonable park rule that is part of the rental agreement; and nonpayment of rent. State Mobilehome Residency Law also allows a termination occurring for change of use "after all required permits requesting a change of use have been approved by the local governmental board" and other state reporting, procedural and notice requirements are met.

Thus, at a minimum, a mobilehome park owner that seeks to unilaterally terminate the rental agreements of the mobilehome owners in order to close a park must first complete the process for conversion of use described in the City's Mobilehome Park Conversion Ordinance and obtain the required permits, which include the Planned Development Permit or Conditional Use Permit required by the Mobilehome Park

Conversion Ordinance. This requirement applies even if the proposed new use is allowed without a permit under the existing zoning for the mobilehome park. In order to complete such a conversion of use application, the owner must specify the park's new use. This is because the Mobilehome Park Conversion Ordinance only allows approval of conversion projects when the new use is a permitted use.

Depending on the zoning of the park, mobilehome park change of use will require the approval of either a Conditional Use Permit by the Planning Commission or a Planned Development Permit by the Planning Director. These permits can only be issued if the decision maker can make the required findings for the Conditional Use Permit (SJMC Section 20.100.720) or Planned Development Permit (SJMC Section 20.100.940) and the supplemental findings required under Part 4 of the Mobilehome Park Conversion Ordinance. If the findings are not made for a particular park's application, the permits will not be approved and the park owner will be prohibited from terminating mobilehome owner rental agreements on the basis of a change of use.

*B. Purpose of City Mobilehome Park Conversion Ordinance*

The Mobilehome Park Conversion Ordinance has several purposes as described in Section 20.180.010. It is intended to avoid problems that may arise from conflicts between conversion projects and City policies; 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. It is also intended 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. Overview of City Mobilehome Park Conversion Ordinance Procedures*

The discussion below summarizes the main requirements of Parts 1, 2 and 4 of the Mobilehome Park Conversion Ordinance. These Parts apply to conversions of use that are not conversions to resident ownership. This overview does not include every requirement or list all of the standard requirements under SJMC Chapter 20.100 that apply to the required Planned Development Permit or Conditional Use Permit.

#### 1. Pre-Submittal Requirements

At least sixty (60) days prior to submission of an application and supplemental application for the required permit for Conversion of Use, the park owner must send notice to the mobilehome owners, tenants and the designated resident organization stating that the owner will apply for a Conditional Use Permit or Planned Development Permit and listing the rights of the mobilehome owners, tenants and the designated resident organization under the Ordinance, including the right to negotiate for purchase of the park. If the resident organization requests to negotiate for purchase within 60 days of this notice, the owner shall meet with the resident organization within 15 days of the request. Either party may make a written request for City assigned mediation services.

#### 2. Submittal Requirements

When the application is submitted for conversion of use, in addition to the standard requirements for a Conditional Use Permit or Planned Development Permit it must include a supplemental application with a description of the new use, a timetable for conversion of park use, the appraised market values of each lot and the in-place value of mobilehome, a description of how the financial aspects of the mobilehomes have been handled for the preceding two years and other information..

#### 3. Processing

Once the applicant demonstrates that pre-submittal obligations are met and Planning staff determines that the Planning permit application proposing a use allowed under the zoning or proposed zoning is complete, if the resident organization has requested to negotiate for purchase, a 180 day negotiation period begins. During this period, the applicant may continue to submit any additional permit requirements, such as environmental clearance. After the completion of the 180 negotiation period and after the completion of all permit requirements, including the relocation and purchase assistance plan, a hearing and action on the permit would be calendared consistent with the requirements of SJMC Chapter 20.100.

#### 4. Findings for Approval

The decision-making body must make the findings for a City Conditional Use Permit or Planned Development Permit:

**A. City Conditional Use Permit**

"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."

**B. City Planned Development Permit**

"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, 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

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Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.”

The decision-making body must also make the specific conversion of use findings that that the applicant has provided a satisfactory program of relocation, rental assistance, purchase assistance or other assistance to mitigate the impact of the conversion on displaced mobilehome owners and tenants. The Conditional Use Permit or Planned Development Permit required for conversion of use must also be issued subject to a condition requiring a plan of relocation and purchase assistance for mobilehome owners and tenants.

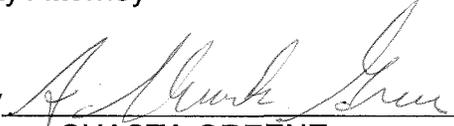
## **CONCLUSION**

No state or local law prohibits the closure of a mobilehome park. The termination of mobilehome rental agreements that would be needed for a closure is, however, preconditioned on the compliance with local conversion ordinances. Since the City's Mobilehome Conversion Ordinance calls for non-ministerial planning approvals based on specific findings, a park owner cannot “just close the mobilehome park”.

Mobilehome park owners seeking to change the use of the property including closing the park, must submit an application and comply with the procedures of the City's Zoning Code including the Mobilehome Park Conversion Ordinance.

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