



# Memorandum

**TO:** PLANNING COMMISSION  
**SUBJECT:** GPT19-003, GP19-005 and  
 GP19-006

**FROM:** Rosalynn Hughey

**DATE:** February 12, 2020

**COUNCIL DISTRICT:** 7 and 4

<b>Type of Permit</b>	City-Initiated General Plan Text Amendment and City-Initiated General Plan Amendments
<b>Project Planner</b>	Robert Rivera
<b>Location</b>	625 Hillside Avenue and 500 Nicholson Lane
<b>Council Districts</b>	7 and 4
<b>CEQA Clearance</b>	Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto

## RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council to:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto in accordance with CEQA; and
2. Adopt a resolution approving the General Plan text amendment to add a new land use designation entitled "Mobilehome Park" to Chapter 5 ("Interconnected City") of the Envision San José 2040 General Plan (File No. GPT19-003); and
3. Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Urban Residential and Residential Neighborhood to Mobilehome Park for 625 Hillside Avenue on a 21.71 gross acre site (File No. GP19-005); and
4. Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Urban Residential to Mobilehome Park for 500 Nicholson Lane on an 83.43 gross acre site (File No. GP19-006).

**PROPERTY INFORMATION**

<b>Location</b>	625 Hillsdale Avenue and 500 Nicholson Lane
<b>Assessor Parcel Nos.</b>	455-10-032 and -048 (625 Hillsdale Avenue) 097-51-002; 097-07-026 and -027; 097-81-001, -002, -003, and -004 (500 Nicholson Lane)
<b>General Plan</b>	Urban Residential and Residential Neighborhood (625 Hillsdale Avenue) Urban Residential (500 Nicholson Lane)
<b>Growth Area</b>	625 Hillsdale Avenue: Communications Hill Specific Plan Area 500 Nicholson Lane: North San José Employment Area
<b>Zoning</b>	625 Hillsdale Avenue: A(PD) Planned Development Zoning (File No. PDC78-007) 500 Nicholson Lane: A(PD) Planned Development Zoning (File No. PDC81-142)
<b>Historic Resource</b>	No
<b>Annexation Date</b>	625 Hillsdale Avenue: 3/29/1976 and 1/2/1978 500 Nicholson Lane: 5/27/1971
<b>Council District</b>	7 and 4
<b>Acreage</b>	21.71 (625 Hillsdale Avenue) and 83.43 (500 Nicholson Lane)
<b>Proposed Density</b>	No greater than 25 mobilehome lots

**PROJECT BACKGROUND**

In 2015, in response to the proposed Winchester Ranch Mobilehome Park conversion, the City Council directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and preserve existing mobilehome parks.

Since 2015, the City has taken the following actions:

1. **Zoning Code Changes.** On February 23, 2016 and May 16, 2017, the Council adopted amendments to the Zoning Code to further protect residents in existing mobilehome parks in the City, such as making the City Council the initial decision-making body for consideration of all proposed mobilehome park conversions and exempting parcels with mobilehome parks from being eligible for the conforming rezoning process.
2. **City Council Policy.** On February 23, 2016, the Council adopted a new City Council Policy 6-33 "Conversion of Mobilehome Parks to Other Uses" to help guide the Council in implementation of the conversion ordinance. Minor clarifying revisions were approved by City Council on May 16, 2017.
3. **Moratorium on Conversions and Closures.** On March 1, 2016, the City Council approved a temporary moratorium to prevent conversion or closure of mobilehome parks. This was done to allow time for staff to work on a closure ordinance, other changes to the Zoning Code to protect mobilehome park residents, and clarifications to Council Policy 6-33. The moratorium ended on August 24, 2017.

4. **General Plan text amendments (File No. GPT15-006 and GPT18-004).** On May 16, 2017 and December 4, 2018, the Council adopted General Plan text amendments to add and enhance goals, policies, and actions to protect existing mobilehome parks in San José.

In May 2017, City Council directed staff to return to Council with an analysis of General Plan amendments for mobilehome park sites to either a "Commercial," "Industrial," "Industrial Park" or a (proposed) "Mobilehome Park" land use designation for those sites that currently have a Residential designation.

On March 13, 2018, staff presented City Council with an analysis of the proposed General Plan land use amendments for mobilehome parks, and the associated staffing requirements for moving these amendments forward. Staff recommended that City Council refer to the next Council Priority Setting Session consideration of General Plan land use amendments for the two mobilehome parks with high density residential land use designations (Westwinds and Mountain Springs mobilehome parks) that are most at-risk of redevelopment (see Attachment B). City Council accepted staff's recommendation and directed staff under the current Mobilehome Conversions Council Policy Priority item (Council Policy Priority #2) to commence work no later than Spring 2019 to create a new Mobilehome Park General Plan land use designation and apply that designation to the Westwinds and Mountain Springs mobilehome parks.

Complying with City Council direction, in Spring 2019, staff initiated work to create the new Mobilehome Park General Plan land use designation and updated staff work plans to complete the General Plan amendments by June 2020. Staff conducted three community outreach meetings in the summer 2019 (see Public Outreach section below). On January 9, 2020, in a memorandum to the City Council, Mayor Sam Liccardo and Councilmember Lan Diep recommended to accelerate Council's direction from March 13, 2018 and recommended the General Plan amendments proceed to the January 23, 2020 Housing and Community Development Commission meeting, and to the Planning Commission and Council meetings that immediately follow, for a final determination. The Rules and Open Government Committee approved the recommendation at its January 15, 2020 meeting.

#### Proposed Mobilehome Park Land Use Designation

The proposed General Plan text amendment would create a new Mobilehome Park land use designation. The Mobilehome Park land use designation would be applied to the Westwinds and Mountain Springs mobilehome parks. The proposed text amendment is detailed below in strikeout/underline format.

(Text Reference: Envision San José 2040 General Plan, Chapter 5 ("Interconnected City"), "Land Use Designations" section, following "Residential Neighborhood," page 15).

#### **Mobilehome Park**

Density: No greater than 25 mobilehome lots (as defined in San José Municipal Code Chapter 20.200) per acre

This designation allows for the construction, use and occupancy of a Mobilehome Park as defined in Section 18214 of the California Health and Safety Code, as amended. The intent of this designation is to preserve existing housing stock and to reduce and avoid the displacement of long-term residents. New residential development in this designation is limited to mobilehome parks and incidental uses for mobilehome park residents such as clubhouses and community rooms, pools, parks, and other common areas. New infill development of mobilehome park uses must match the density of mobilehome lots in the existing mobilehome park.

#### Site Location - Mountain Springs Mobilehome Park (625 Hillsdale Avenue)

As shown on the attached [vicinity map \(Figure 1\)](#), the subject 21.71 gross-acre site is located on the north side of Hillsdale Avenue approximately 675 feet east of Narvaez Avenue (625 Hillsdale Avenue) and is comprised of two parcels. The site includes 144 mobilehomes with private roadways, surface parking, and a clubhouse. The two parcels are separated by Canoas Creek with property management offices located on the corner of Mountain Springs Drive and Hillsdale Avenue. The subject site is bordered by open space, Highway 87, Canoas Creek and single-family and multi-family residential uses. Mountain Springs Mobilehome Park is located within the Communications Hill Specific Plan and has a split General Plan land use designation of Urban Residential on the portion of the site north of Canoas Creek, and Residential Neighborhood on the parcel south of Canoas Creek.

<b>SURROUNDING USES</b>			
	<b>General Plan</b>	<b>Zoning District</b>	<b>Existing Use</b>
<b>North</b>	Open Space, Parklands, and Habitat; Urban Residential	Planned Development Zoning (PDC97-075)	Multifamily residences and open space
<b>South</b>	Residential Neighborhood	Residential Mobilehome	Residential mobilehomes
<b>East</b>	Mixed Use Neighborhood; Urban Residential	Planned Development Zoning (PDC80-005)	Multifamily residences
<b>West</b>	Mixed Use Neighborhood	Planned Development Zoning (PDC79-076)	Highway 87, single-family residential homes, and open space

#### Site Location – Westwinds Mobilehome Park (500 Nicholson Lane)

As shown on the attached [vicinity map \(Figure 2\)](#), the subject 83.43 gross-acre site is located on Nicholson Lane, approximately 1,000 feet northeast of N. 1<sup>st</sup> Street (500 Nicholson Lane) and is comprised of five parcels. The site includes 723 mobilehomes with private roadways, surface parking, clubhouses, and park space. The subject site is surrounded by offices buildings, multi-family residential apartments, and restaurants. The Westwinds Mobilehome Park is also located within the North San Jose Development Policy Area.

<b>SURROUNDING USES</b>			
	<b>General Plan</b>	<b>Zoning District</b>	<b>Existing Use</b>
<b>North</b>	Combined Industrial/ Commercial	Industrial Park	Commercial office
<b>South</b>	Neighborhood Community/Commercial	Planned Development Zoning	Restaurants
<b>East</b>	Industrial Park	Industrial Park and Planned Development Zoning (PDC06-061)	Commercial office and multi-family residential
<b>West</b>	Industrial Park	Industrial Park	Commercial office

## **ANALYSIS**

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. Mobilehome parks in San José vary in size, age, location, type of mobilehomes, and composition of residents. The mobilehome parks in San José also vary in terms of their General Plan land use designations. Some mobilehome parks are located 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. Fourteen (14) parks have industrial or commercial land use designations, and the remaining parks have residential designations. Of the mobilehome parks with residential land use designations, two mobilehome parks have an Urban Residential land use designation (Westwinds and Mountain Springs mobilehome parks), which allows development between 30 to 95 dwelling units per acre. The other mobilehome parks designated for residential uses have a Residential Neighborhood designation, which generally only allows up to eight dwelling units per acre. A map of San José's mobilehome park sites and their General Plan designations is attached to this Staff Report as Attachment C.

The General Plan includes approximately 30 land use designations but does not have a land use designation specifically for mobilehome parks. In March 2018, the City Council directed staff to create a new Mobilehome Park General Plan land use designation and apply that designation to the Westwinds and Mountain Springs mobilehome parks as a mobilehome park preservation strategy. These two parks are at the most risk of conversion because their existing Urban Residential Land Use designation would support their redevelopment into high density residential uses.

The proposed Mobilehome Park land use designations as detailed above would allow mobilehome parks and incidental uses for mobilehome park residents, with a density of up to 25 mobilehome lots per acre. The proposed density reflects the full range of densities found in all mobilehome parks in San José; however, any infill development would need to match the density of mobilehome lots in the existing mobilehome park.

City-initiated General Plan amendments to change the land use designations of the two mobilehome parks would not directly prohibit mobilehome park owners from closing their parks but could strengthen the protection of mobilehome park residents by creating an additional transparent public land use entitlement process to redevelop the sites. In addition to existing processes defined in the Municipal Code and City Council Policy 6-33, property owners under this new land use designation wishing to redevelop their mobilehome parks would need City Council approval of a General Plan land use amendment. Currently, there are no development applications on file for redevelopment/conversion of either the Westwinds or Mountain Springs mobilehome parks.

This designation and the application to the two parks are only the initial actions in the process. As directed by City Council, staff will continue to evaluate whether to propose applying the Mobilehome Park land use designation to other existing mobile home parks.

The proposed General Plan Text Amendment and General Plan Amendments are analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. California Environmental Quality Act (CEQA)

### [Envision San José 2040 General Plan Conformance](#)

#### *Existing Land Use Designations*

As shown in the attached [General Plan map \(Figure 3 and 4\)](#), the Westwinds Mobilehome park has a land use designation of Urban Residential, and Mountain Springs has a designation of Urban Residential and Residential Neighborhood.

#### **Urban Residential**

This designation allows for medium density residential development and a broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages, in other areas within the City that have existing residential development built at this density, within Specific Plan areas, or in areas near an Urban Village or transit facility where intensification will support those facilities. The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or another policy document.

The Urban Residential land use designation allows a density of 30-95 dwelling units per acre the allowable density/intensity for mixed-use development will be determined using an allowable FAR (1.0 to 4.0) to better address the urban form and potentially allow fewer units per acre if in combination with other uses such as commercial or office. Developments in this designation would typically be three to four stories of residential or commercial uses over parking.

## Residential Neighborhood

This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern.

The Residential Neighborhood land use designation allows an FAR up to 0.7 and a density of 8 dwelling units per acre or the prevailing neighborhood density, whichever is lower.

### *Proposed Land Use Designation*

The City has proposed amendments to the Envision San José 2040 General Plan Land Use/Transportation Diagram Designation Map as shown in the attached [General Plan map \(Figure 5 and 6\)](#).

## Mobilehome Park (proposed)

This designation allows the construction, use and occupancy of a mobilehome park as defined in Section 18214 of the California Health and Safety Code, as amended. The intent of this designation is to preserve existing housing stock and to reduce and avoid the displacement of long-term residents. New residential development in this designation is limited to mobilehome parks and incidental uses for mobilehome park residents such as clubhouses and community rooms, pools, parks, and other common areas. The density allowed is no greater than 25 mobilehome lots per acre. New infill development on existing mobilehome parks must match the density of mobilehome lots in the existing mobilehome park.

### *General Plan Goals and Policies*

The proposal to change the land use designations on the subject sites from Residential Neighborhood and Urban Residential to Mobilehome Park is consistent with the following key General Plan policies.

Social Equity and Diversity - Housing Goal H-1: 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.

Housing - Social Equity and Diversity Policy 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.

Housing - Social Equity and Diversity Policy 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.

Housing - Social Equity and Diversity Policy H-1.3: Create new housing opportunities and preserve and rehabilitate the City's existing housing stock to 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 - Social Equity and Diversity Policy H-1.11: Preserve existing mobile home parks throughout the City 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 mobile home housing, and to maintain a variety of individual choices of tenure, type, price, and location of housing.

Housing - Social Equity and Diversity Policy H-1.16: Identify, assess, and implement potential tools, policies, or programs to prevent or to mitigate the displacement of existing low-income residents due to market forces or to infrastructure investment.

*Analysis: The proposed General Plan Amendment and new General Plan land use designation would protect and preserve the City's existing affordable housing stock and facilitate the creation of economically diverse and integrated communities. Mobilehome parks are an important component of the existing affordable housing stock, with nearly 11,000 mobilehomes in 59 mobilehome parks throughout the City. Approximately 73% of mobilehome owners are low- to extremely-low income households. The proposed amendments would provide further protection and discourage the displacement of low-income persons. Further, the proposed amendment would contribute to the social equity and economic diversity of local and City-wide communities.*

*The proposed General Plan Amendments would not prevent submittal of future development applications for redevelopment or conversions of the Westwinds or Mountain Springs mobilehome parks. However, a General Plan amendment would be required to change the mobilehome use to a different use and any future proposal to redevelop the mobilehome parks would be evaluated for consistency with General Plan major strategies, goals and policies, and would be subject to requirements of the City's mobilehome park conversion ordinance.*

### **Senate Bill 330**

Senate Bill 330 (SB 330) prohibits a city from changing the land use designation or zoning of a parcel or parcels where housing is an allowable use to a less intensive housing use, unless the city concurrently changes the land use designation or zoning of another parcel or parcels to ensure no net loss in residential capacity within a city. As a result of City staff's coordination with Senator Skinner's office, the legislative author of SB 330, a provision was added to the bill which does not prohibit a city from changing a land use designation or zoning to a less intensive use on a site that is a mobilehome park, as defined in Section 18214 of the Health and Safety Code. Therefore, the proposed General Plan amendments are in conformance with SB 330.



**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Properties at 625 Hillsdale Avenue and 500 Nicholson are currently operating as mobilehome parks. The proposed new land use designation of Mobilehome Park in the General Plan is intended to allow only mobile park uses, and therefore, would not change the existing uses on the sites. With no physical changes to the two sites, the environmental impacts of the proposed amendments were addressed in a determination of consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addendum thereto. (See Attachment E)

**PUBLIC OUTREACH**


To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy, as described above. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the both subject sites. The Staff Report is also posted on the City's website, and staff has been available to respond to questions from the public. Staff held three community meetings for the proposed General Plan amendments and presented the proposal to the Housing and Community Development Commission.

On August 8, 2019 Planning staff hosted a community meeting at Alviso Library to provide information and receive input on the proposed City-initiated General Plan amendment to the Westwinds Mobilehome Park (File No. GP19-006; 500 Nicholson Lane). Approximately 144 community members attended the community meeting. Residents and stakeholders expressed their support and concerns. Community members asked questions about the actions proposed by the City and the effective outcome of the proposed General Plan amendments. Residents were specifically concerned about relocation and asked questions related to the intent of the property owners in regard to the existing mobilehome management lease. A second community meeting was conducted on September 3, 2019 at Westwinds Mobilehome Park Community Center. Approximately 60 community members attended the meeting with similar concerns about conversion and displacement. Staff reiterated that the intent of City was to further the Council's goals related to the preservation of mobilehome parks. However, staff also stated that the propose General Plan Amendment would not prevent the property owner from proposing to change the land use designation in the future.

On September 5, 2019 Planning staff hosted a community meeting at the Mountain Springs Mobilehome Park to provide information and receive input on the proposed City-initiated General Plan amendment to the Mountain Springs Mobilehome Park. Approximately 38 community members and stakeholders attended the meeting and expressed their support and concerns for the proposal. Residents were specifically concerned about displacement and process. Staff stated the intent of the proposal was to preserve mobilehome park; staff also reviewed the timeline and General Plan Amendment process. Residents expressed their support for the Mobilehome Park land use designation and were interested in attending the Planning Commission and City Council hearings.

On January 23, 2020, Planning staff provided information on the proposed General Plan Amendments to the Housing and Community Development Commission (HCDC). Planning Staff presented background and a summary of the proposed new Mobilehome Park General Plan land use designation and its application to the Westwinds and Mountain Springs mobilehome parks. Twelve members of the public spoke on the item, the majority being mobilehome park residents. The speakers were supportive of the proposed General Plan Amendments and expressed that the mobilehome parks provide an affordable housing option for many families that might not otherwise be able to afford to live in San Jose. The commissioners discussed the item and asked staff questions regarding how the proposed actions would function as a preservation tool for mobilehome parks, why the proposed land use designation is not proposed to be applied to more mobilehome parks, and if staff had considered monetary incentives to the mobilehome park owners subject to the General Plan Amendment. The HCDC voted 8-0-2 (Commissioners Moore and Shoor abstained) to recommend the City Council apply the proposed Mobilehome Park land use designation to all parks in the City.

**Project Manager:** Robert Rivera

**Approved by:**  Michael Ball, Deputy Director for Rosalynn Hughey, Planning Director

<b>ATTACHMENTS:</b>
A: Draft Resolutions
B: March 13, 2018 City Council Memo (Analysis of General Plan Amendments for Mobilehome Parks)
C: Map of San Jose Mobilehome Parks with General Plan Designations (updated January 2020)
D: Public Correspondences
E: CEQA Determination of Consistency

**Figure 1: Aerial of Site  
GP19-005 625 Hillsdale Avenue (Mountain Springs Mobilehome Park ~ 21.71 gross-acres)**



**Figure 2: Aerial of Site  
GP19-006: 500 Nicholson Lane (Westwinds Mobilehome Park ~ 83.43 gross-acres)**



**Figure 3. Existing General Plan Land Use designation (625 Hillsdale Avenue)**



**Figure 4. Existing General Plan Land Use Designation (500 Nicholson Lane)**



Figure 5. Proposed General Plan Land Use Designation

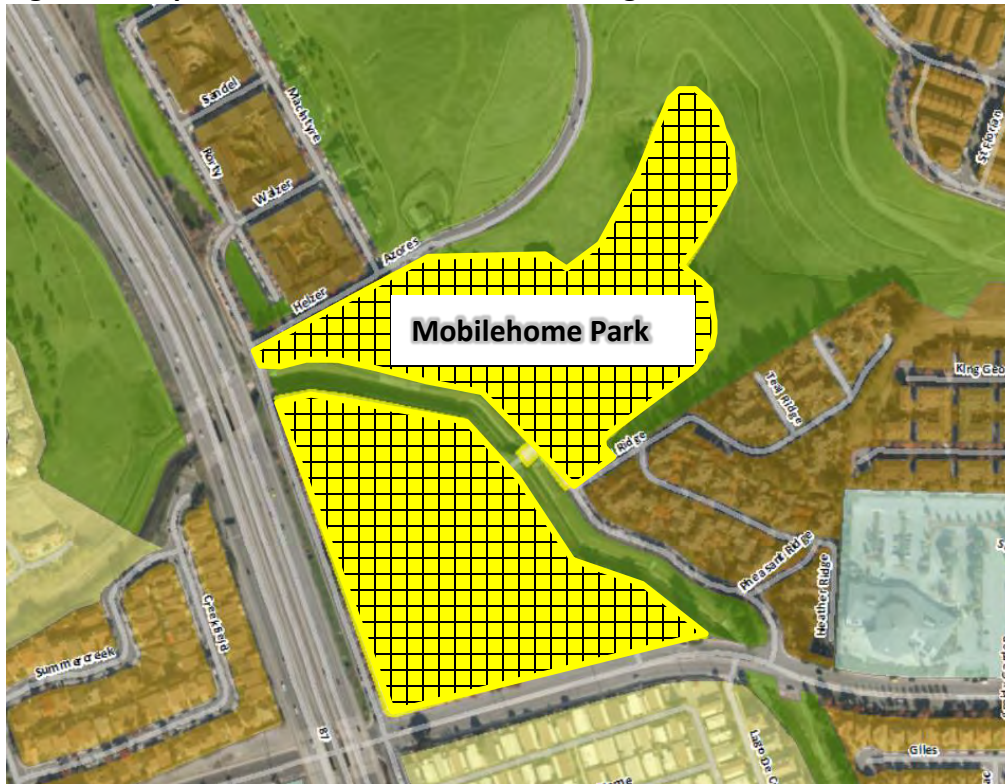


Figure 6. Proposed General Plan Land Use Designation



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE ENVISION SAN JOSE 2040 GENERAL PLAN PURSUANT TO TITLE 18 OF THE SAN JOSÉ MUNICIPAL CODE TO ADD A NEW LAND USE DESIGNATION TO THE LAND USE DESIGNATION CHAPTER OF THE ENVISION SAN JOSÉ 2040 GENERAL PLAN ENTITLED MOBILE HOME PARK**

**Winter 2020 General Plan Amendment Cycle (Cycle 1)**

**File No. GPT19-003**

**WHEREAS**, the City Council is authorized by Title 18 of the San José Municipal Code and state law to adopt and, from time to time, amend the General Plan governing the physical development of the City of San José; and

**WHEREAS**, on November 1, 2011, the City Council adopted the General Plan entitled, "Envision San José 2040 General Plan, San José, California" by Resolution No. 76042, which General Plan has been amended from time to time (hereinafter the "General Plan"); and

**WHEREAS**, in accordance with Title 18 of the San José Municipal Code, all general and specific plan amendment proposals are referred to the Planning Commission of the City of San José for review and recommendation prior to City Council consideration of the amendments; and

**WHEREAS**, on February 12, 2020, the Planning Commission held a public hearing to consider the proposed text amendments to add a new land use designation to the land use designation chapter of the Envision San José 2040 General Plan entitled Mobile Home Park, File No. GPT19-003 specified in Exhibit "A" hereto ("General Plan

Amendment”), at which hearing interested persons were given the opportunity to appear and present their views with respect to said proposed amendment; and

**WHEREAS**, at the conclusion of the public hearing, the Planning Commission transmitted its recommendations to the City Council on the proposed General Plan Amendment; and

**WHEREAS**, on March 10, 2020, the Council held a duly noticed public hearing; and

**WHEREAS**, a copy of the proposed General Plan Amendment is on file in the office of the Director of Planning, Building and Code Enforcement of the City, with copies submitted to the City Council for its consideration; and

**WHEREAS**, pursuant to Title 18 of the San José Municipal Code, public notice was given that on March 10, 2020 at 6:00 p.m. in the Council Chambers at City Hall, 200 East Santa Clara Street, San José, California, the Council would hold a public hearing where interested persons could appear, be heard, and present their views with respect to the proposed General Plan Amendment (Exhibit “A”); and

**WHEREAS**, prior to making its determination on the General Plan Amendment, the Council reviewed and considered the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto; and

**WHEREAS**, the Council of the City of San José is the decision-making body for the proposed General Plan Amendment.

**NOW, THEREFORE,** BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

**SECTION 1.** The Council's determinations regarding General Plan Amendment File No. GPT19-003 is hereby specified and set forth in Exhibit "A," attached hereto and incorporated herein by reference.

**SECTION 2.** This Resolution shall take effect thirty (30) days following the adoption of this Resolution.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk



STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

)  
)  
) ss

I hereby certify that the amendments to the San José General Plan specified in the attached Exhibit "A" were adopted by the City Council of the City of San José on \_\_\_\_\_, as stated in its Resolution No. \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

DRAFT

**EXHIBIT “A”**

**File No. GPT19-003.** Amendments of the General Plan text to add a new land use designation entitled “Mobilehome Park” to the land use designation Chapter of the Envision San José 2040 General Plan:

1. Chapter 5, entitled “Interconnected City,” “Land Use Designations” section, is hereby amended to add a new Subsection entitled “Mobile Home Park” following the “Rural Residential” Subsection, to read as follows:

**“Mobile Home Park**

Density: No greater than 25 mobilehome lots (as defined in San José Municipal Code Chapter 20.200) per acre

This designation allows for the construction, use and occupancy of a Mobile Home Park as defined in Section 18214 of the California Health and Safety Code, as amended. The intent of this designation is to preserve existing housing stock and to reduce and avoid the displacement of long-term residents. New residential development in this designation is limited to mobile home parks and incidental uses for mobile home park residents such as clubhouses and community rooms, pools, parks, and other common areas. New infill development of mobilehome park uses must match the density of mobilehome lots in the existing mobilehome park.”

Council District: Citywide.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE ENVISION SAN JOSE 2040 GENERAL PLAN PURSUANT TO TITLE 18 OF THE SAN JOSE MUNICIPAL CODE TO MODIFY THE LAND USE/ TRANSPORTATION DIAGRAM TO MOBILE HOME PARK AT 625 HILLSDALE AVENUE**

**Winter 2020 General Plan Amendment Cycle (Cycle 1)**

**File No. GP19-005**

**WHEREAS**, the City Council is authorized by Title 18 of the San José Municipal Code and state law to adopt and, from time to time, amend the General Plan governing the physical development of the City of San Jose; and

**WHEREAS**, on November 1, 2011, the City Council adopted the General Plan entitled, "Envision San José 2040 General Plan, San José, California" by Resolution No. 76042, which General Plan has been amended from time to time (hereinafter the "General Plan"); and

**WHEREAS**, in accordance with Title 18 of the San José Municipal Code, all general and specific plan amendment proposals are referred to the Planning Commission of the City of San José for review and recommendation prior to City Council consideration of the amendments; and

**WHEREAS**, on February 12, 2020, the Planning Commission held a public hearing to consider the proposed amendments to the General Plan, File No. GP19-005 specified in Exhibit "A", hereto ("General Plan Amendment"), at which hearing interested persons were given the opportunity to appear and present their views with respect to said proposed amendments; and

**WHEREAS**, at the conclusion of the public hearing, the Planning Commission transmitted its recommendations to the City Council on the proposed General Plan Amendment; and

**WHEREAS**, on **March 10, 2020**, the Council held a duly noticed public hearing; and

**WHEREAS**, a copy of the proposed General Plan Amendment is on file in the office of the Director of Planning, Building and Code Enforcement of the City, with copies submitted to the City Council for its consideration; and

**WHEREAS**, pursuant to Title 18 of the San José Municipal Code, public notice was given that on **March 10, 2020**, at 6:00 p.m. in the Council Chambers at City Hall, 200 East Santa Clara Street, San José, California, the Council would hold a public hearing where interested persons could appear, be heard, and present their views with respect to the proposed General Plan Amendment (Exhibit "A"); and

**WHEREAS**, prior to making its determination on the General Plan Amendments, the Council reviewed and considered the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto File No. GP19-005; and

**WHEREAS**, the Council is the decision-making body for the proposed General Plan Amendments;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:**

**SECTION 1.** The Council's determinations regarding General Plan Amendment File No. GP19-005 are hereby specified and set forth in Exhibit "A", attached hereto and incorporated herein by reference.

**SECTION 2.** This Resolution shall take effect thirty (30) days following the adoption of this Resolution.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

STATE OF CALIFORNIA            )  
   )    SS  
COUNTY OF SANTA CLARA       )

I hereby certify that the amendments to the San José General Plan specified in the attached Exhibit “A” were adopted by the City Council of the City of San José on \_\_\_\_\_, as stated in its Resolution No. \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

DRAFT

**EXHIBIT "A"**

**File No. GP19-005.** General Plan Amendment to change the Land Use/Transportation Diagram Land Use Designation from Urban Residential and Residential Neighborhood to Mobile Home Park for 625 Hillsdale Avenue on a 21.71 gross acre site. (625 Hillsdale Avenue), as follows:

Previous Land Use Designation:



New Land Use Designation:



Council District: 7



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE ENVISION SAN JOSE 2040 GENERAL PLAN PURSUANT TO TITLE 18 OF THE SAN JOSE MUNICIPAL CODE TO MODIFY THE LAND USE/ TRANSPORTATION DIAGRAM TO MOBILE HOME PARK AT 500 NICHOLSON LANE**

**Winter 2020 General Plan Amendment Cycle (Cycle 1)**

**File No. GP19-006**

**WHEREAS**, the City Council is authorized by Title 18 of the San José Municipal Code and state law to adopt and, from time to time, amend the General Plan governing the physical development of the City of San José; and

**WHEREAS**, on November 1, 2011, the City Council adopted the General Plan entitled, "Envision San José 2040 General Plan, San José, California" by Resolution No. 76042, which General Plan has been amended from time to time (hereinafter the "General Plan"); and

**WHEREAS**, in accordance with Title 18 of the San José Municipal Code, all general and specific plan amendment proposals are referred to the Planning Commission of the City of San José for review and recommendation prior to City Council consideration of the amendments; and

**WHEREAS**, on February 12, 2020, the Planning Commission held a public hearing to consider the proposed amendments to the General Plan, File No. GP19-006 specified in Exhibit "A", hereto ("General Plan Amendment"), at which hearing interested persons were given the opportunity to appear and present their views with respect to said proposed amendments; and

**WHEREAS**, at the conclusion of the public hearing, the Planning Commission transmitted its recommendations to the City Council on the proposed General Plan Amendment; and

**WHEREAS**, on **March 10, 2020**, the Council held a duly noticed public hearing; and

**WHEREAS**, a copy of the proposed General Plan Amendment is on file in the office of the Director of Planning, Building and Code Enforcement of the City, with copies submitted to the City Council for its consideration; and

**WHEREAS**, pursuant to Title 18 of the San José Municipal Code, public notice was given that on **March 10, 2020** at 6:00 p.m. in the Council Chambers at City Hall, 200 East Santa Clara Street, San José, California, the Council would hold a public hearing where interested persons could appear, be heard, and present their views with respect to the proposed General Plan Amendment (Exhibit "A"); and

**WHEREAS**, prior to making its determination on the General Plan Amendments, the Council reviewed and considered the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto File No. GP19-006; and

**WHEREAS**, the Council is the decision-making body for the proposed General Plan Amendments;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:**

**SECTION 1.** The Council's determinations regarding General Plan Amendment File No. GP19-006 are hereby specified and set forth in Exhibit "A", attached hereto and incorporated herein by reference.

**SECTION 2.** This Resolution shall take effect thirty (30) days following the adoption of this Resolution.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

STATE OF CALIFORNIA                    )  
  )  ss  
COUNTY OF SANTA CLARA            )

I hereby certify that the amendments to the San José General Plan specified in the attached Exhibit “A” were adopted by the City Council of the City of San José on \_\_\_\_\_, as stated in its Resolution No. \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

DRAFT

**EXHIBIT "A"**

**File No. GP19-006.** General Plan Amendment to change the Land Use/Transportation Diagram Land Use Designation from Urban Residential to Mobile Home Park for 500 Nicholson Lane on an 83.43 gross acre site. (500 Nicholson Lane), as follows:

Previous Land Use Designation:



New Land Use Designation:



Council District: 4



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** March 2, 2018

Approved

*D. D. Syl*

Date

*3/2/18*

**SUBJECT: ANALYSIS OF PROPOSED GENERAL PLAN LAND USE OVERLAY AMENDMENTS FOR MOBILEHOME PARKS AND REVIEW OF RECOMMENDATIONS FROM THE LAW FOUNDATION OF SILICON VALLEY REGARDING PROTECTION OF MOBILEHOME PARK RESIDENTS**

## RECOMMENDATION

- a) Accept staff analysis of proposed General Plan land use overlay amendments for mobilehome parks.
- b) Refer to the next Council Priority Setting Session consideration of General Plan land use amendments for the two mobilehome parks with high density residential land use designations that are most at risk of redevelopment.
- c) Accept staff review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, and direct staff to bring to City Council three minor General Plan text amendments identified in the analysis below for consideration as part of a future General Plan hearing cycle.

## OUTCOME

Should the Council refer to the next council Priority Setting Session consideration of General Plan land use amendments for the two mobilehome parks with density residential land use designations, along with staffing and consultant resources, staff would evaluate and undertake the General Plan amendments. Additionally, if directed by City Council, staff will bring forward for consideration as part of a future General Plan hearing cycle, three minor General Plan text amendments recommended by the Law Foundation of Silicon Valley.

## **EXECUTIVE SUMMARY**

The conversion of mobilehome parks to other uses is a land use issue regulated by State Law, by the City under the San José Municipal Code (Municipal Code), and by the City's Envision San José 2040 General Plan (General Plan). In 2015, the City Council directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and to preserve existing mobilehome parks.

Since 2015, the City Council approved Title 20 (Zoning Code) changes to the Municipal Code, General Plan text amendments, and adoption of a new City Council Policy 6-33 "Conversion of Mobilehome Parks to Other Uses" to preserve San José's mobilehome parks and to protect their residents. On May 16, 2017, City Council directed staff to return to Council in August 2017 with an analysis of a General Plan amendment overlay for dozens of mobilehome park sites to either a "Commercial," "Industrial," "Industrial Park" or a (proposed) "Mobilehome Park" land use designation for those sites that currently have a Residential designation, and a review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, with a discussion on which of the recommendations could be incorporated.

The analysis below identifies General Plan tools and alternatives that could be used to preserve mobilehome parks. This includes a General Plan overlay, other land use amendments, and additional text amendments. Staff's assessment on the feasibility of the Law Foundation's comments from their letter dated May 11, 2017, is also included in the analysis below.

## **BACKGROUND**

The conversion of mobilehome parks to other uses is regulated by State law including Planning Law and Mobilehome Residency Law and by the City under the 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 (PD) Permit. To date, no mobilehome park conversions have been processed under this ordinance.

In 2014, the City was informed that the owners of Winchester Ranch Mobilehome Park intended to convert the mobilehome park to a new use. The City Council took up the issue of conversion of mobilehome parks as a top priority and included a work plan item in the Housing Element to explore the efficacy of the existing provisions in the Zoning Code regulating conversion of mobilehome parks to other uses. In 2015, the City Council reaffirmed this priority and directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and preserve existing mobilehome parks.



Since 2015, the City has taken the following actions:

1. **Zoning Code Changes.** On February 23, 2016 and May 16, 2017, the Council adopted amendments to the Zoning Code to further protect residents in existing mobilehome parks in the City, that:
  - Made 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 (previously, the initial decision-making body was the Planning Commission for a CUP or the Planning Director for a PD permit);
  - Added provisions requiring findings of consistency with the General Plan for CUPs;
  - Exempted parcels with mobilehome parks from being eligible for the conforming rezoning process; and
  - Added to consideration of applications for demolition permits for mobilehome and multifamily projects whether those projects met their relocation obligations.
2. **City Council Policy.** On February 23, 2016, the Council adopted a new City Council Policy 6-33 “Conversion of Mobilehome Parks to Other Uses” to help guide the Council in implementation of the conversion ordinance. The Policy provides guidelines for:
  - Good faith negotiations between mobilehome park residents (including mobilehome owners and mobilehome tenants) and mobilehome park owners; and
  - 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.
3. **Moratorium on Conversions and Closures.** On March 1, 2016, the City Council approved a temporary moratorium to prevent submittal of applications for the conversion or closure of mobilehome parks. This was done to allow time for staff to work on a closure ordinance, other changes to the Zoning Code to protect mobilehome park residents, and clarifications to Council Policy 6-33. The moratorium ended on August 24, 2017.
4. **General Plan text amendments (File No. GPT15-006).** On May 16, 2017, the Council adopted General Plan text amendments to:
  - Further enhance 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

- 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.

### **Council Direction**

In addition to the Zoning Code and General Plan text amendments approved by Council on May 16, 2017, City Council directed staff to return to Council in August 2017 with:

1. An analysis, including workload, cost, and necessary level of environmental clearance, for a General Plan amendment overlay for dozens of mobilehome park sites to either a “Commercial,” “Industrial,” “Industrial Park” or a (proposed) “Mobilehome Park” land use designation for those sites that currently have a Residential designation; and
2. A review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, and presentation of staff’s perspectives on any such recommendations that can be incorporated when the Council returns in August. The Law Foundation of Silicon Valley’s letter is attached to this memo (Attachment B).

## **ANALYSIS**

### **Existing Conditions**

#### *General Plan*

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. Mobilehome parks in San José vary in size, age, location, type of mobilehomes, and composition of residents. The mobilehome parks in San José also vary in terms of their General Plan land use designations. Some mobilehome parks are located 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. Five mobilehome parks are located in Urban Villages and 17 mobilehome parks are located in other General Plan Growth Areas. Table 1 below shows the distribution of San José’s mobilehome park sites’ General Plan land use designations. A map of San José’s mobilehome park sites and their General Plan designations is also attached to this memorandum as Attachment A.

**Table 1**

<b>General Plan Land Use Designation</b>	<b>General Plan Allowable Density</b>	<b>No. of Mobilehome Parks</b>	<b>No. of Mobilehome Lots</b>
Residential Neighborhood	Typically 8 DU/AC (match existing neighborhood character); FAR Up to 0.7	39	7,452
Urban Residential	30-95 DU/AC; FAR 1.0 to 4.0	1	723
Residential Neighborhood and Urban Residential	RN: Typically 8 DU/AC (match existing neighborhood character) UR: 30-95 DU/AC; FAR 1.0 to 4.0	1	144
Transit Employment Center	FAR Up to 12.0	1	273
Neighborhood/Community Commercial	FAR Up to 3.5	3	372
Combined Industrial/Commercial	FAR Up to 12.0	4	246
Light Industrial	FAR Up to 1.5	1	133
Heavy Industrial	FAR Up to 1.5	5	325
Residential Neighborhood and Combined Industrial/Commercial	RN: Typically 8 DU/AC (match existing neighborhood character) CIC: FAR Up to 12.0	3	957
Residential Neighborhood and Open Space Parklands and Habitat	- See above for RN - OSPH Density = N/A	1	211
<b>TOTAL</b>		<b>59</b>	<b>10,836</b>

Out of the 59 mobilehome parks in San José, 41 parks have full residential General Plan land use designations, four parks have split residential and non-residential land use designations, and 14 parks have non-residential designations. One mobilehome park has a full Urban Residential land use designation, and one park has a split Urban Residential designation/Residential Neighborhood designation. The Urban Residential designation allows 30 to 95 dwelling units per acre, and the Residential Neighborhood designation allows up to eight dwelling units per acre.

### *Zoning*

The City's Zoning Code includes the R-MH Mobilehome Park Zoning District, for the purpose of reserving land for the use and occupancy of mobilehome development. Mobilehome parks and other compatible uses are permitted or conditionally permitted in the R-MH Mobilehome Park Zoning District as enumerated in Table 20-50 of the Zoning Code. Thirty-five of the City's 59 mobilehome parks currently have an R-MH Mobilehome Park Zoning. Nineteen of the City's 59 mobilehome parks currently have a PD Planned Development Zoning for mobilehome park uses. Only five mobilehome parks have underlying zoning districts that do not conform to the

existing mobilehome park use. Redevelopment of any mobilehome park site would require consistency with a site's General Plan designation, regardless of its zoning. Therefore, allowable future uses on mobilehome parks are defined by their General Plan land use designation as well as the applicable zoning district.

## **General Plan Tools to Preserve Mobilehome Parks**

### *General Plan Overlay*

An “overlay” is a land use designation on the General Plan Land Use Map, or a zoning designation on a zoning map that modifies the basic underlying designation in some specific manner. Overlays can establish additional or stricter standards and criteria for covered sites on top of those of the underlying zoning district, or can also be used to promote specific types of projects. Applying a commercial or industrial overlay to mobilehome park sites with residential land use designations would be most appropriate if the intent is to allow or promote a non-residential use as an alternative to the underlying designation. Directly changing the General Plan land use designation of mobilehome park sites would be most appropriate if the intent is to restrict or define an underlying land use.

Given the high land value for residential development, General Plan land use amendments that directly change mobilehome parks’ land use designations to “commercial” or “industrial,” where appropriate, could be used as a mobilehome park preservation tool by restricting future development of those properties to non-residential uses. However, it is possible that in some locations, such as in North San José, a commercial or industrial General Plan land use designation could offer more financial incentive to close and redevelop a mobilehome park than the Residential Neighborhood land use designation, which limits residential development to approximately eight dwelling units per acre.

### *General Plan Land Use Amendments*

In addition to the analysis a “Commercial,” “Industrial,” and/or “Industrial Park” overlay, Council directed staff to analyze the workload, cost, and necessary level of environmental clearance for a (proposed) General Plan “Mobilehome Park” land use designation for those sites that currently have a Residential designation. Establishing a new Mobilehome Park land use designation could promote the goals and policies of the General Plan, particularly as they relate to mobilehome parks. A Mobilehome Park designation could be similar to the R-MH Mobile Home Park Zoning District with the purpose of reserving land for the construction or preservation, and use and occupancy of mobilehome park development.

City-initiated General Plan amendments to change the land use designations of mobilehome parks would not directly prohibit mobilehome park owners from closing their parks, but could strengthen the protection of mobilehome park residents by creating an additional transparent public land use entitlement process to redevelop the sites. In addition to existing processes defined in the Municipal Code and City Council Policy 6-33, property owners wishing to close

and redevelop their mobilehome parks would need City Council approval of a General Plan land use amendment.

A General Plan amendment would already be needed or desired prior to redeveloping many of the current mobilehome parks with residential land use designations, because the Residential Neighborhood land use designation only allows a density of approximately eight dwelling units per acre. Of the 41 mobilehome parks with full residential General Plan land use designations, staff anticipates that at least two-thirds of those parks would require General Plan amendments given current development trends toward denser multifamily housing opposed to less dense traditional single-family homes.

Fourteen (14) parks have industrial or commercial land use designations. The General Plan includes robust policies against converting employment lands, particularly industrial designated lands. As a result, any proposals to redevelop the 14 mobilehome parks with commercial or industrial designations to facilitate residential uses would require a General Plan land use amendment.

#### *General Plan Text Amendments*

Additional General Plan text amendments could be considered to further strengthen displacement avoidance goals and policies focused on preserving mobilehome parks. Any new goals and policies would then need to be considered as part of future development applications or General Plan land use amendments associated with the redevelopment of a mobilehome park.

#### **Alternatives - Workload and Cost Analysis**

City Council could consider directing staff to consider one or a combination of General Plan tools listed above (land use overlay, land use amendments, or text amendments). The following is an estimation of the workload and costs applicable to the different alternatives.

##### *Alternative No. 1: General Plan Overlay and/or Land Use Amendments*

Implementing City-initiated General Plan land use amendments on all or a subset of mobilehome park sites would require significant staff resources. This work would include the following tasks:

Detailed site analysis: Staff would assess the existing conditions of each mobilehome park, including general conditions, access to utilities, and surrounding uses. This would include site visits to all or a subset of the mobilehome parks.

Analysis of General Plan goals and policies: Staff would analyze General Plan major strategies, goals, and policies in the context of mobilehome parks' sizes, locations, and surrounding uses to determine if alternative land use designations would be appropriate. This would include determining where it would be suitable to apply a new (proposed) mobilehome park designation, or other "commercial" or "industrial" land use designation given the context of the site.

Public outreach: In considering General Plan amendments, staff would continue a robust outreach program to gain input from stakeholders, including mobilehome park residents and owners. This would include community meetings, updates to the City webpage dedicated to information regarding mobilehome park preservation policies, and potential presentations to City commissions, such as the Senior Commission and/or Housing and Community Development Commission.

Environmental Analysis (CEQA): Environmental analysis under the California Environmental Quality Act (CEQA) of General Plan land use amendments to all or a subset of mobilehome parks would require preparation of an Initial Study to determine the appropriate document for environmental clearance. As part of the Initial Study, a long-range traffic analysis may need to be prepared to determine whether changing the land use designations of mobilehome park sites would result in a significant impact on the City's transportation network. Completion of the CEQA analysis would require hiring an environmental consultant.

Depending on the level of environmental review required, staff estimates it would take approximately 12 to 18 months, with appropriate staffing and consultant resources, to implement City-initiated General Plan land use amendments on all or a subset of those mobilehome park sites.

#### *Alternative No. 2: General Plan Text Amendments*

Developing new, or revising existing General Plan goals and policies to further strengthen the protection of mobilehome parks in isolation would require less staff and consultant resources than General Plan land use amendments. Staff estimates an approximately six to nine-month processing timeframe to incorporate additional mobilehome park preservation policies into the General Plan. Developing new General Plan text would include the following tasks:

- Analysis of General Plan goals and policies: Staff would evaluate new or revisions to existing General Plan text that could strengthen current displacement avoidance goals and policies focused on preserving mobilehome parks.
- Public outreach: General Plan text amendments require marginally less outreach as described above for land use amendments, if implemented on their own. In considering General Plan text amendments, staff would gain input from stakeholders by holding community meetings and by continuing to update the City's webpage on mobilehome park preservation policies.
- Environmental Analysis (CEQA): Environmental analysis under the California Environmental Quality Act (CEQA) of General Plan text amendments could require lesser environmental review than land use amendments because no land use changes would need to be analyzed. It is possible that the addition of new General Plan policies or the revision of existing policies could be determined to be consistent with the Envision San José 2040 General Plan Final Program EIR and Supplemental EIR.

*Alternative No. 3: No City Action*

Since 2015, the City has implemented several actions to protect current mobilehome park residents and preserve existing mobilehome parks. These include zoning code changes, General Plan text amendments, and adoption of a new City Council Policy as listed above. These actions establish General Plan policies to preserve existing mobilehome parks and strengthen and clarify requirements for future applications for mobilehome park closures and conversions. This alternative would not require additional staffing or other resources.

Staff Workload Analysis

Table 2 below summarizes staff’s estimated timeframe, costs, and level of environmental review needed to implement the three alternatives above.

**Table 2**

Alternative	Staff Resources and Costs	CEQA and Consultant Costs	Public Noticing and Outreach Costs	Total Costs	Timeframe
Alternative 1a: General Plan Overlay to “Commercial” or “Industrial”	<ul style="list-style-type: none"> <li>1.0 FTE – Planner III, PBCE (\$188,300 - \$251,100)</li> <li>0.5 FTE – Development Officer, Housing (\$70,300)</li> </ul>	ND or Addendum to the General Plan EIR, or Environmental Impact Report depending on outcome of Initial Study; including Traffic Impact Analysis (\$120,000)	\$15,000 (assumes 10 community meetings)	\$393,600 – 456,400	18 to 24 months
Alternative 1b: General Plan Land Use Amendments to Mobilehome Park Designation	<ul style="list-style-type: none"> <li>1.0 FTE - Planner III, PBCE (\$125,500 – 188,300)</li> <li>0.5 FTE – Development Officer, Housing (\$70,300)</li> </ul>	Negative Declaration, Addendum to the General Plan EIR, or Environmental Impact Report depending on outcome of Initial Study; including Traffic Impact Analysis (\$110,000)	\$13,000 (assumes 8 community meetings)	\$318,800 – 381,600	12 to 18 months
Alternative 2: General Plan Text Amendments	<ul style="list-style-type: none"> <li>0.5 FTE - Planner IV, PBCE (\$97,000)</li> <li>0.25 FTE – Development Officer, Housing (\$35,200)</li> </ul>	Determination of Consistency with the General Plan EIR (\$0)	\$6,000 (assumes 2 community meetings)	\$138,200	9 months
Alternative 3: No Action	N/A	N/A		\$0	N/A

## **Review of Law Foundation of Silicon Valley Recommendations**

The Law Foundation of Silicon Valley (Law Foundation) submitted a letter dated May 11, 2017, related to the actions considered by Council on May 16, 2017. Below is an analysis of the Law Foundation's recommendations and staff's assessment on those that can be implemented.

### ***1) Reject the proposed Mobilehome Park Protection and Closure Ordinance***

On May 16, 2017, City Council considered and voted not to adopt the proposed Mobilehome Park Closure Ordinance.

### ***2) If the proposed Closure Ordinance is not rejected entirely, it must be amended to address crucial flaws.***

On May 16, 2017, City Council considered and voted not to adopt the proposed Mobilehome Park Closure Ordinance. The City currently has an existing Mobilehome Park Conversion Ordinance as established in Section 20.180 of the Zoning Code. The Mobilehome Park Conversion Ordinance is applicable to mobilehome park closures and conversions.

### ***3) Adopt General Plan amendment changes.***

#### Establish a Mobilehome Park General Plan Land Use Designation

The Law Foundation recommended the City adopt a General Plan land use designation for mobilehome parks and apply that designation to all mobilehome parks. As previously stated, because the City Council actions since 2015 achieve significant protection for current mobilehome park residents, staff recommends consideration of General Plan land use designations for the two mobilehome parks with high density residential land use designations. Additionally, most sites would already require a legislative act by the Council (General Plan amendment) to develop at densities over approximately eight dwelling units per acre.

#### Establish a "No Net Loss" Policy of Land Zoned for Mobilehome Use

The Law Foundation recommended that the City amend the General Plan to include a "no net loss" policy restriction similar to the City's former industrial no net loss policy. The difference between San Jose's mobilehome parks and industrial lands is that mobilehome parks in the City are already subject to a number of state and local restrictions, including rent control. Adoption of a "no net loss" policy for mobilehome parks is not recommended due to the potential for a legal challenge.

#### General Plan Text Amendments

The Law Foundation recommended six specific General Plan text amendments as outlined in their May 11, 2017 letter. The recommended text amendments vary in detail and complexity, and focus on preservation of mobilehome parks and adding additional reporting in Urban Village plans related to affordable housing and socio-economics. Staff supports three of the Law Foundation's proposed revisions that incorporate text focused on housing preservation and



rehabilitation because they would be consistent with other General Plan housing policies. If directed by City Council, staff would bring to Council for consideration the three proposed revisions listed below in ~~strikeout~~/underline format as part of a future General Plan hearing cycle.

**Urban Village Planning Policy IP-5.2:** Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine-month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

**Housing – Social Equity and Diversity Policy 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.

**Housing – Social Equity and Diversity Policy 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.

The other three recommended text amendments by the Law Foundation are not supported by staff because they are overly detailed for General Plan policy and are currently addressed through the City's Mobilehome Park Conversion ordinance. These three recommended text amendments by the Law Foundation are as follows in ~~strikeout~~/underline format:

**Housing – Social Equity and Diversity Policy H-1.20:** Encourage that all proposed Ceonversions of Use or Changes of Use 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 purposes other than the rental, or the holding out for rent, of four (4) or more mobilehome sites or spaces to accommodate mobilehomes used for human habitations, including the cessation of use, to mitigate any adverse impact to enable residents to relocate to replacement housing that is affordable and equivalent, including but not limited to their location and amenities.

**Urban Village Planning Goal IP-5:** 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.

**Urban Village Planning 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. In furtherance of this policy and San José's obligation to affirmatively further fair housing choice, prepare and report on the number of affordable housing units, including rent stabilized units, and socio-economic characteristics of the of residents who reside in the Urban Village. Urban Village Planning should 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, should be conducted. Proceed generally in the order of the following timeline, although some steps may be taken concurrently:

**4) *Uniformly zone all mobilehome parks for this exclusive use.***

Thirty-five of the City's 59 mobilehome parks currently have an R-MH Mobilehome Park Zoning. Nineteen of the City's 59 mobilehome parks currently have a PD Planned Development Zoning for mobilehome park uses. Only five mobilehome parks have underlying zoning districts that do not conform to the existing mobilehome park use. Staff does not recommend City-initiated rezonings, because a majority of mobilehome parks are already zoned for mobilehome park uses, and redevelopment of any mobilehome park site would require consistency with a site's General Plan designation, regardless of its zoning. Additionally, of the five mobilehome parks that have non-conforming zoning districts, two of those parks also have an industrial General Plan land use designation. Rezoning to R-MH on sites with an industrial General Plan land use designation would be inconsistent with major strategies, goals, and policies of the General Plan.

**5) *Amend the Council Policy to further the intent of and clarify the Conversion Ordinance.***

Most of the Law Foundation's requested edits to Policy 6-33 would require the City to extend its role beyond the appropriate scope for the conversion review process. Some comments would result in an increase to the park owner's minimum requirements to engage in good faith negotiations with the City in a way that does not foster a cooperative joint process. Some comments would require that the City establish an entirely new appeal process for various procedures required by the mobilehome conversion ordinance. The amendments already incorporated in Policy 6-33 after months of public meetings and multiple rounds of comments from stakeholders including the Law Foundation are sufficient. The Policy currently contains an appropriate level of additional procedures to supplement the mobilehome conversion ordinance. The current Policy also reflects a robust outreach process and has been approved by City Council.

**Staff Recommendation**

Council actions taken since 2015, including adoption of a new City Council Policy, Zoning Code amendments, and General Plan text amendments achieve significant protection for current mobilehome park residents. Undertaking General Plan land use overlays or amendments would

HONORABLE MAYOR AND CITY COUNCIL

March 2, 2018

**Subject: Analysis of General Plan Amendments for Mobilehome Parks and Review of Law Foundation Recommendations**

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be a timely and costly process, requiring additional resources as outlined in Table 1. Accordingly, staff recommends that City Council refer to the next Council Priority Setting Session the consideration of General Plan land use amendments for the two mobilehome parks with high density residential land use designations. This would allow City Council to consider where this policy work ranks with other Council priorities led by PBCE and Housing. The most recent (March 2017) Council policy priority list is attached.

In addition, it is recommended that three minor General Plan text amendments recommended by the Law Foundation of Silicon Valley identified above be considered as part of a future General Plan hearing cycle.

### **EVALUATION AND FOLLOW-UP**

If the City Council refers consideration of the General Plan land use designations for the two mobilehome parks with high density residential land use designations, along with the required staffing and consultant resources, to the next Council Priority Setting Session, staff will evaluate and undertake the General Plan amendments.

### **PUBLIC OUTREACH**

Since Council direction was provided on February 23, 2016, City staff has presented policy and ordinance proposals for additional protection of existing mobilehome park residents, and has received public input on these items, at several public hearings and stakeholder forums including community meetings; the Housing and Community Development Commission; and the Senior Commission.

### **COORDINATION**

Preparation of this memorandum was coordinated with the City Attorney's Office and the Housing Department.

HONORABLE MAYOR AND CITY COUNCIL

March 2, 2018

**Subject: Analysis of General Plan Amendments for Mobilehome Parks and Review of Law Foundation Recommendations**

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**CEQA**

Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Staff Reports.

/s/

ROSALYNN HUGHEY, ACTING DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Jared Hart, Supervising Planner, at (408) 535-7896.

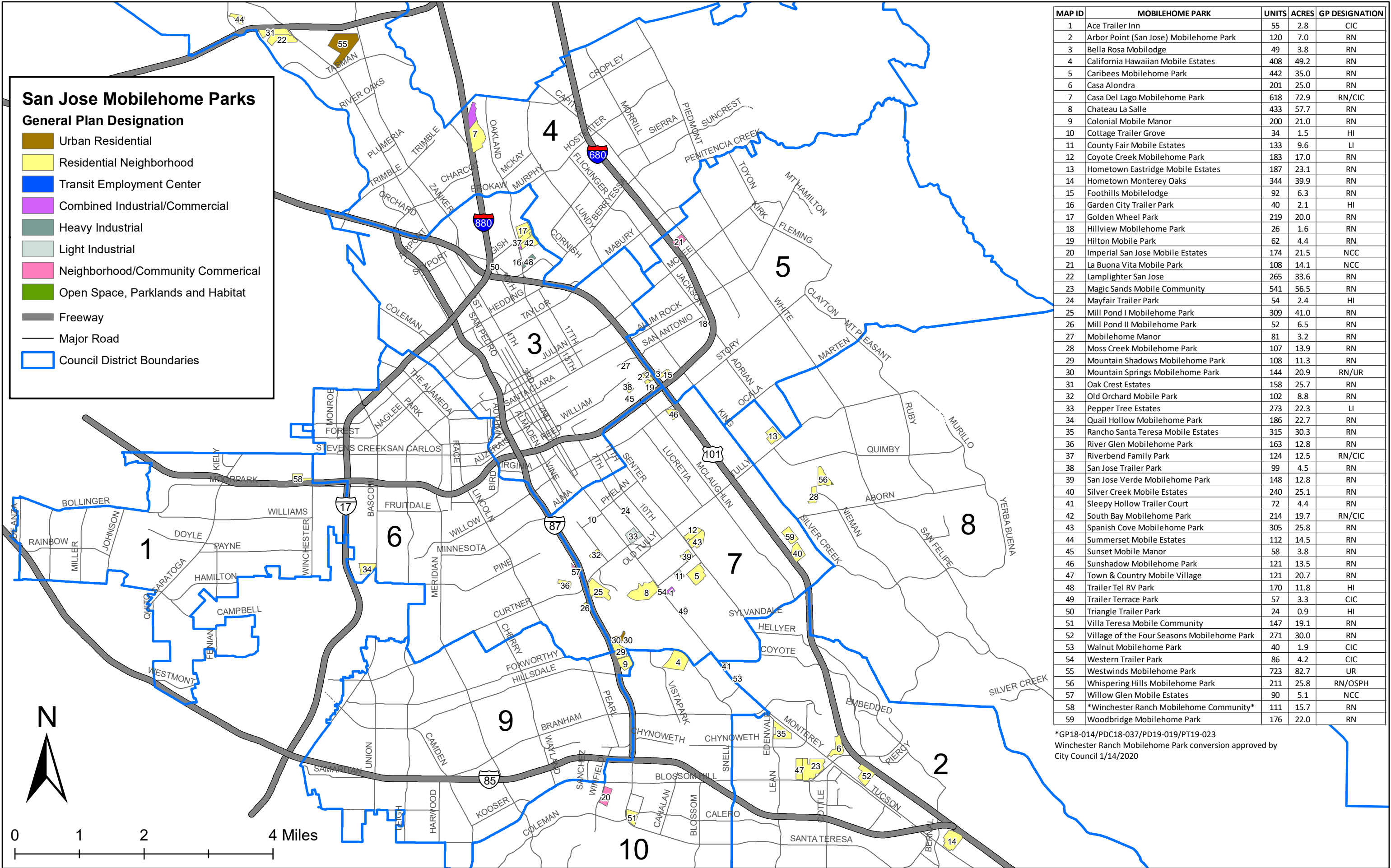
Attachments: A) Map of San José Mobilehome Parks with General Plan Designations  
B) Law Foundation of Silicon Valley letter, dated May 11, 2017  
C) Council Policy Priority List from March 7, 2017 (Item 3.3)

### San Jose Mobilehome Parks

**General Plan Designation**

- Urban Residential
- Residential Neighborhood
- Transit Employment Center
- Combined Industrial/Commercial
- Heavy Industrial
- Light Industrial
- Neighborhood/Community Commerical
- Open Space, Parklands and Habitat

Freeway  
 Major Road  
 Council District Boundaries



MAP ID	MOBILEHOME PARK	UNITS	ACRES	GP DESIGNATION
1	Ace Trailer Inn	55	2.8	CIC
2	Arbor Point (San Jose) Mobilehome Park	120	7.0	RN
3	Bella Rosa Mobilodge	49	3.8	RN
4	California Hawaiian Mobile Estates	408	49.2	RN
5	Caribees Mobilehome Park	442	35.0	RN
6	Casa Alondra	201	25.0	RN
7	Casa Del Lago Mobilehome Park	618	72.9	RN/CIC
8	Chateau La Salle	433	57.7	RN
9	Colonial Mobile Manor	200	21.0	RN
10	Cottage Trailer Grove	34	1.5	HI
11	County Fair Mobile Estates	133	9.6	LI
12	Coyote Creek Mobilehome Park	183	17.0	RN
13	Hometown Eastridge Mobile Estates	187	23.1	RN
14	Hometown Monterey Oaks	344	39.9	RN
15	Foothills Mobilodge	92	6.3	RN
16	Garden City Trailer Park	40	2.1	HI
17	Golden Wheel Park	219	20.0	RN
18	Hillview Mobilehome Park	26	1.6	RN
19	Hilton Mobile Park	62	4.4	RN
20	Imperial San Jose Mobile Estates	174	21.5	NCC
21	La Buona Vita Mobile Park	108	14.1	NCC
22	Lamplighter San Jose	265	33.6	RN
23	Magic Sands Mobile Community	541	56.5	RN
24	Mayfair Trailer Park	54	2.4	HI
25	Mill Pond I Mobilehome Park	309	41.0	RN
26	Mill Pond II Mobilehome Park	52	6.5	RN
27	Mobilehome Manor	81	3.2	RN
28	Moss Creek Mobilehome Park	107	13.9	RN
29	Mountain Shadows Mobilehome Park	108	11.3	RN
30	Mountain Springs Mobilehome Park	144	20.9	RN/UR
31	Oak Crest Estates	158	25.7	RN
32	Old Orchard Mobile Park	102	8.8	RN
33	Pepper Tree Estates	273	22.3	LI
34	Quail Hollow Mobilehome Park	186	22.7	RN
35	Rancho Santa Teresa Mobile Estates	315	30.3	RN
36	River Glen Mobilehome Park	163	12.8	RN
37	Riverbend Family Park	124	12.5	RN/CIC
38	San Jose Trailer Park	99	4.5	RN
39	San Jose Verde Mobilehome Park	148	12.8	RN
40	Silver Creek Mobile Estates	240	25.1	RN
41	Sleepy Hollow Trailer Court	72	4.4	RN
42	South Bay Mobilehome Park	214	19.7	RN/CIC
43	Spanish Cove Mobilehome Park	305	25.8	RN
44	Summerset Mobile Estates	112	14.5	RN
45	Sunset Mobile Manor	58	3.8	RN
46	Sunshadow Mobilehome Park	121	13.5	RN
47	Town & Country Mobile Village	121	20.7	RN
48	Trailer Tel RV Park	170	11.8	HI
49	Trailer Terrace Park	57	3.3	CIC
50	Triangle Trailer Park	24	0.9	HI
51	Villa Teresa Mobile Community	147	19.1	RN
52	Village of the Four Seasons Mobilehome Park	271	30.0	RN
53	Walnut Mobilehome Park	40	1.9	CIC
54	Western Trailer Park	86	4.2	CIC
55	Westwinds Mobilehome Park	723	82.7	UR
56	Whispering Hills Mobilehome Park	211	25.8	RN/OSPH
57	Willow Glen Mobile Estates	90	5.1	NCC
58	*Winchester Ranch Mobilehome Community*	111	15.7	RN
59	Woodbridge Mobilehome Park	176	22.0	RN

\*GP18-014/PDC18-037/PD19-019/PT19-023  
 Winchester Ranch Mobilehome Park conversion approved by City Council 1/14/2020

## Rivera, Robert

---

**From:** Jack Todd <djtt21@yahoo.com>  
**Sent:** Wednesday, August 21, 2019 8:57 AM  
**To:** Rivera, Robert  
**Subject:** RE: File No. GP 19-006

Thank you Mr.Rivera for your email. We are gonna keep praying to kerp our home & so many other's homes. Have a great day! Jack & Carol Todd

[Sent from Yahoo Mail on Android](#)

On Wed, Aug 21, 2019 at 8:46 AM, Rivera, Robert <[robert.rivera@sanjoseca.gov](mailto:robert.rivera@sanjoseca.gov)> wrote:

Hi Jack and Carol Todd,

Thank you for comments. I'll include them into the public record and will make sure that they are incorporated into the SR and Resolution to council. Let me know if you have further questions or comments.

Thanks,

Robert Rivera  
General Plan/Data Analytics | Planning, Building & Code Enforcement  
City of San José | 200 East Santa Clara Street, T3  
408-535-4843

-----Original Message-----

From: Jack Todd [mailto:[djtt21@yahoo.com](mailto:djtt21@yahoo.com)]  
Sent: Tuesday, August 20, 2019 7:21 PM  
To: Rivera, Robert <[robert.rivera@sanjoseca.gov](mailto:robert.rivera@sanjoseca.gov)>  
Subject: File No. GP 19-006

Hi Mr. Rivera, Thank You for listening to us at WestWinds! Take Care Jack & carol Todd

## Rivera, Robert

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**From:** Ed McGovern <ed.mcgovern@yahoo.com>  
**Sent:** Thursday, November 21, 2019 10:26 AM  
**To:** Rivera, Robert  
**Cc:** Hart, Jared; Pham, Kieulan  
**Subject:** Re: San Jose General Plan and mobilehomes

[External Email]

hello Mr. Rivera, could you please give me an update on the General Plan update process and if it has been voted on or if it will be coming up for a hearing soon. Again, specifically interested in the mobilehome protection issues. Thank you.

On Thursday, September 5, 2019, 05:59:30 PM GMT+2, Rivera, Robert <robert.rivera@sanjoseca.gov> wrote:

Hi Mr. McGovern,

The General Plan Amendment process is finished in the fall of 2019. We have not yet decided on a date for hearing but we will give notification prior to the date. We are aiming to go to Planning Commission in October or November and City Council in November or December. Planning Commission will provide a recommendation to City Council and City Council will be the ultimate decision-maker for the project. Also if you signed up during the community meeting, I'll be sure to email everyone on the list.

Thanks,  
Robert

---

**From:** Ed McGovern [mailto:ed.mcgovern@yahoo.com]  
**Sent:** Thursday, September 5, 2019 7:35 AM  
**To:** Rivera, Robert <robert.rivera@sanjoseca.gov>  
**Cc:** Hart, Jared <Jared.Hart@sanjoseca.gov>; Pham, Kieulan <kieulan.pham@sanjoseca.gov>  
**Subject:** Re: San Jose General Plan and mobilehomes

Mr Rivera: again thanks for your initial answers.

I sent a follow up email last week with some additional questions. Please see below.

Wanted to be sure you saw them and hopefully you'll have a chance to respond soon.

Thank you.

Sent from my iPhone

On Aug 29, 2019, at 11:34 AM, Ed McGovern <[ed.mcgovern@yahoo.com](mailto:ed.mcgovern@yahoo.com)> wrote:

Thank you for your answers. It helps alot.

What is the timeline for this change in zoning please? has it been completed or it will be completed in the future? and if in the future, approximately when?

Thank you.

On Wednesday, August 28, 2019, 02:28:54 AM GMT+2, Rivera, Robert <[robert.rivera@sanjoseca.gov](mailto:robert.rivera@sanjoseca.gov)> wrote:

Hi Mr McGovern,

My name is Robert Rivera and I am the project manager for the proposed General Plan Amendment on Westwinds Park.

The project is changing the General Plan designation of the site from Urban Residential to a new land use designation called Mobile Home Park. The new land use designation is intended to preserve and protect the existing mobile home park for the future.

The project is not related to the lease of the property from the property owners to Equity Lifestyle. The City is cannot control the property owner and the lease of the property. This new designation is intended to provide clarity from the City in regard to what the City envisions as the future use of the property. If the property owner would like to convert the mobile home park to ownership or another use they would be subject to the mobile home conversion ordinance and a General Plan Amendment.



I'm happy to answer any more questions or speak to you on the phone.

Thanks,  
Robert

**Robert Rivera**

General Plan/Data Analytics | Planning, Building & Code Enforcement

City of San José | 200 East Santa Clara Street, T3

408-535-4843

-----Original Message-----

From: Ed McGovern [<mailto:ed.mcgovern@yahoo.com>]

Sent: Tuesday, August 27, 2019 4:10 PM

To: Hart, Jared <[Jared.Hart@sanjoseca.gov](mailto:Jared.Hart@sanjoseca.gov)>

Subject: San Jose General Plan and mobilehomes

Hello Mr Hart:

I was given your name as someone who might be able to answer some questions about mobile home parks in general and particularly the Westwinds Park at 500 Nicholson Lane in San Jose.

I have an elderly Aunt and Uncle who live there and they have heard all kinds of rumors and stories that concern them.

Would you be able to help me with the following questions:

What is the zoning status of the Westwinds Park?

My Aunt and Uncle were told that San Jose city government was changing the zoning on the park as part of your General Plan process. Is this true? If so, what will the zoning become? What is the intention of the zoning change?

Obviously they are worried about losing their home in their elderly years.

And they also heard that the park operator - Equity Lifestyles- will be losing their lease in the next two years and the property owners intend to begin evicting people in order to build on the land. Is there any recourse if this happens or begins to happen?

Thank you for any help you can provide or if you can't help, could you direct me to someone who can?

My aunt and uncle are worried about asking questions directly as they fear what might happen if it was found out.

Thanks again.

Sent from my iPhone

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**Rivera, Robert**

---

**From:** Jeff Kershaw <jeff.kershaw@mac.com>  
**Sent:** Tuesday, August 20, 2019 8:21 AM  
**To:** Rivera, Robert  
**Subject:** File Nos. GP19-005

Dear Mr. Rivera:

Firstly I want to extend my thanks for your coming out to the Pearl library, even though the meeting had been canceled.

When we spoke, you offered to share the planning documents with me via email and I appreciate that. I'd like to review these documents as well as any council resolutions that led up to planning's amending the 2040 general plan as it pertains to the subject of Mountain Springs.

I look forward to reviewing the documents and again, thank you for sharing them with me.

Best regards,

Jeff Kershaw

## Rivera, Robert

---

**From:** Pinki Lii <rozeknoop@gmail.com>  
**Sent:** Tuesday, January 7, 2020 5:58 PM  
**To:** Rivera, Robert  
**Subject:** Re: GP19-006

[External Email]

And my fears were warranted! Park management has just informed us that the owners are in the process of trying to evict everyone so they can sell the land. Any updates? We're freaking out pretty hard!!

Thanks, CS Cabal

On Fri, Oct 25, 2019 at 4:07 PM Pinki Lii <[rozeknoop@gmail.com](mailto:rozeknoop@gmail.com)> wrote:

Thank you, I work until 1030p most nights, which makes it pretty much impossible to attend the community meetings. I'm in favor of the change, my fear is that it won't happen, and the land could get sold out from underneath us.

I appreciate your time and look forward to receiving updates.

Thanks, CS Cabal

On Fri, Oct 25, 2019, 15:31 Rivera, Robert <[robert.rivera@sanjoseca.gov](mailto:robert.rivera@sanjoseca.gov)> wrote:

Hi Pinki,

Sorry you couldn't make the community meetings. The General Plan land use designation has not yet gone to public hearing and we don't have a date set for hearing. I wanted to be clear and say that this project would not cause you to lose your home. Staff is working to create a new land use designation in order to protect the mobile home park for the future. The new land use designation would only allow a mobile home park use on the site and would require a General Plan Amendment or other process to change the land use designation.

I'll include you on the mailing list to be notified of the future hearing date.

Thanks,

**Robert Rivera**

General Plan/Data Analytics | Planning, Building & Code Enforcement  
City of San José | 200 East Santa Clara Street, T3  
408-535-4843

**From:** Pinki Lii [mailto:[rozeknoop@gmail.com](mailto:rozeknoop@gmail.com)]  
**Sent:** Thursday, October 24, 2019 8:47 PM  
**To:** Rivera, Robert <[robert.rivera@sanjoseca.gov](mailto:robert.rivera@sanjoseca.gov)>  
**Subject:** GP19-006

I'm trying to find out if the land use designation at 500 Nicholson has gone through?  
I live in that mobile home park, and am worried about losing my home, if the owners decide to sell.

Thanks, CS Cabal

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## Rivera, Robert

---

**From:** Dexter Goody <dexmke@yahoo.com>  
**Sent:** Saturday, January 4, 2020 11:44 AM  
**To:** Rivera, Robert  
**Subject:** Your communication skills are TERRIBLE!!!

[External Email]

Waiting for your communication is a joke!

You told us you would communicate regarding the zoning change for the mobile home parks and I trusted you at the meetings to hold your word but it seems like I was sadly misled by you!!

Because if that my house value has now dropped and I'm about to become homeless. You owe it to us to respond and let us know what's going on.

I came home yesterday to the attached letter that was taped to the side of my home from the office.

Please respond in a **TIMELY MANNER!!**

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



January 3, 2020

Site 504  
Dear Dexter Goody,

I hope you had a wonderful holiday season. As we start off 2020, we wanted to provide an important update regarding the community ground lease. The property on which Westwinds is situated is owned by The Nicholson Family Partnership. As you know, MHC Operating Limited Partnership operates and manages the community under a set of four ground leases which are set to expire as of August 31, 2022.

While MHC has an interest in continuing to manage Westwinds, representatives of The Nicholson Family Partnership have informed us that no lease extensions to MHC will be offered and have further demanded that the property be returned to them upon the expiration of MHC's leases free of all the residents, which would have the effect of displacing over 720 households and over 1,600 residents.

We believe this demand is unlawful and filed a lawsuit this week requesting relief for several reasons, including:

- The ground leases do not require removal of residents at the expiration of MHC's ground leases and instead provide for the continuous operation of the mobile home park,
- Compliance with The Nicholson Family Partnership's demand to remove residents prior to the ground lease expiration would require MHC to violate state and local law.

Displacing residents without cause or justification is contrary to the way we do business, and our lawsuit is the first step in opposing The Nicholson Family Partnership's outrageous demands that are in violation of the resident protections established by the State of California and the City of San Jose.

We will vigorously resist demands to remove residents during our lease term, particularly in a housing market in dire need of affordable housing such as San Jose. Our hope is that the Superior Court of Santa Clara County will agree with our position that the demand of The Nicholson Family Partnership is unreasonable and unlawful.

We realize this information likely leaves you with additional questions, and we will be working to keep you informed of new information as it becomes available. In the meantime, please feel free to stop by or call the management office at (408) 432-7440.

Sincerely,

Tricia Morales  
Community Manager

**DETERMINATION OF CONSISTENCY WITH THE  
ENVISION SAN JOSE 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL  
IMPACT REPORT (RESOLUTION NO. 76041 and SCH# 2009072096),  
SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 77617  
and SCH# 2009072096),  
AND ADDENDA THERETO**

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the project described below is pursuant to, or in furtherance of, the Envision San José 2040 General Plan Final EIR, Resolution No. 76041, Supplemental Final Program EIR to Envision San José 2040 General Plan EIR, Resolution No. 77617, and Addenda thereto; Downtown Strategy 2040 Final Program EIR, Resolution No. 78942 and Addenda thereto; North San José Development Policies EIR, Resolution No. 72768, and Addenda thereto; and Diridon Station Area Plan Final Program EIR, Resolution No. 77096 and Addenda thereto (collectively, the “Final Program EIRs”). The City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs.

**File Number and Project Name:** GPT19-003, GP19-005, and GP19-006  
General Plan Amendments for the new Mobile Home Park land use designation.

**Project Description:**

**GPT19-003:** City-Initiated General Plan Text Amendment to the make minor revisions to the Envision San José 2040 General Plan text related to mobile home preservation and to establish a Mobile Home Park land use designation that can be applied only on existing mobile home parks. The proposed City-initiated General Plan text amendment to create a new Mobilehome Park land use designation is detailed below, and would be added to Chapter 5 (“Interconnected City”) of the *Envision San José 2040 General Plan*, in the “Land Use Designations” section.

**Mobilehome Park**

Density: No greater than 25 mobile home lots (as defined in San José Municipal Code Chapter 20.200) per acre

This designation allows for the construction, use and occupancy of a Mobilehome Park as defined in Section 18214 of the California Health and Safety Code, as amended. The intent of this designation is to preserve existing housing stock and to reduce and avoid the displacement of long-term mobilehome residents. New residential development in this designation is limited to mobilehome parks and incidental uses for mobilehome park residents such as clubhouses and community rooms, pools, parks, and other common areas. New infill development of mobilehome park uses must match the density of mobilehome lots in the existing mobilehome park.

**GP19-005:** City-initiated General Plan Amendment to change the Envision San José 2040 General Plan land use designation from *Urban Residential* and *Residential Neighborhood* to *Mobilehome Park* on an approximately 21.71-gross acre site.

**GP19-006:** City-initiated General Plan Amendment to change Envision San José 2040 General Plan Land-Use designation from *Urban Residential* to *Mobilehome Park* on an approximately 83.43 gross acre site.



**Location:**

GPT19-003: Citywide

GP19-005: APNs: 455-10-032 and -048 (625 Hillsdale Avenue)

GP19-006: APNs: 097-51-002; 097-07-026 and -027; 097-81-001, -002, -003, and -004 (500 Nicholson Lane)

**Council District:** GPT19-003: Citywide; GP19-005: District 7; GP19-006: District 4

The environmental impacts of this project were addressed by a Final Program EIR entitled, "Envision San José 2040 General Plan Final EIR," adopted by City Council Resolution No. 76041 on November 1, 2011, and addenda thereto; and Supplemental Program EIR entitled, "Envision San José 2040 General Plan Supplemental EIR," adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The Final Program EIR and Supplemental Program EIR were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2035. The following impacts were reviewed and found to be adequately considered by the EIRs:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Aesthetics                      | <input checked="" type="checkbox"/> Mineral Resources                  |
| <input checked="" type="checkbox"/> Agriculture Resources           | <input checked="" type="checkbox"/> Noise                              |
| <input checked="" type="checkbox"/> Air Quality                     | <input checked="" type="checkbox"/> Energy                             |
| <input checked="" type="checkbox"/> Biological Resources            | <input checked="" type="checkbox"/> Population and Housing             |
| <input checked="" type="checkbox"/> Cultural Resources              | <input checked="" type="checkbox"/> Public Services                    |
| <input checked="" type="checkbox"/> Geology and Soils               | <input checked="" type="checkbox"/> Recreation                         |
| <input checked="" type="checkbox"/> Hazards and Hazardous Materials | <input checked="" type="checkbox"/> Transportation/Traffic             |
| <input checked="" type="checkbox"/> Hydrology and Water Quality     | <input checked="" type="checkbox"/> Utilities and Service Systems      |
| <input checked="" type="checkbox"/> Land Use and Planning           | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

**ANALYSIS:**

**GP19-005 and GP19-006:** Properties at 625 Hillsdale Avenue and 500 Nicholson are currently operating as mobile home parks (i.e., Mountain Springs Mobile Home Park and Westwinds Mobile Home Park). Both properties are currently designated *Urban Residential* in the General Plan. Under the Urban Residential designation, the property could potentially be developed to include a broad range of commercial uses, including retail, offices, and hospitals and have a minimum residential density of 30 dwelling units per acre. The proposed new land use designation of *Mobilehome Park* in the General Plan is intended to allow only mobile park uses, and therefore, would not change the existing uses on the sites.

**GPT19-003:** The new designation will only be placed on sites with existing mobile homes. As with the two properties discussed above, the new designation would maintain an existing use and would not result in a change to the existing use. The sole purpose of this General Plan Text Amendment is to ensure that the current use remains and cannot be changed without further review. The proposed project is within the scope of the Envision San José 2040 General Plan, General Plan EIR, General Plan Supplemental EIR, and addenda thereto, pursuant to CEQA and CEQA Guidelines Section 15168(c)(2). Additionally, the project conforms to the goals and policies of the Envision San José 2040 General Plan. It is determined that the proposed strategic plan update does not involve any physical changes to the environment and no new significant impacts will occur pursuant to CEQA Guidelines 15162.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

2/4/20  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Deputy

The following  
items were  
received after  
packets were  
distributed.

**From:** Clements, Kristen  
**Sent:** Tuesday, February 4, 2020 10:30 AM  
**To:** Taber, Toni <[toni.taber@sanjoseca.gov](mailto:toni.taber@sanjoseca.gov)>; Boards and Commissions Support <[commissions@sanjoseca.gov](mailto:commissions@sanjoseca.gov)>  
**Cc:** Nguyen, Viviane <[viviane.nguyen@sanjoseca.gov](mailto:viviane.nguyen@sanjoseca.gov)>; Henninger, Ragan <[ragan.henninger@sanjoseca.gov](mailto:ragan.henninger@sanjoseca.gov)>; VanderVeen, Rachel <[Rachel.VanderVeen@sanjoseca.gov](mailto:Rachel.VanderVeen@sanjoseca.gov)>; Morales-Ferrand, Jacky <[Jacky.Morales-Ferrand@sanjoseca.gov](mailto:Jacky.Morales-Ferrand@sanjoseca.gov)>; Hughey, Rosalynn <[Rosalynn.Hughey@sanjoseca.gov](mailto:Rosalynn.Hughey@sanjoseca.gov)>; Hart, Jared <[Jared.Hart@sanjoseca.gov](mailto:Jared.Hart@sanjoseca.gov)>; Brilliot, Michael <[Michael.Brilliot@sanjoseca.gov](mailto:Michael.Brilliot@sanjoseca.gov)>  
**Subject:** Letter from HCDC on Mobilehome Park General Plan Designations

Hi Toni –

Attached please find a letter from HCDC on Mobilehome Park General Plan Designations. Please put this as part of the March Council package when it comes forward from Planning Commission on 2/12. Am copying PBCE leadership as well, FYI.

Thank you!  
Kristen

---

**Kristen Clements**

Division Manager – Policy, Grants & Commission

San José Housing Department

408-535-8236 | [kristen.clements@sanjoseca.gov](mailto:kristen.clements@sanjoseca.gov)

*Our mission is to strengthen and revitalize our community through housing and neighborhood investment.*



February 4, 2020

Mayor Sam Liccardo  
Members of the San José City Council  
200 E. Santa Clara St., 18<sup>th</sup> Floor  
San José, CA 95113

**RE: Recommendation to Support the New General Plan Mobilehome Park Designation and Apply to All Mobilehome Parks**

Dear Honorable Mayor Liccardo and City Council,

This letter is to convey to the Mayor and City Council the San José Housing and Community Development Commission's recommendation to support creating a new General Plan Mobilehome Park designation and to apply the new designation to all Mobilehome Parks in San José.

The Commission approved this recommendation by an 8-0-2 vote at its January 23, 2020 meeting.

Thank you for your consideration of these recommendations. If you have any questions, please feel free to contact me at [HCDC6@sanjoseca.gov](mailto:HCDC6@sanjoseca.gov).

Sincerely,

/s/  
Andrea Wheeler  
Commission Chair

cc: Rosalynn Hughey, Department of Planning, Building & Code Enforcement

**From:** Hall,Sabina  
**Sent:** Monday, February 10, 2020 3:50 PM  
**To:** 'planningcom4@sanjoseca.gov' <[planningcom4@sanjoseca.gov](mailto:planningcom4@sanjoseca.gov)>;  
'planningcom7@sanjoseca.gov' <[planningcom7@sanjoseca.gov](mailto:planningcom7@sanjoseca.gov)>;  
'planningcom2@sanjoseca.gov' <[planningcom2@sanjoseca.gov](mailto:planningcom2@sanjoseca.gov)>;  
'planningcom3@sanjoseca.gov' <[planningcom3@sanjoseca.gov](mailto:planningcom3@sanjoseca.gov)>;  
'planningcom5@sanjoseca.gov' <[planningcom5@sanjoseca.gov](mailto:planningcom5@sanjoseca.gov)>;  
'planningcom6@sanjoseca.gov' <[planningcom6@sanjoseca.gov](mailto:planningcom6@sanjoseca.gov)>;  
'planningcom1@sanjoseca.gov' <[planningcom1@sanjoseca.gov](mailto:planningcom1@sanjoseca.gov)>  
**Cc:** Houston, Jolie <[Jolie.Houston@berliner.com](mailto:Jolie.Houston@berliner.com)>; Faber, Andrew L.  
<[Andy.Faber@berliner.com](mailto:Andy.Faber@berliner.com)>; Ungo-McCormick, Deborah <[Deborah.Ungo-McCormick@berliner.com](mailto:Deborah.Ungo-McCormick@berliner.com)>  
**Subject:** SJPC Letter 2.10.20.pdf

Please find the attached letter from the Nicholson Family Partnership for your consideration re Agenda Item No. 8.a.

**Sabina Hall-Xavier**  
Litigation Secretary for  
Jolie Houston  
Ralph J. Swanson  
Susan E. Bishop  
Emily J. Tewes



San Jose | Modesto | Merced

10 Almaden Blvd., Eleventh Floor | San Jose, California 95113 | 408.286.5800 | F 408.998.5388 | [www.berliner.com](http://www.berliner.com)



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Please consider the environment before printing this email.

The **Nicholson** Family Partnership  
335 Spreckels Drive  
Suite G  
Aptos, CA 95003

February 10, 2020

T 831.662.2550  
F 831.662.1955  
E bn@got.net

VIA E-MAIL & U.S. MAIL

Shiloh Ballard  
Chairperson of the Planning Commission  
City of San Jose  
200 E. Santa Clara St.  
San José, CA 95113  
[Planningcom4@sanjoseca.gov](mailto:Planningcom4@sanjoseca.gov)

Re: GPT 19-003, GP 19-005, GP 19-006  
Hearing Date February 12, 2020



Dear Ms. Ballard and Members of the Planning Commission:

This letter is written on behalf of The Nicholson Family Partnership (TNFP) which owns the 83 acres of land in North San Jose where the Westwinds Mobilehome Park is located and that would be the subject of this new General Plan designation. TNFP does not own the Mobilehome Park itself and did not establish it. Westwinds Mobilehome Park was established pursuant to four ground leases entered into almost 50 years ago with the predecessor of the current operator. The leases all expire in August 2022.

As you know, the current lessee and operator of the Park, MHC, has sued us, and that matter is currently in litigation. We understand that the filing of this lawsuit has caused some consternation among the residents of the Park. Let me repeat in this letter that the protection of the tenants is the highest priority for TNFP. In keeping with that, we will do everything we can to provide safer, more stable and viable long-term housing solutions for all of Westwinds current residents.

For the record, we are opposed to the City's redesignating the property in the General Plan with the MH designation. We believe that such designation is unnecessary and will limit options for future use of the property, including planning processes that would be in the best interest of the residents, the City, and TNFP.

In the General Plan of the City of San Jose adopted in 2011 (the current General Plan) the property was given the designation of Urban Residential, which would allow multi-family development at densities of 30-95 units per acre. This was in obvious recognition of the fact that mobilehome park use was always intended and understood by the City to be temporary. With San Jose's enormous need for more housing, particularly in the North San Jose area, this 83-acre site should ultimately be redeveloped with higher

Shiloh Ballard  
Members of the Planning Commission  
February 10, 2020

density – and the site is large enough that such redevelopment could be accomplished in a phased manner to fully protect the current residents.


Last year, we entered into discussions with City Staff to explore the alternative approach of using the MH designation for the property, but with an overlay of the existing designation, Urban Residential. I am attaching hereto a copy of our proposal, (based on language originally proposed by City Staff) as to how this General Plan overlay could be implemented. As you can see, any future development of the property would require City Council approval by ordinance of a Development Agreement with extensive tenant protections, potentially including relocations, buyouts, and making affordable units in a new project available. With the City Council having complete control of the process, there is simply no need to put the MH designation on the property without the overlay.

In addition, we question, for the record, the process that is being used to implement this designation, including the lack of study of the environmental implications (and thus, violations of CEQA) resulting from changing a General Plan designation from high density residential to low density Mobilehome Park.

We understand that as a result of the publicity caused by the lawsuit filed against TNFP, there is a need for some political action by the City Council. However, we believe that the use of the MH designation with the UR overlay would better achieve the results desired by the City, TNFP, and residents themselves.

Thank you for your consideration in these comments. Please include this letter in the record of this proceeding.

Very truly yours,



The Nicholson Family Partnership  
By Bruce Nicholson, Co-Manager  
of the General Partner

Enclosure

cc: Rosalynn Hughey, Secretary of the Planning Commission  
Jared Hart  
John Nicholson  
Johnny Phan, Esq.  
Andrew L. Faber, Esq.

Shiloh Ballard  
Members of the Planning Commission  
February 10, 2020

## CITY DRAFT OVERLAY LANGUAGE

### Mobilehome Park Transition Overlay

This overlay is intended to protect existing mobilehome owners from the adverse impacts of mobilehome park conversion, including displacement of park residents and the lack of adequate replacement housing, while allowing development in accordance with an Urban Residential designation to provide higher density housing consistent with General Plan policies. Conversions of existing mobilehome parks in the City of San Jose to other uses may result in the permanent displacement of existing mobilehome residents, increased risk of homelessness for lower-income mobilehome residents, loss of a large amount of relatively affordably-priced housing and reduction of housing-type choice, and the destruction of established residential communities.

This overlay applies to mobilehome parks with a Mobilehome Park land use designation and supports residential or mixed-use development as an alternate use consistent with the Urban Residential land use designation subject to the mobilehome park owner and the City entering into an approved Development Agreement that, in addition to meeting all requirements in Chapter 20.180 of the Zoning Ordinance and City Council Policy 6-33, includes a program of relocation and purchase assistance that provides sufficient subsidies and other measures to allow existing residents to find other adequate, safe housing priced at a level that does not create an additional housing burden, and addresses the relocation of, and cost of relocation of, mobilehome owners to other mobilehome parks or reasonable replacement housing that is affordable and comparable in size. The Development Agreement may include some or all of the following components:

- 1) Applicant negotiation with mobilehome owners regarding a program of relocation and purchase assistance, with mobilehome owners being offered a right to replacement housing in newly constructed residential units priced at a level that does not create an additional housing burden.
- 2) Construction of the new development being phased to the extent feasible such that mobilehome owners who will move into the newly constructed residential units can continue to live on-site while new residential units are being constructed, unless it would adversely affect the health or safety of the mobilehome residents residing on-site during construction.
- 3) Construction of the same or greater number of residential units than will be displaced in the mobilehome park and with similar bedroom count.



**From:** Nadia Aziz [<mailto:Nadia.Aziz@lawfoundation.org>]

**Sent:** Wednesday, February 12, 2020 5:03 PM

**To:** Planning Commission 4 <[PlanningCom4@sanjoseca.gov](mailto:PlanningCom4@sanjoseca.gov)>; Planning Commission 1 <[PlanningCom1@sanjoseca.gov](mailto:PlanningCom1@sanjoseca.gov)>; Planning Commission 2 <[PlanningCom2@sanjoseca.gov](mailto:PlanningCom2@sanjoseca.gov)>; Planning Commission 3 <[PlanningCom3@sanjoseca.gov](mailto:PlanningCom3@sanjoseca.gov)>; Planning Commission 5 <[PlanningCom5@sanjoseca.gov](mailto:PlanningCom5@sanjoseca.gov)>; Planning Commission 6 <[PlanningCom6@sanjoseca.gov](mailto:PlanningCom6@sanjoseca.gov)>; Planning Commission 7 <[PlanningCom7@sanjoseca.gov](mailto:PlanningCom7@sanjoseca.gov)>

**Cc:** City Clerk <[city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov)>

**Subject:** GPT19-003, GP19-005 and GP19-006

[External Email]

Dear Planning Commission:

Please see the attached letters from the Law Foundation of Silicon Valley on item GPT19-003, GP19-005 and GP19-006, as well as prior letters sent to the City Council on this issue. I apologize for the late submission.

Sincerely,

**Nadia Aziz | Directing Attorney | Housing**

Pronoun: she/her

[nadia.aziz@lawfoundation.org](mailto:nadia.aziz@lawfoundation.org) | p 408-280-2453 | f 408-296-0103

The logo for the Law Foundation of Silicon Valley features the text "Law Foundation" in a large, bold, dark red font, with "OF SILICON VALLEY" in a smaller, dark red font to its right. Above the word "Foundation" is a stylized red sunburst icon.

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[www.lawfoundation.org](http://www.lawfoundation.org)

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**We have moved! Please note our new address.**



# LAW FOUNDATION of Silicon Valley

4 N. 2<sup>nd</sup> Street., 13<sup>th</sup> Floor  
San Jose, California 95113

Fax (408) 293-0106 • Telephone (408) 280-2453 • TDD (408) 294-5667

By Electronic Mail

February 12, 2020

Planning Commission  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: GPT19-003, GP19-005 and GP19-006**

Dear Planning Commission:

The Law Foundation supports the proposal to add a Mobile Home Park General Plan designation to Mountain Springs and Westwinds Mobile Home Park, but urge the Planning Commission to recommend that this designation apply to *all* parks whose current General Plan designation puts them at risk of redevelopment. Additionally, we recommend that the Planning Commission encourage Council to take additional steps to protect mobile home parks, as outlined in our prior letters (attached).

It is unfortunate that we are here, nearly two years after the City Council declined to move forward with a General Plan designation for all at-risk parks, to move with urgency to protect Westwinds Mobile Home Park. As mobile home parks continue to be at risk of development, this City should **take all necessary steps** to ensure that the over 35,000 mobile home residents, many low-income, seniors, and people of color remain in San Jose. When that many residents are at risk of displacement, the answer should never be that we've done enough as a City, but instead that we will take the most protective steps we can. As the memo admits, the City has chosen staffing concerns over the most expansive protections for our mobile home residents. Let us not wait until yet again another park is at risk of closure before we are back here asking to take further action; let us take the most protective steps now.

Additionally, we encourage the City to consider other protections for mobile home resident, including considering preservation strategies such as community-based and resident-based homeownership models. Thank you for considering the Law Foundation's comments. We welcome the opportunity to discuss our letter.

Sincerely,

Nadia Aziz, Directing Attorney



# LAW FOUNDATION of Silicon Valley

## *Fair Housing Law Project*

152 North Third Street, 3<sup>rd</sup> Floor

San José, California 95112

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

May 11, 2017

### *Via Electronic Mail*

San José City Council  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: City Council Meeting, May 16, 2017  
Agenda Items 4.1 and 10.1, Mobilehome Park Protection and Closure Ordinance**

Dear Mayor, Vice Mayor, and Council Members:

The Law Foundation appreciates this opportunity to comment on staff's recommendations regarding Mobilehome Park Protection and the Closure Ordinance. Although we appreciate staff's work, their proposed land use policy changes do not go far enough to protect mobilehome park residents and preserve mobilehome parks. We have included recommendations, below, which will help preserve San José's mobilehome parks and protect residents. San José's land use policies must be strengthened particularly in light of Council's upcoming consideration of the Mobilehome Park Closure Projects Ordinance that, unless rejected or substantially amended as we recommend, will threaten to facilitate the displacement of thousands of residents and destruction of thousands of naturally affordable and rent-stabilized homes from San José's housing stock.

The Law Foundation urges the Council to:

1. Reject the unnecessary proposed Closure Ordinance;
2. If the proposed Closure Ordinance is not rejected entirely, amend it to address crucial flaws;
3. Amend the General Plan text amendments proposed by staff as we have recommended;
4. Uniformly zone all mobilehome parks throughout the City; and
5. Amend the Council Policy to further the intent of and clarify the Conversion Ordinance.

## **Policy Recommendations**

### **1. Reject the Proposed Closure Ordinance.**

Although San José originally prioritized study and adoption of policies that would preserve mobilehome parks and protect residents, if adopted, the proposed Closure Ordinance will undermine this duty because it will facilitate the displacement of mobilehome park residents and destruction of affordable homeownership housing units across our city. The proposed Closure Ordinance must be rejected entirely because (1) it is unnecessary under the existing mobilehome Conversion Ordinance, where closure is already covered as a “change of use”; (2) it is unnecessary under state law because mobilehome park owners do not have an unmitigated right to go out of business; and (3) it is harmful to the City and its residents because it prevents the evaluation and mitigation of impacts as authorized and required under state laws.

We agree and hereby incorporate William Constantine’s legal analysis of and objections to the proposed Closure ordinance; Mr. Constantine’s letter of May 9, 2017, explains that the Closure Ordinance is not only *not* required by state law and inconsistent with Housing Element law—as we explain below—but that it itself violates state law.

#### **A. The proposed Closure Ordinance is unnecessary because San José’s existing Conversion Ordinance encompasses all proposals to change the use of a mobilehome park, including closing it.**

The proposed Closure Ordinance is completely unnecessary in light of the existing Conversion Ordinance, which covers closure. The Mobilehome Conversion of Use Ordinance (“Conversion Ordinance”) defines “mobilehome park conversion of use” as a conversion to “*any other use*, excluding mobilehome park conversion to ownership.” (Conversion Ordinance § 20.18.190, emphasis added.) The Conversion Ordinance was enacted to establish requirements and procedures for the control and approval of the conversion of mobilehome parks to other uses, including non-mobilehome park uses. (Conversion Ordinance § 20.180.010(A).) By the plain language of the Conversion Ordinance, it is applicable all changes of use, including closure. The City Attorney supported this position as recently as last summer.

For 30-plus years, the City has maintained that all applications to convert the use of a mobilehome park, including closing it, were to be processed through the Conversion Ordinance. As they have purchased mobile homes, rented homes, raised families, and invested in the improvement of their homes and surrounding parcel, the many residents of the City’s 50-some parks have understood their rights with respect to closure in this context.

In August 2015, the City Attorney issued a memo to the Mayor and City Council that stated that mobilehome park owners seeking to change the use of a park, including closing it, must submit an application and comply with the procedures of the City’s Zoning Code, including the Conversion Ordinance. (Rick Doyle, City Attorney, Memorandum to the Honorable Mayor and Council, August 6, 2015, p. 5.) Council Policy 6-33, which was adopted on February 23, 2016, also made clear that the Conversion Ordinance’s definition of “Mobilehome Park

Conversion of Use” should not be interpreted to exclude projects described as “park closures” and that they are subject to the Conversion Ordinance’s requirements. (Conversion of Mobilehome Parks to Other Uses, Council Policy 6-33, Number 77673, adopted February 23, 2016, 1(e).)

**B. Nothing in State law compels San José to adopt a Closure Ordinance in addition to its existing Conversion Ordinance.**

There is no provision in State law that requires San José to adopt a Closure Ordinance. In fact, nothing in State law prevents San José from continuing to rely on its Conversion Ordinance for park closure projects. The Ellis Act, which applies to the withdrawal of certain types of non-ownership rental property from the housing market, does not apply to the change of use of mobilehome parks, by its own terms. (Cal. Gov’t Code § 7060.7(f)). The Ellis Act does not apply to mobilehome park change of use projects, including those labeled as park closures, and it should not guide San José’s mobilehome preservation policies.

Despite this, two cases, *Levin v. City and County of San Francisco* and *Coyne v. City and County of San Francisco*,<sup>1</sup> which interpret the Ellis Act, are frequently cited by park owners to persuade San José that its ability to review and condition applications to close mobilehome parks is limited. Both *Levin* and *Coyne* concerned limits on mitigation measures San Francisco could impose on landlords, not mobilehome park owners, who sought to withdraw their residential rental units under their local Ellis Act ordinance. Neither of these cases pertains to mobilehome conversions, and as such, neither control San José’s ability to require mitigation related to impacts from the closure of a mobilehome park.

Park owners claim that *Keh v. Walters* made clear that park owners have an absolute right to close their parks. In this case, a park owner attempted to close their park by evicting park residents one at a time. (*Keh v. Walters* (1997) 55 Cal. App. 4th 1522, 1533.) The park owner argued that they had a “fundamental vested right” to go out of business. (*Id.*) The court disagreed. (*Id.*) The court held that the park owner’s practice violated both the letter and the spirit of Civil Code § 798.56, the change of use statute. (*Id.*)

Although the court did state that, in its opinion, “a park owner is entitled to convert property used as a mobilehome park to another use, or even to hold it as vacant land,” the court did not say that this right was unfettered. (*Id.*) In fact, the court stated that despite its opinion, or view, its task was limited to interpreting and applying the law. (*Id.*) The court went on to say that park owners have to comply with both State laws *and local ordinances that govern conversion*, including “disclos[ing] and describ[ing] in detail the nature of the change of use” at the time they issued a notice pertaining to their proposal to change the use of the park. (*Id.* at 1533-34, emphasis added.)<sup>2</sup>

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<sup>1</sup> *Levin*, (2014) 71 F.Supp.3d 1072; *Coyne*, (March 21, 2017, CGC-14-540709, CPF-15-514382), \_\_ Cal.App.4th \_\_ < <http://www.courts.ca.gov/opinions/documents/A145044.PDF>>.

<sup>2</sup> The court also stated that the State Legislature wanted to “protect mobilehome dwellers, not only from arbitrary and capricious conversions but also from the harsh effects of displacement resulting from legitimate conversions,” so this is why it required park owners to [first] provide a detailed description and disclosure about the proposed

We understand the City Attorney's office may rely on the unpublished case of *Traphagen v. City of Dana Point* (2007 Cal. App. Unpub. LEXIS 2650) to justify the need for a closure ordinance. This reliance is misplaced. The case was wrongly decided and it fails to fully recognize the authority granted to local jurisdictions in requiring mitigation of changes of use of mobilehome parks.<sup>3</sup> First, the court in that case incorrectly suggested that the Ellis Act permits mobilehome park owners to simply go out of business (see above—the Ellis Act, by its very terms, does not apply to mobilehome parks). Moreover, the court's statement that mobilehome park closures are "ministerial" in nature, rather than "discretionary" land use decisions was made without analysis, in a different context, and is not citable authority.<sup>4</sup>

As we have identified above, nothing in State law provides park owners with an unfettered right to go out of business. Instead, *Keh v. Walters* makes clear that park owners who seek to change the use of their parks, including closing them, must abide by both State and local change of use ordinances. It also emphasized our State Legislature's intention to protect park residents from arbitrary and capricious conversions. San José's Conversion Ordinance, not the Closure Ordinance, would protect against capricious conversions, since the Council would be able to analyze the host of impacts that such a project would trigger. Therefore, nothing in State law compels San José to adopt a Closure Ordinance in addition to its existing Conversion Ordinance.

**C. The proposed Closure Ordinance should also be rejected because it prevents San José from evaluating and mitigating impacts of park closure as authorized and required under state laws.**

Additionally, San José has the authority to evaluate and mitigate adverse impacts that a proposed mobilehome park closure will generate, since these will not be limited only to the terrible prospect of resident displacement from our City. Whether a park owner intends to convert and redevelop a mobilehome park or close it and wait to redevelop it, there are adverse impacts that affect displaced residents, the City's affordable housing stock, and our environment. All of these impacts must be evaluated and mitigated, even if a park owner only seeks to close the park. Government Code section 65863.7 allows the study and mitigation of adverse impacts

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future use of the park under Civil Code section 798.56. (*Id.*) The court found that a statement about some yet-to-be-determined change of use did not meet the statutory requirement for terminating a tenancy that Civil Code section 798.56 requires. (*Id.*)

Unfortunately, San Jose is on the verge of adopting the proposed Closure Ordinance that likely runs afoul of the requirements of Civil Code section 798.56, since it is poised to allow park owners to simply certify that, at the moment they apply for park closure, that they don't want to be in business any longer. This is not the detailed description that the court in *Keh v. Walters* held that Civil Code section 798.56 requires to prevent arbitrary and capricious conversions.

<sup>3</sup> Government Code section 65863.7(e) grants local legislative bodies the power to "require, as a condition of [a mobilehome change of use], the [party proposing the change] to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation."

<sup>4</sup> California Rule of Court 8.1115 states that opinions of the California Court of Appeal that are unpublished generally "must not be cited or relied on by a court or a party in any other action."

from a park owner's proposal to change the use of a park on park residents when a subdivision is not concurrently sought.

One of the potential impacts of a closure is the diminution of the City's affordable housing stock. San José has a duty to conserve and improve the condition of its existing affordable housing stock, which includes mobilehome housing units. This duty comes from State law, which requires cities to adopt a Housing Element.<sup>5</sup> The Housing Element is a component of the General Plan, and it specifies the actions that a jurisdiction will take to promote the development of new affordable housing units and preserve existing affordable housing units that will be demolished by public or private action.<sup>6</sup> Maintaining San José's existing affordable housing stock is the most efficient way to fulfill the City's duty to conserve and improve the existing affordable housing stock.

Mobilehomes are an important component of the existing affordable housing stock, with nearly 11,000 mobilehomes in 59 parks throughout the City.<sup>7</sup> These parks and mobilehomes provide a vital source of unsubsidized affordable housing to San José's residents. In a city that largely seeks to meet its affordable housing needs through subsidized housing, San José's mobilehome parks provide residents with modest and/or fixed incomes with homeownership opportunities<sup>8</sup> and modest regulated rents<sup>9</sup> relative to most apartments in San José. San José previously estimated that up to 73% of mobilehome owners are low- to extremely-low-income, which means that mobilehomes provide housing for nearly 8,000 of San José's low- to extremely-low income households.<sup>10</sup>

Mobilehome parks are under increasing threat of closure, or have closed, in Santa Clara County. At least two park owners in San José have expressed interest in redeveloping their mobilehome parks.<sup>11</sup> Palo Alto's only mobilehome park, Buena Vista, remains under threat of closure.<sup>12</sup> Since 1991, six mobilehome parks in Sunnyvale have closed.<sup>13</sup> Although Sunnyvale

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<sup>5</sup> Cal. Gov't. Code § 65583(c)(4).

<sup>6</sup> *Id.*

<sup>7</sup> City of San Jose Housing Department, Mobilehome Resource Guide, p. 9, available at <http://www.sanjoseca.gov/DocumentCenter/View/1151>.

<sup>8</sup> *Id.*, pp. 2-11.

<sup>9</sup> Mobilehome Rent Ordinance Summary, Department of Housing, City of San José, January 29, 2014, p.3, available at <http://www.sanjoseca.gov/DocumentCenter/View/32825>

<sup>10</sup>Memorandum from Leslye Corsiglia on Mobilehome Park Conversions to the Rules and Open Government Committee, Apr. 30, 2014, p. 3, available at <http://sanjoseca.gov/DocumentCenter/View/30282>.

<sup>11</sup> City of San Jose, Housing and Community Development Committee, Park Owner's [Winchester Ranch Mobile Home Park's] Proposal for Redevelopment of the Site and Relocation Assistance, October 13, 2016, p. 1, available at <http://www.sanjoseca.gov/DocumentCenter/View/62039>; Letter from Peter Wang, owner, to San Jose staff, regarding Opt-In/Stay in Business Proposal and potential redevelopment of Mobile Home Manor, November 11, 2015, p. 8, available at [http://sanjose.granicus.com/Viewer.php?view\\_id=&event\\_id=2124&meta\\_id=557348](http://sanjose.granicus.com/Viewer.php?view_id=&event_id=2124&meta_id=557348).

<sup>12</sup> City of Palo Alto City Council Action Minutes, Special Meeting, May 26, 2015, available at <http://www.cityofpaloalto.org/civicax/filebank/documents/47521>.

<sup>13</sup>"Possible Revisions to the Mobile Home Park Conversion Process and Requirements," Council Report Outreach Meeting, City of Sunnyvale, p.4., available at <http://sunnyvale.ca.gov/Portals/0/Sunnyvale/CDD/Housing/HUD%20Programs/MOBILE%20HOME%20PARK%20PPT%20presentation.pdf>. In addition to the mobilehome communities identified in this report that closed, Nick's

adopted land use policies that served to protect most of its parks, those that were not designated as mobilehome park uses do not benefit from these preservation measures. One of the last remaining parks that does not contain a mobilehome park land use designation, Blue Bonnet, recently received Council approval to close.<sup>14</sup> Over the last two decades, Mountain View has lost about 240 mobilehome lots.<sup>15</sup>

In furtherance of its duty to preserve affordable housing, San José must adopt policies that preserve mobilehome housing, which is a vital component of our affordable homeownership housing stock. Although San José originally prioritized study and adoption of policies that would preserve mobilehome parks and protect residents, if adopted, the proposed Closure Ordinance will undermine this duty because it will facilitate the displacement of mobilehome park residents and destruction of affordable homeownership housing units across our city.

Although evaluating and mitigating the impacts on park residents relating to a proposed park change of use, including closure, are paramount, nothing in Government Code section 65863.7, which authorizes this evaluation and mitigation, prohibits San José from analyzing other impacts. San José's long-standing Conversion Ordinance should continue to govern all conversion of use projects, even projects labeled as park closures, since San José has obligations to evaluate and mitigate a host of adverse impacts. The proposed Closure Ordinance would prevent San José from doing what State laws mandate it to do, including evaluating a proposal that seeks to permanently remove hundreds of affordable and rent-stabilized homeownership housing from our community and the environmental impacts associated with this action. San José should reject the proposed Closure Ordinance and continue to utilize its Conversion Ordinance for all projects that seek to change the use of a mobilehome park, including closing it.

**2. If the proposed Closure Ordinance is not rejected entirely, it must be amended to address crucial flaws.**

While we disagree that adoption of a Closure Ordinance is necessary, we strongly believe that it should contain terms that prevent a park owner from circumventing the Conversion Ordinance's requirements and provide the same protections for residents as those provided in the City's existing Conversion Ordinance and related Council Policy.<sup>16</sup> The proposed Closure

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Trailer Park also closed. See: <http://www.mercurynews.com/2016/10/28/sunnyvale-closed-trailer-park-will-make-way-for-108-unit-apartment-project/>

<sup>14</sup>San Jose Mercury News, "Sunnyvale: Blue Bonnet mobile park to close soon after conversion report's approval," available at <http://www.mercurynews.com/2017/03/15/sunnyvale-blue-bonnet-mobile-park-to-close-soon-after-conversion-reports-approval/>.

<sup>15</sup> Katie Kramon, Peninsula Press, Mobile Home Parks: A Vanishing Source of Affordable Housing, March 14, 2015. Gina Hall, Silicon Valley Business Journal, Mountain View approves closure of mobile home park, July 10, 2015, available at <http://www.bizjournals.com/sanjose/news/2015/07/10/mountain-view-approves-closure-of-mobile-home-park.html>.

<sup>16</sup> In our letter to the Planning Commission dated March 21, 2017, regarding the March 7, 2017, version of the Closure Ordinance, we identified a substantial number of changes that were required. Although staff incorporated some of the changes we suggested, the present March 21, 2017 version still fails to contain provisions that prevent park owners from utilizing it to circumvent the City's Conversion Ordinance. Further, the relocation assistance benefits afforded under the Closure Ordinance still fall well short of what the Conversion Ordinance requires, which must be corrected. These, and the other deficits we identify above, are most significant problems with the current



Ordinance provides drastically fewer procedural protections than the Conversion Ordinance and Council Policy. It also provides much more limited benefits and relocation payment to displaced residents. Quite simply, it is ridiculous and obviously unfair that mobilehome park residents—the people most negatively impacted by mobilehome park closure and/or conversion—would be deprived of any protections and benefits simply because of a park owner’s administrative course of action. In addition to the significant problems identified below, we describe a list of Closure Ordinance deficiencies in the attachment to this letter.

**A. The Closure Ordinance must follow the existing Conversion Ordinance and Council Policy regarding conversion of use.**

After months of staff work, public input, and public deliberation, the City Council adopted certain changes to its zoning code and the Mobilehome Park Conversion Ordinance “Council Policy.” Among other things, this Council Policy provides guidelines for assessing and mitigating adverse impacts as well as proposing relocation benefits that will enable residents to find comparable replacement housing when their mobilehome community is closed or converted and they are faced with the loss of their homes. Although we urge the Council to adopt procedural changes that we recommend below, the Council Policy’s mitigation and relocation provisions are thoughtful, thorough, and fair. The Council Policy represented a promise to the City’s 35,000 mobilehome park residents, a promise that will be broken should the City adopt the Closure Ordinance because it is deficient in numerous ways.

Moreover, the Council Policy does more than establish guidelines for mitigation of adverse impacts of a park closure on residents. The Council Policy also sets forth principles for approval of a proposed park conversion that take into account important City priorities like the need for adequate housing for all City residents regardless of income, facilitating resident ownership of mobilehome parks when feasible, and reducing and avoiding displacement of particularly vulnerable, long-term residents from our community.

San José must additionally protect mobilehome park residents’ due process rights by requiring that an application to close a mobilehome park be heard by the San José City Council. State law calls for the City’s legislative body or its delegated advisory agency, to review the relocation impact report. (Government Code § 65863.7(e).) However, instead of designating San José’s legislative body, the City Council, to consider applications under the Closure Ordinance, the proposed Closure Ordinance designates the Director of Planning to consider these applications unless a park owner or park resident requests a hearing. (Closure Ordinance § 20.180.760(A).) Park residents are afforded no opportunity to appeal the Planning Directors decision to the Council.

Unfortunately, our community knows that even when large-scale projects, like The Reserve, that seek to redevelop rent-stabilized properties, public participation is often absent. The closure of The Reserve displaced hundreds of San Joséans from their rent-stabilized homes,

and it was obvious that language and employment barriers prevented residents from engaging with staff and the Council about critical adverse impacts that must be mitigated. Similarly, we are concerned that park residents who face similar access barriers will not participate in this public process and that they will be denied important rights.

In contrast to San José's proposed Closure Ordinance, the cities of Palo Alto and Sunnyvale both require hearings on applications to convert parks, including closing parks, and provide appeals processes. (Sunnyvale Conversion Ordinance, 19.72.130(c); Palo Alto Mobilehome Conversion Ordinance, 9.76.040.) Even San José's Zoning Ordinance was specifically amended to ensure that the City Council, and not the Planning Director, would be the decision-maker that considered applications to convert mobilehome parks, and such a significant procedural distinction should exist based on a park owner's decision to simply close rather than convert. State law on the subject provides the bare minimum—San José can and must require a public hearing before the displacement of potentially hundreds of households. Such important land use and displacement issues must be reviewed with greater public scrutiny by appropriate public entities than the proposed Closure Ordinance currently provides.

We understand that some mobilehome park owners have threatened litigation against the City, and that this threat has driven staff to propose this draft Closure Ordinance. We ask that the City not allow itself to be held hostage by threats when the continued stability and well-being of thousands of our city's most vulnerable residents are threatened.

**B. To prevent park owners from circumventing the Conversion Ordinance, San José must limit use of the Closure Ordinance to instances where a park owner cannot make a reasonable return on their investment.**

If San José adopts a Closure Ordinance, it should include a provision that requires a park owner to prove, through the submission of records and a hearing before the Council, that they cannot make a reasonable rate of return on their investment prior to receiving approval to close a park. This requirement is necessary for the City to ensure that it does not allow for the displacement of hundreds, if not thousands, of households and the loss of vital affordable housing stock based on an owner's whim. Moreover, such a requirement is legally permissible so long as it does not interfere with the owner's primary, investment-backed expectations, and it does not render the owner unable to receive a reasonable return on their investment. (*Nash v. City of Santa Monica* (1984) 37 Cal.3d 97, 102.) As stated above, state Ellis Act does not apply to mobilehome parks, and municipalities can require this showing under their power to regulate land use.

Although *Nash v. City of Santa Monica* was superseded as to conversions of rent-stabilized residential real property when the Ellis Act was adopted, this case and its holding still articulates state law allowing jurisdictions to require that a mobilehome park owner show they can no longer make a reasonable rate of return before they can close and displace all their residents. As such, the City of San José should impose such a requirement to prevent park owners from simply circumventing the Conversion Ordinance by closing, displacing low-income

residents, destroying rent stabilized affordable housing units, and seeking to redevelop the property with other uses.

As presently drafted, the Closure Ordinance has no provision that prevents a park owner from misusing the Closure Ordinance to circumvent the Conversion Ordinance. The Closure Ordinance's only attempt to limit its misuse is by requiring a park owner to disclose the nature of the use of the parcel(s) where the park is located after the park is closed or a statement that no new use is contemplated under penalty of perjury.<sup>17</sup> (Closure Ordinance § 20.180.740(E).) While this measure is a positive step, it poses no real barrier to misuse of the proposed Closure Ordinance, since it does not even specify what recourse and remedies displaced park residents or the City have to address a park owner's misrepresentations.

We urge the Council to reject the Closure Ordinance since the City's Conversion Ordinance encompasses projects termed as closure applications. However, if the City elects to adopt a Closure Ordinance, it should require significant changes are made because, among other things, the Closure Ordinance fails to preserve San José's 59 mobilehome parks and requires less rigorous relocation impact analyses and fewer relocation benefits for displaced residents than required by the City's longstanding Conversion Ordinance. More specifically, if a Closure Ordinance is adopted, the City should require that 1) it does not prevent owner from using the Closure Ordinance to circumvent the Conversion Ordinance, 2) does not require that the City Council hear the application to close a park, and, 3) it continues to require an inferior relocation impact analysis and mitigation benefits than what the Conversion Ordinance provides.

### **3. Adopt General Plan Text Amendment Changes.**

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. Again, these changes may become meaningless if the City adopts the present draft of the Closure Ordinance, which facilitates closure of San José's 59 mobilehome parks.

The City should establish a mobilehome park designation in the General Plan if it seeks to preserve its 59 mobilehome parks. Currently, San José has no General Plan designation for mobilehome parks. Although most mobilehome parks are designated as "Residential Neighborhood," some others are designated for industrial and commercial uses. The City should address this problem by adopting and applying this designation to all mobilehome parks, demonstrating that it values mobilehome parks as sources of affordable housing and that it intends to preserve mobilehome parks into the future.

In addition to adopting and applying a mobilehome park designation, the City should also amend the General Plan to establish a policy of "no net loss" of land zoned for mobilehome use.

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<sup>17</sup> We are concerned that even this requirement falls far short of what State law requires. State law requires a park owner who seeks to change the use of a park, including closing it, to "disclose in detail the nature of the change of use." (Government Code § 798.56(g)(2).) The proposed Closure Ordinance seems to authorize the park owner to provide something that does not comply with this State law requirement, since the park owner is not asked to provide a detailed disclosure about the nature of the use. (Closure Ordinance §20.180.740(E).)

There are multiple examples of “no net loss” policies that the City can use to preserve mobilehomes, including San José’s own industrial lands policy, Sunnyvale’s policy of preserving a set number of acres for mobilehomes, and Santa Cruz’s stated policy of preserving a set number of mobilehome units.

First, the City could use San José’s existing industrial lands policy as an example for an effective anti-conversion policy relating to mobilehome parks. 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. Council should take a similar approach here.

Second, Sunnyvale’s Housing Element and General Plan together 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.

Third, 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.” San José should take a similar approach and amend its General Plan with a policy protecting either mobilehome acreage or units. We thus recommend that the General Plan be amended to include an exclusively mobilehome park designation and “no net loss” policy similar to the City’s industrial no net loss policy to fortify its commitment to preserving mobilehome park lands and this source of affordable housing.

In addition to these changes, staff’s proposed text amendments need to be clarified, expanded and/or strengthened to further strengthen mobilehome preservation efforts. We believe that the additional goals and actions that we include below to help preserve our City’s 59 mobilehome parks. More specifically, in addition to several of staff’s recommended General Plan text amendments (specifically H-1.1, H-1.10, General Land Use Goal LU-2 - Growth Areas, Implementation Policy IP-5.1(2), and Implementation Policy IP-5.7), we ask that the Council 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.

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 that all proposed Ceonversions of Use or Changes of Use 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 purposes other than the rental, or the holding out for rent, of four (4) or more mobilehome sites or spaces to accommodate mobilehomes used for human habitations, including the cessation of use, to mitigate any adverse impact to enable residents to relocate to replacement housing that is affordable and equivalent, including but not limited to their location and amenities.

*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 Goal IP-5.2 – Urban Village Planning*

Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

*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. In furtherance of this policy and San José’s obligation to affirmatively further fair housing choice, prepare and report on the number of affordable housing units, including rent stabilized units, and socio-economic characteristics of the of residents who reside in the Urban Village. Urban Village Planning should 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, should be conducted. Proceed generally in the order of the following timeline, although some steps may be taken concurrently;

**4. Uniformly Zone all Mobilehome Parks for this Exclusive Use.**

San José has an R-MH mobilehome zoning designation which reserves these lands for mobilehome park uses.<sup>18</sup> Currently, at least one third of the City's 59 mobilehome parks are not zoned R-MH.<sup>19</sup> Updating the zoning on mobilehome parks would both demonstrate the City's commitment to mobilehome preservation and enable consistent regulation of R-MH lots. If the City adopts a Closure Ordinance, rezoning all parks so that they were intended for exclusively mobilehome park land use may create at least one barrier that may cause park owners to reexamine their efforts to circumvent the Conversion Ordinance. The City should update every mobilehome park to the R-MH designation to help protect mobilehome parks lands and to help prevent misuse of the proposed Closure Ordinance.

**5. Amend the Council Policy to Further the Intent of and Clarify the Conversion Ordinance.**

We continue to believe that San José can, and should, do more to strengthen its land use regulations to preserve mobilehome communities, especially if the City adopts a Closure Ordinance that permits a park owner to disregard the Conversion Ordinance and Council Policy. However, in light of staff's and the City's present approach, we request that the Council adopt the following changes to the Council Policy.

**A. Do not amend the clarification presently contained in the Council Policy that park closure projects should not be excluded from mobilehome park conversion of use projects.**

When the Council adopted the Council Policy to the Conversion Ordinance, it contained a section that stated that "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." (Res. No. 77673, Conversion of Mobilehome Parks to Other Uses, Council Policy 6-33,1(e).) Since Council will consider adopting a Closure Ordinance, staff has proposed amending this language. We continue to argue that a separate Closure Ordinance is not necessary and that every application to change the use of a park, including closing it, should be processed through the Conversion Ordinance. If the Council agrees and does not adopt the Closure Ordinance, we ask that the Council not amend this language to make clear that all changes of use projects, including closures, will be processed through the Conversion Ordinance.

**B. Define the term "sufficient information" to clarify that it includes more than only an appraisal.**

One of the goals of the Conversion Ordinance is to help preserve San José's mobilehome parks by encouraging park owners and residents' associations (called Designated Residents'

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<sup>18</sup> San José Municipal Code § 20.30.010(C)(4).

<sup>19</sup> A table that the zoning for all of the City's mobilehome parks may be found starting at page 19 of the Planning Commission's Memo to Council dated March 28, 2017, which may be accessed at: [http://sanjose.granicus.com/MetaViewer.php?view\\_id=&event\\_id=2679&meta\\_id=626699](http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2679&meta_id=626699).

Organizations (DROs) in the Conversion Ordinance) to negotiate for the sale of the park to DROs so that the affordable homeownership housing in these parks is preserved. To submit a viable offer to purchase the park, the DRO needs records relating to the operation and condition of the park. Although the appraisal of the mobilehome park is an important tool in preparing a purchase offer, it is not the only record that the DRO needs to prepare a viable offer. The DRO needs other records that specify the costs to operate the park, its outstanding financial obligations, its future maintenance obligations, and other relevant records. Staff has proposed to amend subsection d(i) of section 1 by providing more detail about what “sufficient information” the DRO will need to prepare its offer. Although staff’s suggested edit to include a reference to an appraisal is helpful, other examples of what constitutes sufficient information must also be specified.

**C. Council Policy should call for a confidentiality agreement, not a third party, to protect park owner’s proprietary information.**

In line with comments we submitted over a year ago,<sup>20</sup> we suggest that subsection d(i), which enables a park owner to have a third party hold information in confidence that the DRO needs to formulate a viable offer to purchase the park, is unworkable. It is inconsistent for the Council Policy to suggest that the park owner provide the DRO with sufficient information to enable it to make a viable offer and then, in the same section, state that the owner may require that a third party hold this information in confidence so that the DRO cannot access it. This information is absolutely necessary to evaluate whether a resident purchase is viable, for identifying financing, and for composing a credible offer to purchase the park. While we understand park owners’ desire for their financial information not to become public, release of that information to the DRO—or to an agent of the DRO—is an essential prerequisite to the good faith negotiations required by the Ordinance and Council Policy. Instead of the present language, the Council Policy could either require or allow the parties to enter into a confidentiality agreement at the outset of their negotiations.

**D. Clarify that the required Relocation Impact Report should be interpreted to mean that required under either Government Code § 66427.4 and 65863.7.**

Government Code section 66427.4 specifies that a Relocation Impact Report (“RIR”) will be required for conversion of use of mobilehome parks when a the party seeking to convert the park also seeks a map to subdivide the park. Government Code section 65863.7 specifies RIR requirements when conversion, closure or cessation of use of a park is sought without a concurrent subdivision map. As such, and particularly if the Council approves amending the Council Policy to state that the Conversion Ordinance excludes park closure applications, the Council should correct this section to reference the requirements under Government Code section 66427.4

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<sup>20</sup> A copy of our coalition letter dated February 22, 2016, which includes additional recommendations for changes to the Council Policy, can be found starting at page 51 of the following link:  
[http://sanjose.granicus.com/MetaViewer.php?view\\_id=&event\\_id=2124&meta\\_id=557348](http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2124&meta_id=557348).

Letter to San José City Council, May 11, 2017

Re: City Council Meeting, May 16, 2017

Agenda Items 4.1 and 10.1, Mobilehome Park Protection & Closure Ordinance

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**E. Provide clear guidance regarding how disputes concerning selection of appraisers and RIR Specialists are resolved.**

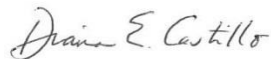
Staff's proposed changes at Sections 2.a. and 2.c. of the Council Policy, which relate to appraiser and RIR Specialist selection, are incomplete and require revision. Section 2.a. discusses the selection of the appraiser that will prepare valuations of mobilehome owners' homes. Section 2.c. discusses selection of the RIR Specialist. Although these two sections allow for parties to select their respective appraisers and RIR Specialists, staff did not provide guidance about how the parties should resolve any disputes regarding the ultimate selection of these professionals, like through mediation that is free of charge to park residents. Therefore, the Council should direct staff to clarify these sections.

**F. State that the City, not a park owner, will provide an appeals process where there is a dispute regarding relocation and purchase assistance.**

The Council should amend section 2.g. of the Council Policy so that the City, not the park owner, provides an appeals process to resolve disputes regarding relocation and purchase assistance. As we stated before the Council Policy was adopted, this dispute resolution process contained in the Council Policy is unacceptable, since any party hearing an appeal will be directly hired by and be an agent of the park owner. Instead, the City should have and govern an appeals process before a neutral fact finder.

Thank you for your attention and consideration. I welcome the opportunity to discuss the Law Foundation's letter with Council Members. I may be reached at 408-280-2448 or [dianac@lawfoundation.org](mailto:dianac@lawfoundation.org).

Sincerely,



Diana E. Castillo  
Senior Attorney





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## **Closure Ordinance Deficiencies Attachment**

The Mobilehome Park Closure Projects Ordinance (hereafter “Closure Ordinance”) fails to fulfill the City Council’s directive to preserve mobilehome parks and protect mobilehome park residents. The Closure Ordinance also fails to comply with State law because it prevents the decision maker from requiring the park owner who seeks to close their park from mitigating any adverse impact on the displaced mobilehome park resident to find adequate replacement housing. In 2016, the City adopted Council Policy 6-33, which are thorough and thoughtful guidelines for interpreting requirements under the City’s Mobilehome Conversion Ordinance (hereafter “Conversion Ordinance”). Adoption of an inferior Closure Ordinance, which requires less rigorous Relocation Impact Report (hereafter “RIR”) analysis and relocation benefits, will make the City’s Conversion Ordinance moot and make it impossible for residents to find adequate replacement housing. We note several of the Closure Ordinance’s deficiencies below and urge the Planning Commission to recommend rejection of the Closure Ordinance unless significant changes are made.

- **Does Not Protect Residents Against Park Owners’ Misuse of the Closure Ordinance to Avoid the Conversion Ordinance’s Procedural and Relocation Assistance Provisions.** As drafted, the Closure Ordinance provides fewer relocation benefits to residents than the Conversion Ordinance. There is no part of the Closure Ordinance that requires or penalizes a park owner who truly seeks to redevelop, versus simply closing the park and immediately applying to redevelop it, to actually proceed through the City’s Conversion Ordinance. The only, and narrow, way this issue is addressed in the Closure Ordinance states that the park owner shall disclose “the nature of the use of the Parcel(s) where the Park is located after Closure is approved *or* [provide] a statement under penalty of perjury that no new use is contemplated” in the RIR. Greater procedural protections must be included in the Closure Ordinance to safeguard against abuse.
- **Does Not Provide Residents with an Opportunity to Negotiate for Park Preservation.** The Closure Ordinance does not enable park residents to negotiate with the park owner to preserve their park. An association of residents, if it elects to, should be allowed to try and negotiate with the park owner to preserve the park, like the Conversion Ordinance provides. (Conversion Ordinance § 20.180.380.) The City’s Closure Ordinance does not allow for this.
- **Does No Provide Residents with a First Right of Refusal.** The Closure Ordinance does not provide residents with a first right of refusal to rent or purchase housing in a future residential development (if the resident qualifies). The Council Policy calls for this. (Council Policy 6-33 § 1(j).)

- **Unreasonably Disqualifies Residents from Relocation Assistance Benefits.** The Closure Ordinance, particularly its definitions section, does not reflect residents' real-world homeownership and space rental realities, including the hardship they will face during a closure application. Since most mobilehomes in San José's parks cannot be moved, we are concerned that many mobilehome owners will be disqualified from receiving compensation for the loss of their homes under the Closure Ordinance based on the Closure Ordinance's definition. Although we appreciate that staff amended this definition in its March 21, 2017, Closure Ordinance draft, we note that it is far narrower than the Conversion Ordinance's definition, which encompasses a host of ways that residents can prove that they are, in deed mobilehome owners. (Closure Ordinance § 20.180.705(R); Conversion Ordinance, § 20.180.160.) As such, the Closure Ordinance's definition should be amended to be the same as the Conversion Ordinance's, which is, "a person who has the right to the use of a mobilehome lot within a mobilehome park on which to locate, maintain, and occupy a mobilehome, lot improvements and accessory structures for human habitation, including the use of the services and facilities of the park." (Conversion Ordinance, § 20.180.160.)

Another oversight is that mobilehome owners who are 55 or older qualify to rent spaces in San José's parks, but, under the Closure Ordinance, seniors need to be 62 years or older to qualify for certain relocation benefits. (Closure Ordinance § 20.180.705(Y).) These overly restrictive definitions unreasonably deny residents vital benefits and are contrary to the requirements of State law.

- **Limits Who is Eligible to Receive Certain Benefits, Like a Rent Differential Subsidy.** The Closure Ordinance provides a rent subsidy only if a resident household qualifies as senior (62 and older), disabled, or low-income. (Closure Ordinance § 20.180.730.) *All* displaced residents should qualify for a rent differential, which is what the Conversion Ordinance provides (§ 20.180.630(d).) San José is home to mobilehome parks that contain upwards of 700 mobilehomes. If 700 households were displaced, a majority would be unable to find other rent stabilized housing, whether in or out of a mobilehome park. If households were mere dollars above some low-income threshold, they would be denied the ability to have the soft landing that a rent subsidy is designed to provide. A park owner should not be able to avoid paying for displacement mitigation protections based solely on the type of application they submit.
- **Does Not Require Individualized Assessment of Long-term Housing Solutions.** We thank staff for amending the March 21, 2017, draft of the Closure Ordinance to incorporate our request that the RIR Specialist prepare individualized assessment for comparable housing evaluation. This evaluation should include longer-term housing solutions so that each displaced resident is not displaced, again, once a housing subsidy terminates. The Closure Ordinance does not require any evaluation of long-term housing solutions for individual households like the Conversion Ordinance and Council Policy

specify. (Council Policy 6-33 §§ 1(g)-(j).) These assessment provisions should be the same under the Conversion Ordinance/Council Policy and the Closure Ordinance.

- **Lacks a Housing Burden Assessment.** The Closure Ordinance fails to require that relocation and purchase assistance provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a greater housing burden on a resident. (Closure Ordinance § 20.180.730; Council Policy to the Conversion Ordinance 6-33 §§ 1(g)-(j).)
- **Provides Insufficient Subsidy for Large Households.** Unlike the Conversion Ordinance, the Closure Ordinance does not call for more than one housing subsidy if a large household is forced to split into smaller households. (Conversion Ordinance § 20.180.6302(C); Closure Ordinance § 20.180.730.) If any mobilehome park closes, it is likely that most residents will need to move to smaller households. Because other housing opportunities may limit the number of residents who can live in a housing unit, larger families will need to split up. The Closure Ordinance does not require a rent subsidy for multiple households if they must split up, which will severely disadvantage larger households and substantially limit their ability to find replacement housing.
- **Insufficient Guidance for Appraisers.** The Closure Ordinance fails to provide sufficient direction to appraisers in determining value. (Closure Ordinance § 20.180.740.) Appraisals should list in-place value of mobilehomes prior to any public discussion or communication regarding closure of the mobilehome park because of the downward impact that public knowledge of closure has on value. Moreover, 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.
- **Does Not Require Staff to Obtain Confidential Questionnaires if Incomplete.** The Closure Ordinance mandates that the RIR specialist will analyze residents' confidential responses to a questionnaire in evaluating the relocation assistance they require. (Closure Ordinance, § 20.180.750.) As presently drafted, the Planning Director "may but is not required to seek the information directly from the Mobilehome Owner and/or Resident." (Id.) Already stinging from a park owner's broken promise that their park will remain open, park residents will be reticent to entrust confidential information about themselves to an RIR Specialist. Other barriers may exist, fear or denial over the prospect of losing one's home, language-and employment barriers, and disability, may prevent a park resident from submitting questionnaires. This section must be amended to require City staff to make several attempts to obtain information from park residents if their questionnaires are incomplete or not submitted to the RIR Specialist. As such, we ask that the Closure Ordinance recognize this and mandate that the Planning Director will make several attempts to collect this vital information.

- **Contains a Wholly Inadequate Appraisal Dispute Resolution Process.** The Closure Ordinance resolves a dispute about the valuation of a residents' home by requiring the resident to obtain a costly appraisal report, and then, "may require that the Mobilehome Owner be compensated based on the average of the appraisals obtained by the Park Owner and the Mobilehome Owner." (Closure Ordinance § 20.180.730 (B)(5), emphasis added.) This dispute process is wholly inadequate and will lead park owners, who select their own appraiser, to generate low appraisal amounts. It is unlikely that low-income residents will hire their own appraisers, which means that park owners' appraisers will propose artificially low valuations of residents' homes. Even if a resident hires their own appraiser, they will always receive less than what their expert appraiser determines is the value of their home. Instead, the City should have and govern an appeals process before a neutral fact finder.
- **Does Not Enable Decision-Makers to Comply with State Law nor Require Park Owner to Mitigate Any Adverse Impact on Residents' Ability to Find Adequate Replacement Housing.** The Closure Ordinance fails to make clear that, under State law, the RIR Specialist may propose, and the Planning Director or City Council may require, relocation assistance that mitigates *any* adverse impact on a resident's ability to find adequate replacement housing in a mobilehome park. (Government Code § 65863.7(e), emphasis added.) Such instruction is not provided to the RIR Specialist who will prepare the RIR. (Closure Ordinance §§ 20.180.730 -.740.)

To mitigate any adverse impact, the Planning Director has the ability to require relocation assistance amounts that are more than even the 100% appraised value of a residents' home if it takes more assistance to secure adequate replacement housing in another park. The limit, that mitigation shall not exceed the "reasonable cost of relocation," may include more assistance than the limited categories that the Closure Ordinance specifies. The Closure Ordinance must provide the RIR Specialist, the Director of Planning and the Council with a clear statement that they have the ability to require additional mitigation measures if they are necessary to enable the resident to relocate to adequate replacement housing. Failure to include this provision means that the Closure Ordinance fails to comply with State law.

- **Does Not Require a Public Hearing to Review the Sufficiency of the RIR.** The Closure Ordinance states that a public hearing to review the sufficiency of the RIR would only be scheduled if a resident or park owner requests it. (Closure Ordinance § 20.180.740.) Given the displacement of thousands of vulnerable residents in any potential closure, a City Council hearing assessing the sufficiency of the Relocation Impact Report should be required as a matter of course. This requirement would not contravene State law on the subject, which allows the legislative body, the City Council, to review and evaluate the application.

- **Does Not Require that Notices to Park Residents about the Proposed Closure of a Mobilehome Park be Accessible.** The Closure Ordinance identifies notices that residents will receive related to the park closure application. (Closure Ordinance §20.180.760(B).) It will notify them that they can obtain “information on accommodations and how to obtain interpretation and translated information or other accommodations from the RIR Specialist.” (Id.) However, it fails to specify that these initial notices (about how to obtain accommodations and translated information) will be accessible for residents who are disabled or not proficient in English. Further, it states that “information” will possibly be translated, but it doesn’t say that the RIR will be translated. These are major oversights that must be corrected, since these notices and the RIR contain important rights and information that must be accessible for people who are not English-language proficient or who are disabled. This oversight means that many park residents will be unable to understand and assert their rights.
- **Does Not Require that the RIR Report, and Subsequent Amendments, Be Provided to Residents as Required Under State Law.** Contrary to the requirements under State law, which requires that the park owner provide a copy of the RIR to a resident of each mobilehome at the park, the Closure Ordinance state that each resident will be invited to obtain a copy. (Government Code § 65863.7(b); Closure Ordinance §20.180.760(B).) Further, the Closure Ordinance does not specify that this notice will be accessible for residents who are disabled or who are not fluent in English. (Id.) To comply with State law, the Closure Ordinance must require that the RIR and subsequent amendments be provided to a resident from each mobilehome. (Id.) As such, a resident from each mobilehome should receive these subsequent amendments or clarifying letters and at least 30 days prior to any hearing on or consideration of the RIR by the Planning Director and City Council and these should be accessible.
- **Prevents the Decision-Maker from Denying an RIR While Making Full Compensation for Residents’ Relocation Expenses Optional.** The Closure Ordinance only allows the Planning Director or City Council to approve or conditionally approve an RIR. (Closure Ordinance § 20.180.760(C).) It does not specify that these decision-makers have the ability to deny it. (Id.) This means that residents would be left in limbo for potentially significant periods of time during the application process, especially if the park owner causes unreasonable delay.

Further, the Closure Ordinance is patently unfair and unbalanced in how it treats park residents. For example, even though the decision-maker will be unable to deny the RIR, it does not require the decision-maker to fully compensate a homeowner for the in-place value of their home, provide a rent differential, or cover costs to re-install disability-related improvements the park resident will need at their replacement housing. (Closure Ordinance § 20.180.760(D).) Instead, the decision-maker may require a park owner to compensate residents for something far less than what residents need to obtain adequate replacement housing. (Id.)

- **Does Not Specify that Public Hearings on Conditionally Approved RIRs will be Required.** The Closure Ordinance is silent about whether subsequent hearings will be required if an RIR is conditionally approved. (Closure Ordinance § 20.180.760(C).) The findings relating to the adequacy and approval of the RIR should be evaluated at a public hearing. A closure should not be permitted unless and until an RIR is actually approved subsequent to a public hearing.
- **Lacks a Necessary RIR Appeals Process.** The Closure Ordinance permits the Director of Planning to authorize displacement of potentially thousands of residents, the permanent loss of hundreds of affordable and rent stabilized housing units, and closure of a mobilehome park. (Closure Ordinance § 20.180.760(B).) The Closure Ordinance provides for no appeals process in the event that park residents dispute the accuracy of or sufficiency of their relocation benefits. Neighboring cities provide appeals processes before a neutral fact finder. Although we disagree that the Planning Director should have the ability to unilaterally make a decision on a closure application, at a minimum, the City's Closure Ordinance should contain an appeals process for residents to dispute the Planning Director's decision about the adequacy of the benefits approved under the RIR.



# LAW FOUNDATION of Silicon Valley

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By Electronic Mail

March 8, 2018

San José City Council  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: City Council Meeting, March 13, 2018  
Opt-In/Stay-in-Business Proposal (Item 4.1) and Proposed General Plan Land Use  
Overlays and Amendments (Item 10.3)**

Dear Mayor, Vice Mayor, and Council Members:

The Law Foundation appreciates this opportunity to provide input on the Mobilehome Opt-In/Stay-In-Business proposal and proposed General Plan land use overlays and amendments. Following is a summary of the actions that we ask the City Council to take at Tuesday's Council meeting:

- I. Opt-in/Stay-in-Business Proposal - Direct staff to cease working on it.
- II. Land Use General Plan Designation –Direct staff to immediately begin the following now, since mobilehome preservation is currently prioritized:
  - a. Create a General Plan Mobilehome Park designation that is exclusively reserved for mobilehome park use;
  - b. Engage in the necessary analysis and evaluation and apply this mobilehome park designation to vulnerable parks, including at the two identified in staff's March 2, 2018, memo; and
  - c. Track their time and costs and analyze how to streamline their processes for future applications of this land use designation.
- III. General Plan Text Revisions – Direct staff to bring minor revisions to the following four planning and housing policies (as underlined on pages 5 and 6 of this letter) before the next General Plan hearing cycle for the Council's consideration:
  - a. Urban Village Planning Policy IP- 5;
  - b. Urban Village Planning Policy IP-5.2;
  - c. Housing – Social Equity and Diversity Policy H-1.3; and
  - d. Housing – Social Equity and Diversity Policy H-1.9.

These recommendations are discussed in more detail below.

Letter to San José City Council

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## **I. Opt-In/Stay-in-Business Proposal (Item 4.1)**

**We urge the Council to follow the Housing and Community Development Commission's (HCDC)'s recommendations<sup>1</sup> that the Council direct staff to cease working on the Opt-In/Stay-in-Business proposal (Opt-In Proposal).** Over the last two-plus years, based on Council direction, staff has engaged the public through various meetings, met with panels of park and mobilehome owner stakeholders, and worked to improve the proposal. Staff has diligently carried out these duties, and, in the process, expended significant resources.

Despite their years of effort, staff has been unable to make the Opt-In Proposal a workable solution for park owners or park residents. For example, after years of work, the Opt-In Proposal does not reconcile conflicts that its adoption would create with the City's other existing ordinances, like the City's Mobilehome Park Conversion to Resident Ownership or to any Other Use Ordinance (Conversion Ordinance). All park conversions, including a slow one under the Opt-In Proposal, must be processed through the Conversion Ordinance. Through the Conversion Ordinance, the City evaluates the mitigation measures proposed to address adverse impacts that such a project creates. Here, **no mitigation measures have been proposed to address the significant loss in equity residents will suffer when they cannot sell their homes in a park that is slowing converting.** If, after two-plus years of analysis, we have been unable to propose a solution to this significant but basic issue, **we must come to the conclusion that the Opt-In Proposal is unworkable** and does not align with our exiting mobilehome-related ordinances. As such, we urge the Council to direct staff to cease working on the Opt-In Proposal.

## **II. Proposed General Plan Land Use Overlays and Amendments (Item 10.3)**

**We urge Council to direct staff to immediately begin the following activities, since mobilehome preservation is currently prioritized:**

- a) Create a General Plan land use designation that is exclusively reserved for mobilehome parks;**
- b) Engage in the necessary analysis and evaluation and apply this mobilehome park designation to vulnerable parks, including at the two identified in staff's March 2, 2018, memo, and**
- c) Track their time and costs and analyze how to streamline their processes for future applications of this land use designation.**

San José relies on a patchwork of General Plan land use designations, like lower density and higher density residential, industrial, and commercial uses, to discourage the conversion of mobilehome parks to other uses. Creating and applying a General Plan Mobilehome Park land use designation will provide our community with important tools to help preserve parks and

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<sup>1</sup> We are informed and believe that HCDC has, on at least three occasions, recommended that the Council direct staff to cease working on the Opt-In Proposal.



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prevent displacement of low-income and senior mobilehome park residents and will not be an insurmountable bar for developers. **Cost, which includes staff time, is described as a major barrier to taking the requested actions. But, these costs are minimal as compared to the costs that park closures and losing low-income families and seniors from San José will create. Therefore, we must act now,** and, for all of the following reasons, urge the Council to do so.

**San José's General Plan must include a land use designation that is exclusively reserved for mobilehome parks so that it is clear that our mobilehome parks and park residents are part of our City's future.** San José's General Plan is the City's vision and road map for continued growth through 2040. (Envision San José 2040, General Plan, Adopted November 1, 2011, p. 2.) Allowable future uses on mobilehome parks are defined by their General Plan land use designation as well as their applicable zoning districts.<sup>2</sup> (Memorandum from Rosalynn Hughey to the Honorable Mayor and Council, Analysis of Proposed General Plan Land Use Overlay Amendments for Mobilehome Parks, March 2, 2018, p. 6.) **If our City's vision and road map do not include a General Plan land use designation that is specific to mobilehome parks, then we invite park owners and developers to envision a different future for them.** Daily, our local newspaper describes development projects that are changing our City. Over time, this development pressure will magnify and impact our mobilehome parks. We must be clear, and not depend on other land use designations, to preserve our mobilehome parks. We must signal that we intend to preserve our parks by creating and applying a General Plan land use designation that is exclusively reserved for mobilehome parks.

**The Council should direct staff to conduct this General Plan land use designation work, now, instead of referring it to a future Priority Setting Session, since mobilehome preservation work was already prioritized by the Council.** The Council prioritized mobilehome preservation work in 2015, and it subsequently adopted a moratorium to allow staff and our community to explore strategies to preserve our parks. During the course of the moratorium, some important work was accomplished, and we are grateful to the Council and staff for it. But, the Council also approved study of proposals that did not contribute to mobilehome preservation, and this work consumed significant amounts of precious time during the moratorium.<sup>3</sup> The moratorium has expired, and we cannot depend on the adoption of another to preserve our parks. **Staff's March 2, 2018, memo to Council acknowledges that City-initiated General Plan amendments to change the land use designations of mobilehome parks could strengthen the protection of mobilehome park residents by creating an**

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<sup>2</sup> Since 2014, the Law Foundation has urged the City to zone all mobilehome parks as R-MH to reserve parks for mobilehome uses. The Law Foundation continues to advocate for use and application of this zoning at all parks, since some parks have other types of zoning. The Council did not direct staff to conduct this work. As such, apart from this footnote, we do not address this issue in the body of our letter and focus on requesting that the City adopt and apply a General Plan Mobilehome Park land use designation.

<sup>3</sup> For example, the Council authorized study of the Opt-In Proposal, which utilized significant amounts of staff time and resources, which did nothing to preserve parks. Similarly, the Council authorized and directed staff to develop a mobilehome closure ordinance, which also did nothing to preserve our parks. Both of these proposals were authorized and consumer valuable time during the moratorium.

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**additional land use entitlement process to redevelop the sites.** (Id., p. 11.) As such, we urge Council to direct staff to conduct this work now, and not while we are scrambling to prevent the conversion of a park that is home to thousands of people.

**The Council should direct staff to engage in the necessary analysis and evaluation and apply this General Plan land use designation to vulnerable parks, including the two that staff identified in their March 2, 2018, memo.** The two mobilehome parks identified by staff, one in Council District 4 and the other in Council District 7, contain 867 homes. Creating and applying a General Plan Mobilehome Park land use designation to these parks could help the City or mobilehome park residents' associations preserve them. A park's General Plan land use designation is a key factor in estimating its value. A General Plan land use designation that specifies a higher future density use than its existing mobilehome park use will make the cost to purchase and preserve the park prohibitively high. Specifying that the park's General Plan land use designation is restricted to mobilehome park use may help the community preserve the park, since its valuation will be in line with what its existing use is. As such, the City should direct staff to engage in work, now, to help preserve vulnerable parks, including the two that staff identified.

**If the Council directs staff to engage in this General Plan land use designation work, the Council should also direct staff to track their time and costs and analyze how to streamline their processes for future applications of this land use designation.** We appreciate staff's analyses and identification of two vulnerable parks in our City. But, San José has more than two parks that are vulnerable to conversion pressures. If directed to track their time and costs and conduct analyses, this could help San José understand how we can streamline Planning's processes in the event that we apply this mobilehome designation in the future. As such, we urge the Council to direct staff to track their time and costs and analyze how to streamline their processes for future application.

**b. Incorporate the Law Foundation's General Plan Text Amendment Recommendations into the General Plan**

**We also urge the Council to direct staff to bring four minor revisions to the General Plan text that the Law Foundation requested for their consideration at the next General Plan hearing cycle.** Although the Law Foundation continues to urge support all of the text amendments we identified in our May 11, 2017, letter to Council, staff has identified three minor amendments to existing General Plan text they would be willing to support and bring before Council for possible incorporation at a future General Plan hearing. These three minor changes would be to the following policies: Urban Village Planning Policy IP-5.2, Housing – Social Equity and Diversity Policy H-1.3, and Housing – Social Equity and Diversity Policy H-1.9. Although staff did not support our recommended amendment for Urban Village Planning Goal IP-5, we ask that the Council direct staff to also bring this amendment to Council for their consideration at a future General Plan hearing.

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**Urban Village Planning goal IP-5 expresses a goal of enhancing established neighborhoods.** Although staff did not support bringing this minor change forward, we recommend it to make clear that mobilehome parks and residents are long-standing parts of neighborhoods that are in Urban Villages. **All four of our recommended text amendments, including IP-5, set out to make clear that people who rent mobilehome space and housing units, tenants, are valued neighborhood members and who should not be displaced.**

Certain Urban Villages have benefitted from active mobilehome park residents, particularly when language and disability were not barriers for them and who worked to ensure that their voices and preferences were heard. San José's Council District 5 has an urban village, and within it a senior mobilehome park where 108 senior households live. In all of the meetings the Law Foundation has attended related to mobilehome preservation, we have never encountered any residents from this mobilehome park. **We are concerned that they, like the 216 tenant households at The Reserve Apartments, will not be aware or have the ability, due to language barrier or disability, to participate in future Urban Village planning processes where their rights and park's future will be impacted.** Our General Plan planning goals should make it clear that for the remaining Urban Villages that established neighborhoods include and value mobilehome parks and the people who live there. As such, we urge the Council to direct staff to **bring the four minor amendments**, which includes Urban Village Planning Policy IP-5, to the General Plan text (as underlined below) to the next General Plan hearing cycle:

***Urban Village Planning Policy IP- 5***

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.

***Urban Village Planning Policy IP-5.2***

Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

***Housing – Social Equity and Diversity Policy 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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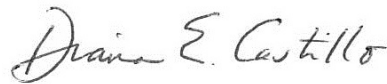
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***Housing – Social Equity and Diversity Policy H-1.9***

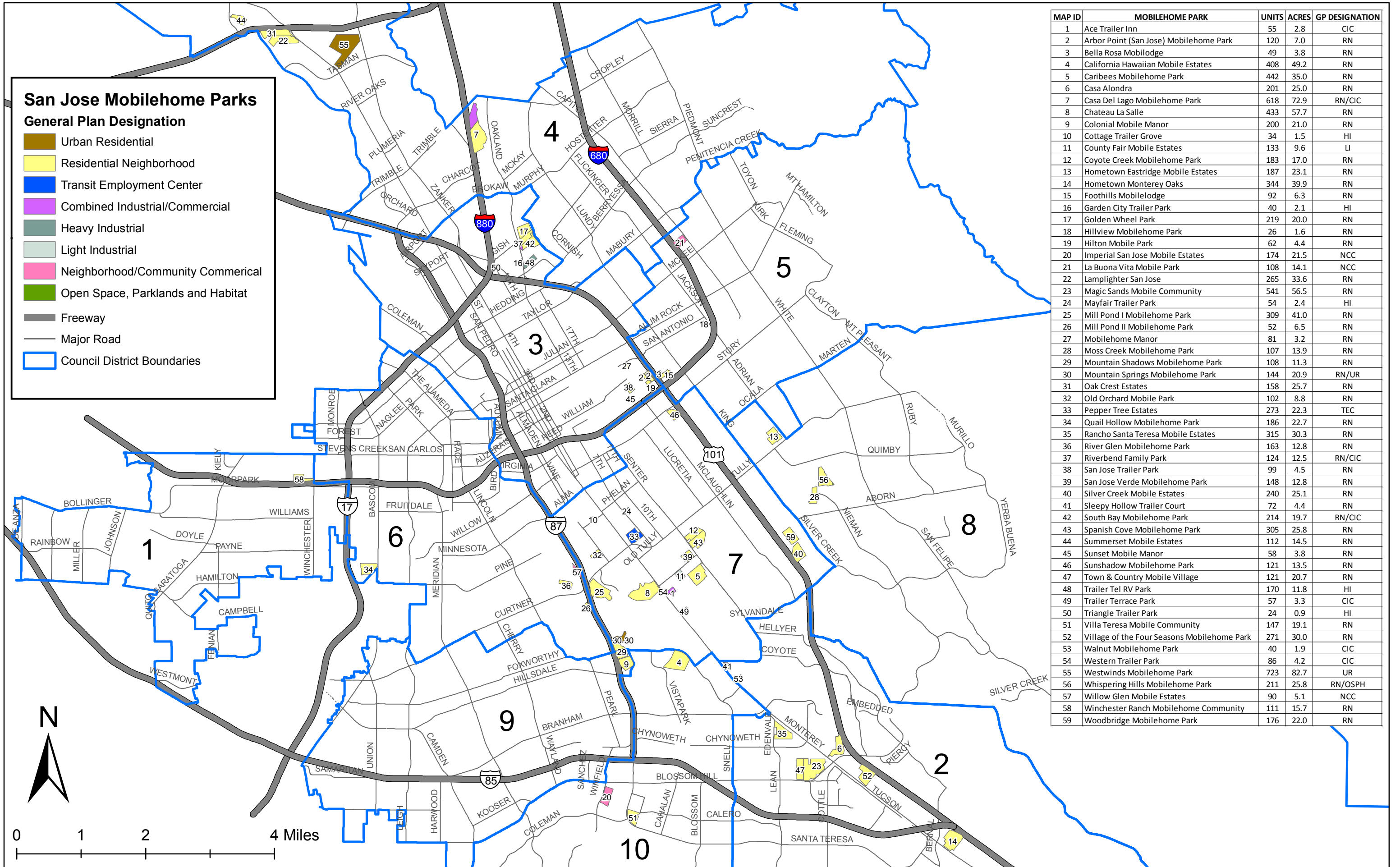
Facilitate the development, preservation, and rehabilitation of housing to meet San José's fair share of the County's and region's housing needs.

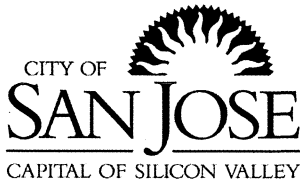
Thank you for considering the Law Foundation's comments. We welcome the opportunity to discuss our letter with members of the Council. I may be reached at [dianac@lawfoundation.org](mailto:dianac@lawfoundation.org) and 408-280-2448.

Sincerely,

A handwritten signature in cursive script that reads "Diana E. Castillo".

Diana Castillo  
Senior Attorney





# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** March 2, 2018

Approved

*D. D. Syl*

Date

*3/2/18*

**SUBJECT: ANALYSIS OF PROPOSED GENERAL PLAN LAND USE OVERLAY AMENDMENTS FOR MOBILEHOME PARKS AND REVIEW OF RECOMMENDATIONS FROM THE LAW FOUNDATION OF SILICON VALLEY REGARDING PROTECTION OF MOBILEHOME PARK RESIDENTS**

## RECOMMENDATION

- a) Accept staff analysis of proposed General Plan land use overlay amendments for mobilehome parks.
- b) Refer to the next Council Priority Setting Session consideration of General Plan land use amendments for the two mobilehome parks with high density residential land use designations that are most at risk of redevelopment.
- c) Accept staff review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, and direct staff to bring to City Council three minor General Plan text amendments identified in the analysis below for consideration as part of a future General Plan hearing cycle.

## OUTCOME

Should the Council refer to the next council Priority Setting Session consideration of General Plan land use amendments for the two mobilehome parks with density residential land use designations, along with staffing and consultant resources, staff would evaluate and undertake the General Plan amendments. Additionally, if directed by City Council, staff will bring forward for consideration as part of a future General Plan hearing cycle, three minor General Plan text amendments recommended by the Law Foundation of Silicon Valley.

## **EXECUTIVE SUMMARY**

The conversion of mobilehome parks to other uses is a land use issue regulated by State Law, by the City under the San José Municipal Code (Municipal Code), and by the City's Envision San José 2040 General Plan (General Plan). In 2015, the City Council directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and to preserve existing mobilehome parks.

Since 2015, the City Council approved Title 20 (Zoning Code) changes to the Municipal Code, General Plan text amendments, and adoption of a new City Council Policy 6-33 "Conversion of Mobilehome Parks to Other Uses" to preserve San José's mobilehome parks and to protect their residents. On May 16, 2017, City Council directed staff to return to Council in August 2017 with an analysis of a General Plan amendment overlay for dozens of mobilehome park sites to either a "Commercial," "Industrial," "Industrial Park" or a (proposed) "Mobilehome Park" land use designation for those sites that currently have a Residential designation, and a review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, with a discussion on which of the recommendations could be incorporated.

The analysis below identifies General Plan tools and alternatives that could be used to preserve mobilehome parks. This includes a General Plan overlay, other land use amendments, and additional text amendments. Staff's assessment on the feasibility of the Law Foundation's comments from their letter dated May 11, 2017, is also included in the analysis below.

## **BACKGROUND**

The conversion of mobilehome parks to other uses is regulated by State law including Planning Law and Mobilehome Residency Law and by the City under the 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 (PD) Permit. To date, no mobilehome park conversions have been processed under this ordinance.

In 2014, the City was informed that the owners of Winchester Ranch Mobilehome Park intended to convert the mobilehome park to a new use. The City Council took up the issue of conversion of mobilehome parks as a top priority and included a work plan item in the Housing Element to explore the efficacy of the existing provisions in the Zoning Code regulating conversion of mobilehome parks to other uses. In 2015, the City Council reaffirmed this priority and directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and preserve existing mobilehome parks.

Since 2015, the City has taken the following actions:

1. **Zoning Code Changes.** On February 23, 2016 and May 16, 2017, the Council adopted amendments to the Zoning Code to further protect residents in existing mobilehome parks in the City, that:
  - Made 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 (previously, the initial decision-making body was the Planning Commission for a CUP or the Planning Director for a PD permit);
  - Added provisions requiring findings of consistency with the General Plan for CUPs;
  - Exempted parcels with mobilehome parks from being eligible for the conforming rezoning process; and
  - Added to consideration of applications for demolition permits for mobilehome and multifamily projects whether those projects met their relocation obligations.
2. **City Council Policy.** On February 23, 2016, the Council adopted a new City Council Policy 6-33 “Conversion of Mobilehome Parks to Other Uses” to help guide the Council in implementation of the conversion ordinance. The Policy provides guidelines for:
  - Good faith negotiations between mobilehome park residents (including mobilehome owners and mobilehome tenants) and mobilehome park owners; and
  - 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.
3. **Moratorium on Conversions and Closures.** On March 1, 2016, the City Council approved a temporary moratorium to prevent submittal of applications for the conversion or closure of mobilehome parks. This was done to allow time for staff to work on a closure ordinance, other changes to the Zoning Code to protect mobilehome park residents, and clarifications to Council Policy 6-33. The moratorium ended on August 24, 2017.
4. **General Plan text amendments (File No. GPT15-006).** On May 16, 2017, the Council adopted General Plan text amendments to:
  - Further enhance 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

- 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.

### **Council Direction**

In addition to the Zoning Code and General Plan text amendments approved by Council on May 16, 2017, City Council directed staff to return to Council in August 2017 with:

1. An analysis, including workload, cost, and necessary level of environmental clearance, for a General Plan amendment overlay for dozens of mobilehome park sites to either a “Commercial,” “Industrial,” “Industrial Park” or a (proposed) “Mobilehome Park” land use designation for those sites that currently have a Residential designation; and
2. A review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, and presentation of staff’s perspectives on any such recommendations that can be incorporated when the Council returns in August. The Law Foundation of Silicon Valley’s letter is attached to this memo (Attachment B).

## **ANALYSIS**

### **Existing Conditions**

#### *General Plan*

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. Mobilehome parks in San José vary in size, age, location, type of mobilehomes, and composition of residents. The mobilehome parks in San José also vary in terms of their General Plan land use designations. Some mobilehome parks are located 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. Five mobilehome parks are located in Urban Villages and 17 mobilehome parks are located in other General Plan Growth Areas. Table 1 below shows the distribution of San José’s mobilehome park sites’ General Plan land use designations. A map of San José’s mobilehome park sites and their General Plan designations is also attached to this memorandum as Attachment A.

**Table 1**

<b>General Plan Land Use Designation</b>	<b>General Plan Allowable Density</b>	<b>No. of Mobilehome Parks</b>	<b>No. of Mobilehome Lots</b>
Residential Neighborhood	Typically 8 DU/AC (match existing neighborhood character); FAR Up to 0.7	39	7,452
Urban Residential	30-95 DU/AC; FAR 1.0 to 4.0	1	723
Residential Neighborhood and Urban Residential	RN: Typically 8 DU/AC (match existing neighborhood character) UR: 30-95 DU/AC; FAR 1.0 to 4.0	1	144
Transit Employment Center	FAR Up to 12.0	1	273
Neighborhood/Community Commercial	FAR Up to 3.5	3	372
Combined Industrial/Commercial	FAR Up to 12.0	4	246
Light Industrial	FAR Up to 1.5	1	133
Heavy Industrial	FAR Up to 1.5	5	325
Residential Neighborhood and Combined Industrial/Commercial	RN: Typically 8 DU/AC (match existing neighborhood character) CIC: FAR Up to 12.0	3	957
Residential Neighborhood and Open Space Parklands and Habitat	- See above for RN - OSPH Density = N/A	1	211
<b>TOTAL</b>		<b>59</b>	<b>10,836</b>

Out of the 59 mobilehome parks in San José, 41 parks have full residential General Plan land use designations, four parks have split residential and non-residential land use designations, and 14 parks have non-residential designations. One mobilehome park has a full Urban Residential land use designation, and one park has a split Urban Residential designation/Residential Neighborhood designation. The Urban Residential designation allows 30 to 95 dwelling units per acre, and the Residential Neighborhood designation allows up to eight dwelling units per acre.

### *Zoning*

The City's Zoning Code includes the R-MH Mobilehome Park Zoning District, for the purpose of reserving land for the use and occupancy of mobilehome development. Mobilehome parks and other compatible uses are permitted or conditionally permitted in the R-MH Mobilehome Park Zoning District as enumerated in Table 20-50 of the Zoning Code. Thirty-five of the City's 59 mobilehome parks currently have an R-MH Mobilehome Park Zoning. Nineteen of the City's 59 mobilehome parks currently have a PD Planned Development Zoning for mobilehome park uses. Only five mobilehome parks have underlying zoning districts that do not conform to the

existing mobilehome park use. Redevelopment of any mobilehome park site would require consistency with a site's General Plan designation, regardless of its zoning. Therefore, allowable future uses on mobilehome parks are defined by their General Plan land use designation as well as the applicable zoning district.

## **General Plan Tools to Preserve Mobilehome Parks**

### *General Plan Overlay*

An “overlay” is a land use designation on the General Plan Land Use Map, or a zoning designation on a zoning map that modifies the basic underlying designation in some specific manner. Overlays can establish additional or stricter standards and criteria for covered sites on top of those of the underlying zoning district, or can also be used to promote specific types of projects. Applying a commercial or industrial overlay to mobilehome park sites with residential land use designations would be most appropriate if the intent is to allow or promote a non-residential use as an alternative to the underlying designation. Directly changing the General Plan land use designation of mobilehome park sites would be most appropriate if the intent is to restrict or define an underlying land use.

Given the high land value for residential development, General Plan land use amendments that directly change mobilehome parks’ land use designations to “commercial” or “industrial,” where appropriate, could be used as a mobilehome park preservation tool by restricting future development of those properties to non-residential uses. However, it is possible that in some locations, such as in North San José, a commercial or industrial General Plan land use designation could offer more financial incentive to close and redevelop a mobilehome park than the Residential Neighborhood land use designation, which limits residential development to approximately eight dwelling units per acre.

### *General Plan Land Use Amendments*

In addition to the analysis a “Commercial,” “Industrial,” and/or “Industrial Park” overlay, Council directed staff to analyze the workload, cost, and necessary level of environmental clearance for a (proposed) General Plan “Mobilehome Park” land use designation for those sites that currently have a Residential designation. Establishing a new Mobilehome Park land use designation could promote the goals and policies of the General Plan, particularly as they relate to mobilehome parks. A Mobilehome Park designation could be similar to the R-MH Mobile Home Park Zoning District with the purpose of reserving land for the construction or preservation, and use and occupancy of mobilehome park development.

City-initiated General Plan amendments to change the land use designations of mobilehome parks would not directly prohibit mobilehome park owners from closing their parks, but could strengthen the protection of mobilehome park residents by creating an additional transparent public land use entitlement process to redevelop the sites. In addition to existing processes defined in the Municipal Code and City Council Policy 6-33, property owners wishing to close

and redevelop their mobilehome parks would need City Council approval of a General Plan land use amendment.

A General Plan amendment would already be needed or desired prior to redeveloping many of the current mobilehome parks with residential land use designations, because the Residential Neighborhood land use designation only allows a density of approximately eight dwelling units per acre. Of the 41 mobilehome parks with full residential General Plan land use designations, staff anticipates that at least two-thirds of those parks would require General Plan amendments given current development trends toward denser multifamily housing opposed to less dense traditional single-family homes.

Fourteen (14) parks have industrial or commercial land use designations. The General Plan includes robust policies against converting employment lands, particularly industrial designated lands. As a result, any proposals to redevelop the 14 mobilehome parks with commercial or industrial designations to facilitate residential uses would require a General Plan land use amendment.

#### *General Plan Text Amendments*

Additional General Plan text amendments could be considered to further strengthen displacement avoidance goals and policies focused on preserving mobilehome parks. Any new goals and policies would then need to be considered as part of future development applications or General Plan land use amendments associated with the redevelopment of a mobilehome park.

#### **Alternatives - Workload and Cost Analysis**

City Council could consider directing staff to consider one or a combination of General Plan tools listed above (land use overlay, land use amendments, or text amendments). The following is an estimation of the workload and costs applicable to the different alternatives.

##### *Alternative No. 1: General Plan Overlay and/or Land Use Amendments*

Implementing City-initiated General Plan land use amendments on all or a subset of mobilehome park sites would require significant staff resources. This work would include the following tasks:

Detailed site analysis: Staff would assess the existing conditions of each mobilehome park, including general conditions, access to utilities, and surrounding uses. This would include site visits to all or a subset of the mobilehome parks.

Analysis of General Plan goals and policies: Staff would analyze General Plan major strategies, goals, and policies in the context of mobilehome parks' sizes, locations, and surrounding uses to determine if alternative land use designations would be appropriate. This would include determining where it would be suitable to apply a new (proposed) mobilehome park designation, or other "commercial" or "industrial" land use designation given the context of the site.

Public outreach: In considering General Plan amendments, staff would continue a robust outreach program to gain input from stakeholders, including mobilehome park residents and owners. This would include community meetings, updates to the City webpage dedicated to information regarding mobilehome park preservation policies, and potential presentations to City commissions, such as the Senior Commission and/or Housing and Community Development Commission.

Environmental Analysis (CEQA): Environmental analysis under the California Environmental Quality Act (CEQA) of General Plan land use amendments to all or a subset of mobilehome parks would require preparation of an Initial Study to determine the appropriate document for environmental clearance. As part of the Initial Study, a long-range traffic analysis may need to be prepared to determine whether changing the land use designations of mobilehome park sites would result in a significant impact on the City's transportation network. Completion of the CEQA analysis would require hiring an environmental consultant.

Depending on the level of environmental review required, staff estimates it would take approximately 12 to 18 months, with appropriate staffing and consultant resources, to implement City-initiated General Plan land use amendments on all or a subset of those mobilehome park sites.

#### *Alternative No. 2: General Plan Text Amendments*

Developing new, or revising existing General Plan goals and policies to further strengthen the protection of mobilehome parks in isolation would require less staff and consultant resources than General Plan land use amendments. Staff estimates an approximately six to nine-month processing timeframe to incorporate additional mobilehome park preservation policies into the General Plan. Developing new General Plan text would include the following tasks:

- Analysis of General Plan goals and policies: Staff would evaluate new or revisions to existing General Plan text that could strengthen current displacement avoidance goals and policies focused on preserving mobilehome parks.
- Public outreach: General Plan text amendments require marginally less outreach as described above for land use amendments, if implemented on their own. In considering General Plan text amendments, staff would gain input from stakeholders by holding community meetings and by continuing to update the City's webpage on mobilehome park preservation policies.
- Environmental Analysis (CEQA): Environmental analysis under the California Environmental Quality Act (CEQA) of General Plan text amendments could require lesser environmental review than land use amendments because no land use changes would need to be analyzed. It is possible that the addition of new General Plan policies or the revision of existing policies could be determined to be consistent with the Envision San José 2040 General Plan Final Program EIR and Supplemental EIR.

*Alternative No. 3: No City Action*

Since 2015, the City has implemented several actions to protect current mobilehome park residents and preserve existing mobilehome parks. These include zoning code changes, General Plan text amendments, and adoption of a new City Council Policy as listed above. These actions establish General Plan policies to preserve existing mobilehome parks and strengthen and clarify requirements for future applications for mobilehome park closures and conversions. This alternative would not require additional staffing or other resources.

Staff Workload Analysis

Table 2 below summarizes staff's estimated timeframe, costs, and level of environmental review needed to implement the three alternatives above.

**Table 2**

Alternative	Staff Resources and Costs	CEQA and Consultant Costs	Public Noticing and Outreach Costs	Total Costs	Timeframe
Alternative 1a: General Plan Overlay to "Commercial" or "Industrial"	<ul style="list-style-type: none"> <li>1.0 FTE – Planner III, PBCE (\$188,300 - \$251,100)</li> <li>0.5 FTE – Development Officer, Housing (\$70,300)</li> </ul>	ND or Addendum to the General Plan EIR, or Environmental Impact Report depending on outcome of Initial Study; including Traffic Impact Analysis (\$120,000)	\$15,000 (assumes 10 community meetings)	\$393,600 – 456,400	18 to 24 months
Alternative 1b: General Plan Land Use Amendments to Mobilehome Park Designation	<ul style="list-style-type: none"> <li>1.0 FTE - Planner III, PBCE (\$125,500 – 188,300)</li> <li>0.5 FTE – Development Officer, Housing (\$70,300)</li> </ul>	Negative Declaration, Addendum to the General Plan EIR, or Environmental Impact Report depending on outcome of Initial Study; including Traffic Impact Analysis (\$110,000)	\$13,000 (assumes 8 community meetings)	\$318,800 – 381,600	12 to 18 months
Alternative 2: General Plan Text Amendments	<ul style="list-style-type: none"> <li>0.5 FTE - Planner IV, PBCE (\$97,000)</li> <li>0.25 FTE – Development Officer, Housing (\$35,200)</li> </ul>	Determination of Consistency with the General Plan EIR (\$0)	\$6,000 (assumes 2 community meetings)	\$138,200	9 months
Alternative 3: No Action	N/A	N/A		\$0	N/A

## **Review of Law Foundation of Silicon Valley Recommendations**

The Law Foundation of Silicon Valley (Law Foundation) submitted a letter dated May 11, 2017, related to the actions considered by Council on May 16, 2017. Below is an analysis of the Law Foundation's recommendations and staff's assessment on those that can be implemented.

### ***1) Reject the proposed Mobilehome Park Protection and Closure Ordinance***

On May 16, 2017, City Council considered and voted not to adopt the proposed Mobilehome Park Closure Ordinance.

### ***2) If the proposed Closure Ordinance is not rejected entirely, it must be amended to address crucial flaws.***

On May 16, 2017, City Council considered and voted not to adopt the proposed Mobilehome Park Closure Ordinance. The City currently has an existing Mobilehome Park Conversion Ordinance as established in Section 20.180 of the Zoning Code. The Mobilehome Park Conversion Ordinance is applicable to mobilehome park closures and conversions.

### ***3) Adopt General Plan amendment changes.***

#### Establish a Mobilehome Park General Plan Land Use Designation

The Law Foundation recommended the City adopt a General Plan land use designation for mobilehome parks and apply that designation to all mobilehome parks. As previously stated, because the City Council actions since 2015 achieve significant protection for current mobilehome park residents, staff recommends consideration of General Plan land use designations for the two mobilehome parks with high density residential land use designations. Additionally, most sites would already require a legislative act by the Council (General Plan amendment) to develop at densities over approximately eight dwelling units per acre.

#### Establish a "No Net Loss" Policy of Land Zoned for Mobilehome Use

The Law Foundation recommended that the City amend the General Plan to include a "no net loss" policy restriction similar to the City's former industrial no net loss policy. The difference between San Jose's mobilehome parks and industrial lands is that mobilehome parks in the City are already subject to a number of state and local restrictions, including rent control. Adoption of a "no net loss" policy for mobilehome parks is not recommended due to the potential for a legal challenge.

#### General Plan Text Amendments

The Law Foundation recommended six specific General Plan text amendments as outlined in their May 11, 2017 letter. The recommended text amendments vary in detail and complexity, and focus on preservation of mobilehome parks and adding additional reporting in Urban Village plans related to affordable housing and socio-economics. Staff supports three of the Law Foundation's proposed revisions that incorporate text focused on housing preservation and

rehabilitation because they would be consistent with other General Plan housing policies. If directed by City Council, staff would bring to Council for consideration the three proposed revisions listed below in ~~strikeout~~/underline format as part of a future General Plan hearing cycle.

**Urban Village Planning Policy IP-5.2:** Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine-month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

**Housing – Social Equity and Diversity Policy 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.

**Housing – Social Equity and Diversity Policy 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.

The other three recommended text amendments by the Law Foundation are not supported by staff because they are overly detailed for General Plan policy and are currently addressed through the City's Mobilehome Park Conversion ordinance. These three recommended text amendments by the Law Foundation are as follows in ~~strikeout~~/underline format:

**Housing – Social Equity and Diversity Policy H-1.20:** Encourage that all proposed Ceonversions of Use or Changes of Use 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 purposes other than the rental, or the holding out for rent, of four (4) or more mobilehome sites or spaces to accommodate mobilehomes used for human habitations, including the cessation of use, to mitigate any adverse impact to enable residents to relocate to replacement housing that is affordable and equivalent, including but not limited to their location and amenities.

**Urban Village Planning Goal IP-5:** 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.

**Urban Village Planning 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. In furtherance of this policy and San José's obligation to affirmatively further fair housing choice, prepare and report on the number of affordable housing units, including rent stabilized units, and socio-economic characteristics of the of residents who reside in the Urban Village. Urban Village Planning should 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, should be conducted. Proceed generally in the order of the following timeline, although some steps may be taken concurrently:

**4) *Uniformly zone all mobilehome parks for this exclusive use.***

Thirty-five of the City's 59 mobilehome parks currently have an R-MH Mobilehome Park Zoning. Nineteen of the City's 59 mobilehome parks currently have a PD Planned Development Zoning for mobilehome park uses. Only five mobilehome parks have underlying zoning districts that do not conform to the existing mobilehome park use. Staff does not recommend City-initiated rezonings, because a majority of mobilehome parks are already zoned for mobilehome park uses, and redevelopment of any mobilehome park site would require consistency with a site's General Plan designation, regardless of its zoning. Additionally, of the five mobilehome parks that have non-conforming zoning districts, two of those parks also have an industrial General Plan land use designation. Rezoning to R-MH on sites with an industrial General Plan land use designation would be inconsistent with major strategies, goals, and policies of the General Plan.

**5) *Amend the Council Policy to further the intent of and clarify the Conversion Ordinance.***

Most of the Law Foundation's requested edits to Policy 6-33 would require the City to extend its role beyond the appropriate scope for the conversion review process. Some comments would result in an increase to the park owner's minimum requirements to engage in good faith negotiations with the City in a way that does not foster a cooperative joint process. Some comments would require that the City establish an entirely new appeal process for various procedures required by the mobilehome conversion ordinance. The amendments already incorporated in Policy 6-33 after months of public meetings and multiple rounds of comments from stakeholders including the Law Foundation are sufficient. The Policy currently contains an appropriate level of additional procedures to supplement the mobilehome conversion ordinance. The current Policy also reflects a robust outreach process and has been approved by City Council.

**Staff Recommendation**

Council actions taken since 2015, including adoption of a new City Council Policy, Zoning Code amendments, and General Plan text amendments achieve significant protection for current mobilehome park residents. Undertaking General Plan land use overlays or amendments would

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be a timely and costly process, requiring additional resources as outlined in Table 1. Accordingly, staff recommends that City Council refer to the next Council Priority Setting Session the consideration of General Plan land use amendments for the two mobilehome parks with high density residential land use designations. This would allow City Council to consider where this policy work ranks with other Council priorities led by PBCE and Housing. The most recent (March 2017) Council policy priority list is attached.

In addition, it is recommended that three minor General Plan text amendments recommended by the Law Foundation of Silicon Valley identified above be considered as part of a future General Plan hearing cycle.

### **EVALUATION AND FOLLOW-UP**

If the City Council refers consideration of the General Plan land use designations for the two mobilehome parks with high density residential land use designations, along with the required staffing and consultant resources, to the next Council Priority Setting Session, staff will evaluate and undertake the General Plan amendments.

### **PUBLIC OUTREACH**

Since Council direction was provided on February 23, 2016, City staff has presented policy and ordinance proposals for additional protection of existing mobilehome park residents, and has received public input on these items, at several public hearings and stakeholder forums including community meetings; the Housing and Community Development Commission; and the Senior Commission.

### **COORDINATION**

Preparation of this memorandum was coordinated with the City Attorney's Office and the Housing Department.

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**CEQA**

Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Staff Reports.

/s/

ROSALYNN HUGHEY, ACTING DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Jared Hart, Supervising Planner, at (408) 535-7896.

Attachments: A) Map of San José Mobilehome Parks with General Plan Designations  
B) Law Foundation of Silicon Valley letter, dated May 11, 2017  
C) Council Policy Priority List from March 7, 2017 (Item 3.3)



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey  
Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** February 26, 2020

Approved

Date

2-26-20

**SUBJECT: SUMMARY OF MOBILEHOME PARK CONVERSION OF USE PROCESS**

## INFORMATION

At the January 15, 2020 Rules and Open Government Committee meeting, a request was made to provide the City Council with a summary of the process for when a mobilehome park seeks to convert to another use. This information memorandum outlines the conversion process procedures.

To date, only one mobilehome park, Winchester Ranch Mobilehome Park has undertaken the conversion process under the Mobilehome Conversion Ordinance. In this case, the residents formed a homeowners association (HOA) and entered into a voluntary agreement with the property owner and developer. The Law Foundation of Silicon Valley is currently the HOA's legal counsel and assisted the HOA in negotiating the voluntary agreement. As of the date of this memorandum, no new applications proposing conversion of a mobilehome park to another use have been received.

On March 10, 2020, the City Council will consider the creation of a new General Plan land use designation specific to mobilehome parks and applying that designation to the Westwinds and Mountain Springs mobilehome parks. These mobilehome parks are the only two parks that have a General Plan designation that allow high-density residential development. The staff report for the March 10, 2020 Council item will provide additional background and analysis of the proposed General Plan amendments.

### Summary of City Mobilehome Park Conversion Requirements

The City's Mobilehome Conversion Ordinance, adopted in 1986, provides the process by which a mobilehome park owner can apply to convert a park to a new use. This process has further been clarified by Council Policy 6-33 "Conversion of Mobilehomes to Other Uses" that was adopted in 2016 and amended in 2017.

A mobilehome park change of use will require, at a minimum, approval of either a Conditional Use Permit (CUP) or a Planned Development (PD) Permit. Depending on the General Plan designation and zoning of the park, the applicant may also need to apply for a General Plan amendment and a rezoning. Recent amendments to the Zoning Code make the City Council the decision-making body for consideration of all proposed mobilehome park conversions.

Additionally, the Mobilehome Conversion Ordinance requires a supplemental application be submitted and a permit obtained even if the proposed non-mobilehome use is consistent with the existing zoning. It also specifies that proposed conversions of mobilehome parks should only be approved when findings can be made that *“the applicant has provided a satisfactory program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.630 of this chapter to mitigate the conversion on displaced mobilehome owners and mobilehome tenants.”*

### **Overview of the City Mobilehome Park Conversion of Use Procedures**

The Mobilehome Conversion Ordinance and Council Policy 6-33 provide a specific process for consideration of a park conversion that requires proper noticing to residents, preparation of a program of relocation and purchase assistance, and allows for an opportunity for residents to negotiate purchase of the mobilehome park.

#### **1. Pre-Submittal of Permit Application – Notice of Intention to Convert**

At least 60 days prior to the date of filing a permit application, the mobilehome park owner must notify in writing each mobilehome owner, tenant, and the designated resident organization, about the proposed project, or change of use (the “Notice of Intention to Convert”). Translated copies should be made available by the park owner on request. Additionally, any new tenant must also be notified of the intention to convert prior to any payment of rent or deposit.

The Notice of Intention to Convert should contain a statement that the developer proposes a conversion project, and that the developer will file a permit application with the City. The notice should also contain a statement of rights of the mobilehome owners and tenants and the rights of a designated resident organization.

Each Notice of Intention to Conversion should state that a mobilehome owner or tenant has the following rights:

- a. The right to terminate a lease, or rental agreement, without penalty, with sixty days notice.
- b. No increase in rent until termination of a rental agreement, or under other limited circumstances.
- c. No unjust eviction during tenancy.
- d. No coercion or retaliatory action against a mobilehome owner or tenant for opposing the conversion project.

The Notice should also state that a designated resident organization may be formed and list the rights of the designated resident organization.

## **2. Program of Relocation and Purchase Assistance**

The application submitted must include all the standard requirements for a CUP or a PD Permit. In addition, the Mobilehome Conversion Ordinance provides that a permit may be issued only if the City Council finds a satisfactory program of relocation, rental assistance, purchase assistance or other assistance. The Ordinance and Council Policy 6-33 further define what should be included in the program of relocation and purchase assistance including:

- a. *Relocation program:* The relocation program 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. It also includes the following:
  - i. A list of available mobilehome spaces or units for sale in counties of Santa Clara, Alameda, San Mateo, and Santa Cruz.
  - ii. Provision of all moving expenses including the cost to physically move the mobilehome and for moving all furniture and personal belongings.
  - iii. Rent assistance for up to 24-months that covers the difference in rent from their previous mobilehome park rent to their new housing.
- b. *Purchase assistance:* Mobilehome owners who are unable to relocate their mobilehome to a comparable mobilehome park should be provided for the purchase of their mobilehome at 100% of its in-place value. In-place value is determined by a mutually agreed upon appraiser with at least 5 years of experience in the City chosen from a pre-qualified list. Appraisals must consider current values and values prior to any public discussion or communication regarding the sale or conversion of the mobilehome park.
- c. *Relocation specialist:* The mobilehome park owner should hire a relocation specialist from a pre-qualified list provided by the City. The relocation specialist is responsible for working closely with the mobilehome park residents to tailor the offerings of the relocation and purchase assistance program to each resident's circumstances.

## **3. Requirements for Completed Permit Application**

The Mobilehome Conversion Ordinance requires that a permit application include specific information in order to be complete including the following:

- a. Evidence that the Notice of Intent to Convert was completed properly at least 60 days before the permit application was submitted to the City and that the notice was posted at all entrances to the mobilehome park.

- b. Declaration that all new tenants subsequent to the Notice of Intent to Convert were notified in writing of the possible conversion prior to payment of any rent or deposit.
- c. Statement detailing current ownership of all improvements and underlying land; the name and address of each present mobilehome park resident and identification of all residents under sixteen years, sixty-two years and over, residents with minor children, and handicapped residents; square footage of each mobilehome lot; the current or last rental rate of each mobilehome lot and rental rate for the preceding two years; and the monthly space vacancy over the preceding two years of each mobilehome lot proposed to be converted.
- d. Timetable for the conversion of the mobilehome park.
- e. Appraised market value of each mobilehome lot and the in-place value of each mobilehome in the park. Appraisal cannot be more than 90 days prior, and appraisers should be selected through the process noted above under *Purchase assistance*.
- f. Description of how the finances of the transfers of mobilehome and mobilehome lots has been handled for the previous two years.

The submittal should also include a relocation impact report (RIR) prepared by the selected relocation specialist consistent with the Mobilehome Conversion Ordinance, Council Policy 6-33 and State Government Code 65863.7 / 66427.4.

#### **4. Resident Purchase – Good Faith Negotiations**

Immediately following the submittal of the permit application, and once the application has been deemed complete, the designated mobilehome resident organization may request a 180-day delay in further processing the application for “Good Faith Negotiations.” The park owner or developer must meet with the designated resident organization within 15 days. During these negotiations, the park owner or developer is expected to provide sufficient information to the resident organization for such negotiations including a current appraisal of the mobilehome park. The park owner or developer must also provide a detailed response to a written offer from the resident organization to purchase the mobilehome park during the 180-day period. Either party may also request a mediation session conducted by a mediator assigned by the City. This 180-day delay can be omitted if the park owner or developer can provide a letter from the designated resident organization that indicates the negotiations have been completed.

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**CONCLUSION**

The City's Mobilehome Conversion Ordinance, Zoning Code, and Council Policy 6-33 provide a specific process for application for a mobilehome park conversion to other uses, and requires Council consideration of a program of relocation and purchase assistance for mobilehome park residents.

/s/  
ROSALYNN HUGHEY  
Director  
Planning Building, and Code Enforcement

/s/  
JACKY MORALES-FERRAND  
Director  
Housing

For questions, please contact Jerad Ferguson, Housing Catalyst, at (408) 535-8176.