

- ◀ its square footage? Likewise, what is Newport Pacific Capitals role and interest in this subdivision?
- Why are some residents and their political groups in other mobile home parks so negative about this very concept when they imply outright purchase of the park is a better way to go? How is this subdivision the same and/or different than Huntington Shorecliffs and what may be happening in other Huntington Beach parks?

- o JulieAnn Rooney, #463 (714) 960-4756 jrooney@socal.rr.com
- o John Sisker, #266 (714) 536-3850 jsisker@sprynet.com - cell: (714) 815-7625
- o Deborah Lawson-Sisker, #266 (714) 536-3850 dsisker@sprynet.com - cell (714) 914-7452

Notice from St. Joseph Health System:
 Please note that the information contained in this message may be privileged and confidential and protected from disclosure.

**PACIFIC MOBILEHOME PARK
RESIDENT SUPPORT SURVEY AGREEMENT**

Government Code Section 66427.5 (d) requires that the owners of a mobilehome park that seeks to convert the park to resident ownership obtain a survey of resident support to be considered by the local agency with the subdivision application. The purpose of this Agreement is to document the terms under which the resident survey is to be conducted and the form of the survey to be used.

1. Survey Form. The survey ballot form that shall be used for the survey of resident support for the conversion will be in substantially the form of Attachment 1. The enclosed Frequently Asked Questions will also be mailed at that time.
2. Conduct of Survey. The Newport Pacific shall be responsible for distributing the ballots to all resident households, with a single ballot per space, with an envelope to be used to return the survey. Residents have the option of signing their survey or returning it without signature. The homeowners will be instructed to return the survey in the envelope sealed to the office of Newport Pacific by mail. The survey will be distributed on November 5, 2010. The homeowners shall have 15 days to return the survey.
3. Tabulation of Results. On the 20th day following distribution of the survey, members of the Newport Pacific accounting staff will open the envelopes and tabulate the results of the completed forms.

On Behalf of Park Owner:

Signature: _____ Date: _____

Print Name: _____

On Behalf of Homeowners' Committee, (signatures may be obtained on separate copies of the agreement).

Signature: Deborah E. Moore Date: 11/3/10

Print Name: Deborah E. Moore

Signature: _____ Date: _____

Print Name: _____

Signature: _____ Date: _____

Print Name: _____

From: Clarke Fairbrother [clarkef@newportpacific.com]
Sent: Tuesday, November 30, 2010 11:43 AM
To: Mark Alpert
Subject: FW: Pacific Mobile Home Park Notes: Survey & FAQ's
Attachments: Agreement with HOA re Resident Survey Form No. 2.doc

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

From: Brad Rhoads [mailto:brad@bradfordrhoads.com]
Sent: Thursday, November 04, 2010 4:07 PM
To: Clarke Fairbrother
Subject: Re: Pacific Mobile Home Park Notes: Survey & FAQ's

I have attached the signed survey as you requested Clarke. Good luck and God Speed!

Brad Rhoads
 Spc. # 352

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

From: Clarke Fairbrother
To: mbies15989@aol.com ; cbrockway@socal.rr.com ; kris4933@hotmail.com ;
 gdlzap123@yahoo.com ; debbie.moore@stjoe.org ; nolimepublishing@aol.com ;
 brad@bradfordrhoads.com ; jrooney@socal.rr.com ; dsisker@sprynet.com ; jsisker@sprynet.com ;
 docmcclure@yahoo.com ; angels4M@aol.com
Cc: Janece Herrington
Sent: Thursday, November 04, 2010 2:21 PM
Subject: FW: Pacific Mobile Home Park Notes: Survey & FAQ's

I have received emails from John Reger and John Sisker indicating that the enclosed revised survey and other information looks fine. I have not received any other comments.

I understand that there is not a formal homeowner's association, but your review of the form of the survey and frequently asked questions helped create the final form of the documents.

Please sign a copy of the Agreement with Homeowners, which only indicates that you had an opportunity to make comments, and send it back to me for my files (scan and email, fax or mail). Fax number is 949-852-5582. The address is 17300 Redhill Suite 280, Irvine, Ca 92614.

We plan to mail revised survey and frequently asked questions to all of the residents next week.

I will be out of the office for two weeks starting next Monday. If you have any questions during that period of time, please contact Janece Herrington.

Clarke Fairbrother
 Office 949-852-5575

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

From: Clarke Fairbrother
Sent: Friday, October 29, 2010 11:09 AM
To: 'mbies15989@aol.com'; 'cbrockway@socal.rr.com'; 'kris4933@hotmail.com';
 'gdlzap123@yahoo.com'; 'debbie.moore@stjoe.org'; 'nolimepublishing@aol.com';

12/1/2010

ATTACHMENT NO. 5.17

'brad@bradfordrhoads.com'; 'jroon@social.rr.com'; 'dsisker@sprynet.com'; 'jsis@sprynet.com';
'docmclure@yahoo.com'; 'angels4M@aol.com'

Cc: Janece Herrington

Subject: FW: Pacific Mobile Home Park Notes: Survey & FAQ's

Enclosed are the notes that I recieved from John.

The attached survey and frequently asked questions have been revised to incorporate all of his points.

Also attached is document that outlines how the survey is to be conducted.

Please give me your comments if any in the next few days.

We would like to get this survey and frequently asked questions in the mail next week.

If you can not open the documents, I can send PDF versions or get then to you another way.

If you have questions, send me an email with a good time and number to call. I am available this Saturday if you would like to discuss anything.

Clarke Fairbrother
Office 949-852-5575

The Survey:

Note: This 'Survey' is just to show a tentative interest among us residents, and does not commit anyone to anything. It is just for informational purposes only.

One of the most important factors and questions on this 'Survey' is actually Question No. 1 of Section I, that one would indeed be interested if it is affordable to them. That is a key factor for this park and should always be emphasized.

This 'Survey' is okay as is, with the exception of Question Number 3. It is felt that some people may be a bit reluctant to divulge their income level, possibly feeling it is an invasion of privacy. Therefore, while we still feel this information is important and should be included, we would like to see some type of wording as to just why this information is needed at this time, and as to what will be done with it.

Also, we like to see a place for residents to leave their name and contact information if they so wish, but to also emphasize that this information is entirely optional.

Frequently Asked Questions:

**Frequently Asked Questions About Mobile Home Park Subdivision
(and how it relates to Pacific Mobile Home Park)**

We would like to see the original FAQ's information included again with the revised 'Survey' but also expanded to include the following questions, along with Newport Pacific Capital's response...

- **Will this subdivision secure our park as a mobile home park well into the future, and how will this tie-in with the current City's Relocation Ordinance, along with the effects on affordable housing?**
- **Unless the residents have 51% interest in the park, how will their input and concerns be of any**

12/1/2010

ATTACHMENT NO. 5.18

- value? And what happens to those that do purchase their lot, if current park owners sell to outside interests anyway?
- Once a survey on lot lines is confirmed, how will this be enforced, and is the value of each lot based on its square footage? Likewise, what is Newport Pacific Capitals role and interest in this subdivision?
- Why are some residents and their political groups in other mobile home parks so negative about this very concept when they imply outright purchase of the park is a better way to go? How is this subdivision the same and/or different than Huntington Shorecliffs and what may be happening in other Huntington Beach parks?

- JulieAnn Rooney, #463 (714) 960-4756 jrooney@socal.rr.com
- John Sisker, #266 (714) 536-3850 jsisker@sprynet.com - cell: (714) 815-7625
- Deborah Lawson-Sisker, #266 (714) 536-3850 dsisker@sprynet.com - cell (714) 914-7452

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On Behalf of Park Owner:

Signature: _____ Date: _____

Print Name: _____

On Behalf of Homeowners' Committee, (signatures may be obtained on separate copies of the agreement).

Signature: Brad Rhoads Date: 11-04-2010

Print Name: Brad Rhoads

Signature: _____ Date: _____

Print Name: _____

From: Clarke Fairbrother [clarkef@newportpacific.com]
Sent: Tuesday, November 30, 2010 11:43 AM
To: Mark Alpert
Subject: FW: Pacific Mobile Home Park Notes: Survey & FAQ's

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

From: Deborah Lawson-Sisker [mailto:dsisker@sprynet.com]
Sent: Friday, November 05, 2010 6:46 AM
To: Clarke Fairbrother
Cc: JulieAnn Rooney; Brad Rhoads; John Reger; Debbie Moore; Antonio Lopez; Connie Brockway; Kris Dgezits; Mary Bieschke; Janece Herrington; Maria Laurienzo; Christine McClure; John Sisker; Deborah Lawson-sisker
Subject: Re: Pacific Mobile Home Park Notes: Survey & FAQ's

Dear Mr. Fairbrother,

Deborah and I appreciate your feedback in regard to the possible subdivision of Pacific Mobile Home Park, and for the opportunity to incorporate some of our individual concerns and thoughts in your Survey and Frequently Asked Questions segment. Keep in mind, that such input and/or suggestions from us are just some of our thoughts only, and in no way represents and/or speaks for anyone else in the park. Likewise, it appears that all the other residents have now had ample opportunity to weigh in on this themselves, either from the initial meeting you held on September 30, 2010, and/or through your other mailing as a follow-up.

In addition, I don't think you will get many, if any at all, to sign a copy of the Agreement with Homeowners, for in our case, and as we said, our input and suggestions are just based on our own limited knowledge and awareness of this subject, for we represent and speak for no one else in this park. As pointed out, currently there is no homeowners association, and years ago when there was, we were not even part of that. Signing such an agreement, as least to us, would indicate that we represent and speak for other residents, which is definitely not the case. As we said before, we only speak for ourselves and no one else.

In addition, even our own concerns and input at this time, comes from a very limited knowledge of this subject, for we feel few residents will actually have more than a passing awareness of the inner working in reference to a subdivision. Likewise, it is also understandable that we, like many other residents, will also have to reply on you and other experts in this field, to actually guide and help the residents understand the actual benefits to all concerned, and to also compare and show the real differences and positive aspects that will happen in Pacific Mobile Home Park from the residents point of view, as compared to all the negative input around the country as to why a subdivision, or condo conversion, is not encouraged.

Sincerely,
John Sisker & Deborah Lawson-Sisker
jsisker@sprynet.com / dsisker@sprynet.com
(714) 536-3850

12/1/2010

ATTACHMENT NO. 5.22

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

From: Clarke Fairbrother
To: mbies15989@aol.com ; cbrockway@socal.rr.com ; kris4933@hotmail.com ; gdlzap123@yahoo.com ; debbie.moore@stjoe.org ; nolimepublishing@aol.com ; brad@bradfordrhoads.com ; jrooney@socal.rr.com ; dsisker@sprynet.com ; jsisker@sprynet.com ; docmcclure@yahoo.com ; angels4M@aol.com
Cc: Janece Herrington
Sent: Thursday, November 04, 2010 2:21 PM
Subject: FW: Pacific Mobile Home Park Notes: Survey & FAQ's

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I understand that there is not a formal homeowner's association, but your review of the form of the survey and frequently asked questions helped create the final form of the documents. **Please sign a copy of the Agreement with Homeowners**, which only indicates that you had an opportunity to make comments, and send it back to me for my files (scan and email, fax or mail). Fax number is 949-852-5582. The address is 17300 Redhill Suite 280, Irvine, Ca 92614.

We plan to mail revised survey and frequently asked questions to all of the residents next week.

I will be out of the office for two weeks starting next Monday. If you have any questions during that period of time, please contact Janece Herrington.

Clarke Fairbrother
Office 949-852-5575

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

From: Clarke Fairbrother
Sent: Friday, October 29, 2010 11:09 AM
To: 'mbies15989@aol.com'; 'cbrockway@socal.rr.com'; 'kris4933@hotmail.com'; 'gdlzap123@yahoo.com'; 'debbie.moore@stjoe.org'; 'nolimepublishing@aol.com'; 'brad@bradfordrhoads.com'; 'jrooney@socal.rr.com'; 'dsisker@sprynet.com'; 'jsisker@sprynet.com'; 'docmcclure@yahoo.com'; 'angels4M@aol.com'
Cc: Janece Herrington
Subject: FW: Pacific Mobile Home Park Notes: Survey & FAQ's

Enclosed are the notes that I recieved from John.

The attached survey and frequently asked questions have been revised to incorporate all of his points.

Also attached is document that outlines how the survey is to be conducted.

Please give me your comments if any in the next few days.

We would like to get this survey and frequently asked questions in the mail next week.

If you can not open the documents, I can send PDF versions or get then to you another way.

If you have questions, send me an email with a good time and number to call. I am available this Saturday if you would like to discuss anything.

Clarke Fairbrother
Office 949-852-5575

The Survey:

Note: This 'Survey' is just to show a tentative interest among us residents, and does not commit anyone to

ATTACHMENT NO. 5.23

anything. It is just for informational purposes only.

One of the most important factors and questions on this 'Survey' is actually Question No. 1 of Section I, that one would indeed be interested if it is affordable to them. That is a key factor for this park and should always be emphasized.

This 'Survey' is okay as is, with the exception of Question Number 3. It is felt that some people may be a bit reluctant to divulge their income level, possibly feeling it is an invasion of privacy. Therefore, while we still feel this information is important and should be included, we would like to see some type of wording as to just why this information is needed at this time, and as to what will be done with it.

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Frequently Asked Questions:

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We would like to see the original FAQ's information included again with the revised 'Survey' but also expanded to include the following questions, along with Newport Pacific Capital's response...

- Will this subdivision secure our park as a mobile home park well into the future, and how will this tie-in with the current City's Relocation Ordinance, along with the effects on affordable housing?
- Unless the residents have 51% interest in the park, how will their input and concerns be of any value? And what happens to those that do purchase their lot, if the current park owners sell to outside interests anyway?
- Once a survey on lot lines is confirmed, how will this be enforced, and is the value of each lot based on its square footage? Likewise, what is Newport Pacific Capitals role and interest in this subdivision?
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- JulieAnn Rooney, #463 (714) 960-4756 jrooney@socal.rr.com
- John Sisker, #266 (714) 536-3850 jsisker@sprynet.com - cell: (714) 815-7625
- Deborah Lawson-Sisker, #266 (714) 536-3850 dsisker@sprynet.com - cell (714) 914-7452

Pacific MHOA

80 Huntington St. # 618
Huntington Beach, Ca. 92648

City of Huntington Beach
Scott Hess / Building and Planning
2000 Main St.
Huntington Beach, Ca.
94648

NOV 29 2010

November 22, 2010

Dear Mr. Hess,

We would like it to be known that Pacific Mobile Home Park has a Home Owners Association with a history and is presently in the process of re-organizing. We understand that the owners of our park are considering sub-division and the owners are currently distributing a survey within the park to determine the feasibility of sub-division. Rather than utilizing the park owners' survey, we would prefer to draft our own. Our HOA is in the process of developing our own survey for distribution. We understand this survey is required for the sub-division process to move forward. All inquiries can be sent to Pacific MHOA, 80 Huntington St. Spc. # 618, H.B. CA. 92648.

Thank you.

Sincerely,

Pacific MHOA

ATTACHMENT NO. 6.1

Villasenor, Jennifer

From: MJ Baretich [mjbaretech@hotmail.com]
Sent: Thursday, March 31, 2011 2:15 PM
To: Villasenor, Jennifer
Cc: jrooney; Maria; Nancy Meeks; Elmer Smith; TIM GEDDES; Jim Burr; Tim Sheahan
Subject: FW: MELLO ACT AND COASTAL ACT HELP

RECEIVED

APR 31 2011

Hi Jennifer,

I know this is a last minute thing before your meeting today, but I am forwarding this to you to let you know some of the research that is being done by others on behalf of the Pacific MHP Home Owners Association. The entire Golden State Manufactured-home Owners League (GSMOL) is watching this new proposed Subdivision carefully. Even though the last City Council had shown to not be in support of the mobilehome homeowners, I do hope that Planning Commission and the new City Council realizes that dealing with mobilehome parks in the Coastal Zone is different than the actions taken on the Huntington Shorecliffs Mobile Home Park.

If the City worries about fighting the Park Owners or HK&C over the Pacific Mobile Home Park Subdivision, GSMOL has suggested the retention of either Will Constantine or Bruce Stanton. Their WIN track records are outstanding.

The disastrous after-effects of the Huntington Shorecliffs Subdivision should be an embarrassment to the City, as far as supporting their very low and low income homeowners. We don't need a repeat of that horror story.

The Pacific MHP HOA states that they are putting together their own Survey. Give them a chance. They must first calm the fears of retaliation and the combat apathy of their community. It is not an easy task.

We other Huntington Beach mobilehome park homeowners support the Pacific Mobile Home Park HOA in purchasing the Park "in total," and not through this Subdivision Condo Conversion proposal. They wish to have a "resident owned park" free of Park Owner interference with a Management company of their choosing.

One of the Park Owners has expressed an interested in selling the Park to the people "in total." I pray that the City gives them a chance.

Mary Jo Baretich
GSMOL Region 5 Manager for Orange County
President, Cabrillo Wetland Village HOA, Inc. (Cabrillo Mobile Home Park)
21752 Pacific Coast Hwy #23A
Huntington Beach, CA 92646

From: mjbaretech@hotmail.com
To: lwan22350@aol.com
Subject: MELLO ACT AND COASTAL ACT HELP
Date: Thu, 31 Mar 2011 13:42:54 -0700

Hi Sara,

I am writing to ask if you could direct me to a Coastal Commission Staff person who is knowledgeable in the Coastal Act and Mello Act as related to protection of affordable living for mobilehome homeowners in the Coastal Zone. I do know that recently the County of Los Angeles was able to stop the Subdivision Condo Conversion of Pacific Palisades Bowl Mobile Home.

The following is a summary of the Second District Court of Appeal regarding this requirement.

Palisades Bowl Requires the Subdivider to Comply with the Coastal Act and Mello Act

In *Palisades Bowl*, the Second District Court of Appeal ruled that a subdivider proposing to convert a rental park to resident ownership under Section 66427.5 must also comply with the requirements of the Mello Act and Coastal Act when the park is located in the coastal zone. In that case, a park owner sued the City of Los Angeles after the City rejected as incomplete its application submitted under Section 66427.5, because the park was in the coastal zone. The park owner refused to submit an application for a coastal permit or obtain clearance under the Mello Act for the preservation of low and moderate income housing.

The issue before the court was whether Section 66427.5 barred the City from requiring compliance with the Mello Act and Coastal Act. No prior published court decisions have addressed these issues. The court ruled that notwithstanding Section 66427.5, the park owner was also required to comply with the Mello Act and the Coastal Act based on the paramount legislative intent behind those statutes. The Mello Act forbids approval of a conversion application for existing residential dwelling units in the coastal zone occupied by persons of low or moderate income, unless the applicant provides for replacement of those dwelling units to persons or families of low or moderate income housing. The court ruled that Section 66427.5 does not provide the protection mandated by the Mello Act. The court also found that the Coastal Act was enacted to ensure a balance between protection of coastal resources and development by providing a comprehensive statutory scheme regulating land use planning in the coastal zone, including preservation of housing opportunities for all persons.

The same situation of Subdivision Condo Conversion is being presented here in Huntington Beach by Park Owners who wish to turn the existing Pacific Mobile Home Park (located in the Coastal Zone) into a Subdivision Condo Conversion (252 spaces). In September 2010, the Huntington Shorecliffs Mobile Home Park (not located the Coastal Zone) which is only two blocks North of the Pacific Mobile Home Park, was approved by the Huntington Beach City Council for Subdivision Condo Conversion (304 spaces). The same Attorney, Robert Coldren of Hart, King & Coldren (HK&C), who handled the Huntington Shorecliffs MHP Subdivision is proposing the Subdivision for the Pacific MHP. The first Subdivision Committee meeting on the Pacific MHP is being held today, March 31, 2011. It will then go to the Planning Commission meeting on April 12, 2011.

After the City Council approved the Huntington Shorecliffs, the Park Owners canceled all leases, canceled all Section 8 housing, and raised the rents up to "market rent" of \$1300 to \$1600. The lot prices have been tentatively set at \$275,000 to \$385,000 for those who may qualify. This was a Senior Park. No "lots" have been sold as yet since the Park Owner must correct serious infrastructure and flooding problems first. As of March 1, more than 70 homeowners have abandoned their homes at Huntington Shorecliffs, many with mortgages and city improvement loans still outstanding. Some left almost everything behind, since they could not afford storage on their incomes. The majority of the homeowners were in their 70's, 80's and 90's.

This is the potential future for the Pacific MHP homeowners unless the Park Owners' Subdivision Condo Conversion plans are stopped, hopefully by the enforcement of the Coastal Act and Mello Act to protect the very low, low and moderate income homeowners.

The REPORT ON IMPACT OF CONVERSION UPON RESIDENTS, dated submitted by HK&C to the City does not mention the Coastal Act nor the Mello Act.

We appreciate your efforts and expertise and great accomplishments in the protection of the Coastal Zone.

Thank you for all you do,

Mary Jo Baretich
President, Cabrillo Wetland Village HOA, Inc.
President, Cabrillo Wetlands Conservancy, Inc.
21752 Pacific Coast Hwy #23A
Huntington Beach, CA 92646
(714) 960-9507



Mark D. Alpert
malpert@hkclaw.com

April 1, 2011

Our File Number: 36608.006/4834-5325-2873v.1

VIA EMAIL AND REGULAR MAIL

Jennifer Villasenor
City of Huntington Beach Planning Dept.
2000 Main Street
P.O. Box 190
Huntington Beach, CA 92648

RECEIVED

APR 01 2011

Dept. of Planning
& Building

Re: Pacific Mobile Home Park
80 Huntington Street, Huntington Beach, CA. 92648
Subdivision Application for Tentative Tract Map No. 17392

Dear Ms Villasenor:

We were obviously disappointed with the recommendations of the subdivision committee. Setting aside the merits of staff's recommendation, your presentation raised some factual issues that we would like to have addressed prior to the Planning Commission hearing. In addition, you apparently have access to relevant documents which we have not been provided. We would appreciate receiving a copy of the records, described below, by the beginning of next week.

Thank you for yesterday finally providing me a copy of the "conditional exception" permit granted by the City in 1953 for the construction of the original park along Huntington. I have to observe I asked for this document first in our meeting in January, 2011. I made a second request for the document in a follow up email of January 25, 2011, which stated:

"4. You agreed to provide me a copy of the permit under which Pacific operates and the deeds which purportedly established the dedication on Huntington."

As I said, you finally gave me a permit yesterday. You represented that there were no plot plans or maps associated with the project. However, if the city has any other documents related to the initial construction and approval of the Park, please provide me a copy of them immediately.

We still have not received a copy of the documents which establish the dedication referenced in the email. Please provide a copy of all documents relating to the offer or acceptance of the dedication on Huntington.

During the presentation, you mentioned that the City had a survey from 1975 which you claimed showed that over part of Huntington, that homes were not encroaching. Please provide me a copy of that survey as soon as possible.



Jennifer Villasenor
City of Huntington Beach Planning Dept
April 1, 2011
Page 2

I did not hear any statement by you to the effect that the existing fence line along Huntington has ever been changed since the original construction of the project. If you have any photographs, surveys or other evidence reflecting that this fence line was ever moved, please provide me that information immediately.

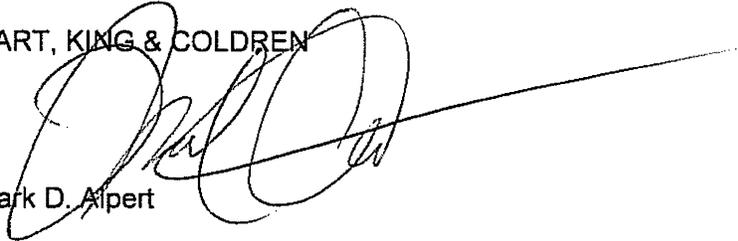
Finally, you mentioned that at one time the City resisted efforts to construct a new wall based on the City's claimed dedication. Please confirm the date this occurred in writing and advise me and provide all relevant documentation of any other action by the City since the 1953 approval of the construction of the park in which the City has asserted its rights to the purported dedication on Huntington.

Please consider this letter a public records request. I am copying the city clerk who I presume is responsible for responding to such requests.

I appreciate your prompt attention to this matter.

Sincerely,

HART, KING & COLDREN



Mark D. Alpert

MDA/sm

cc: Joan Flynn, City Clerk
Pacific Mobile Home Park, LLC

RECEIVED

APR 01 2011

Villasenor, Jennifer

From: MJ Baretich [mjbaretech@hotmail.com]
Sent: Friday, April 01, 2011 11:17 AM
To: Villasenor, Jennifer
Cc: Nancy Meeks; TIM GEDDES; Steve Gullage; jrooney; Maria; james-burr; tpsheahan; Will Constantine; Bruce Stanton; Blair Farley; Connie Boardman; Joe Shaw; Elmer Smith; Andrea Hiser
Subject: RE: MELLO ACT AND COASTAL ACT HELP
Attachments: 03-31-2011 SUBDIVISION MTG - DENIAL - 1.jpg; 03-31-2011 SUBDIVISION MTG - DENIAL - 2.jpg; PACIFIC MHP IMAGE - 2010.jpg

Dept. of Planning
& Building

Hi Jennifer,

That was a great meeting yesterday, in spite of Robert Coldern's outbursts and threats of a lawsuit. I am so glad that Scott Hess admonished him.

In light of what I heard yesterday. it appears that is might be in the HOA's best interest to go ahead and contact the Resident Owned Parks (ROP) President, Maury Priest, regarding purchase of the Park in-total for a Common Interest Development, as they have planned to do. With this new information regarding the Huntington Street right-of-way encroachment, and of course the Atlanta Street Widening Project, and the Mello Act and Coastal Act, I believe the HOA now has more bargaining advantage to purchase the Park.

At the Huntington Beach Tomorrow meeting last night we were told about the Financial problems that the City is in now and for several years to come. I don't think the City could afford to purchase the mobilehomes along Huntington Street at this time plus pay the Park Owners for their land portion. They are already trying to get Federal funding for the Atlanta Street Widening Project.

Here are the email addresses of Will Constantine (wconstantinesantacruz@gmail.com) and Bruce Stanton (brucestantonlaw@yahoo.com). In addition, GSMOL has 7 more top-notch attorneys to help.

The GSMOL President is Jim Burr (james-burr@sbcglobal.net) if you wish to contact him.

SB444 is still in Committee Review, but once that goes through the Legislature and is hopefully signed by the Governor, then the Survey will have more merit.

Thank you again for your presentation at the Subdivision Committee meeting, and drafting of the Denial.

Mary Jo Baretich
GSMOL Region 5 Manager for Orange County
President, Cabrillo Wetland Village HOA, Inc. (Cabrillo Mobile Home Park)
21752 Pacific Coast Hwy #23A
Huntington Beach, CA 92646
(714) 960-9507

From: mjbaretech@hotmail.com
To: jvillasenor@surfcity-hb.org
CC: jrooney@socal.rr.com; angels4m@aol.com; nancyracer@verizon.net; efuddsmith@dslextreme.com; timgeddes3@gmail.com; james-burr@sbcglobal.net; tpsheahan@cox.net
Subject: FW: MELLO ACT AND COASTAL ACT HELP
Date: Thu, 31 Mar 2011 14:15:22 -0700

Hi Jennifer,

I know this is a last minute thing before your meeting today, but I am forwarding this to you to let you know some of the research that is being done by others on behalf of the Pacific MHP Home Owners Association. The entire Golden State

Manufactured-home Owners League (GSMOL) is watching this new proposed Subdivision carefully. Even though the last City Council had shown to not be in support of the mobilehome homeowners, I do hope that Planning Commission and the new City Council realizes that dealing with mobilehome parks in the Coastal Zone is different than the actions taken on the Huntington Shorecliffs Mobile Home Park.

If the City worries about fighting the Park Owners or HK&C over the Pacific Mobile Home Park Subdivision, GSMOL has suggested the retention of either Will Constantine or Bruce Stanton. Their WIN track records are outstanding.

The disastrous after-effects of the Huntington Shorecliffs Subdivision should be an embarrassment to the City, as far as supporting their very low and low income homeowners. We don't need a repeat of that horror story.

The Pacific MHP HOA states that they are putting together their own Survey. Give them a chance. They must first calm the fears of retaliation and the combat apathy of their community. It is not an easy task.

We other Huntington Beach mobilehome park homeowners support the Pacific Mobile Home Park HOA in purchasing the Park "in total," and not through this Subdivision Condo Conversion proposal. They wish to have a "resident owned park" free of Park Owner interference with a Management company of their choosing.

One of the Park Owners has expressed an interested in selling the Park to the people "in total." I pray that the City gives them a chance.

Mary Jo Baretich
GSMOL Region 5 Manager for Orange County
President, Cabrillo Wetland Village HOA, Inc. (Cabrillo Mobile Home Park)
21752 Pacific Coast Hwy #23A
Huntington Beach, CA 92646

From: mjbaretich@hotmail.com
To: lwan22350@aol.com
Subject: MELLO ACT AND COASTAL ACT HELP
Date: Thu, 31 Mar 2011 13:42:54 -0700

Hi Sara,

I am writing to ask if you could direct me to a Coastal Commission Staff person who is knowledgeable in the Coastal Act and Mello Act as related to protection of affordable living for mobilehome homeowners in the Coastal Zone. I do know that recently the County of Los Angeles was able to stop the Subdivision Condo Conversion of Pacific Palisades Bowl Mobile Home.

The following is a summary of the Second District Court of Appeal regarding this requirement.

***Palisades Bowl* Requires the Subdivider to Comply with the Coastal Act and Mello Act**

In *Palisades Bowl*, the Second District Court of Appeal ruled that a subdivider proposing to convert a rental park to resident ownership under Section 66427.5 must also comply with the requirements of the Mello Act and Coastal Act when the park is located in the coastal zone. In that case, a park owner sued the City of Los Angeles after the City rejected as incomplete its application submitted under Section 66427.5, because the park was in the coastal zone. The park owner refused to submit an application for a coastal permit or obtain clearance under the Mello Act for the preservation of low and moderate income housing.

The issue before the court was whether Section 66427.5 barred the City from requiring compliance with the Mello Act and Coastal Act. No prior published court decisions have addressed these issues. The court ruled that notwithstanding Section 66427.5, the park owner was also required to comply with the Mello Act and the Coastal Act based on the paramount legislative intent behind those statutes. The Mello Act forbids approval of a conversion application for existing residential dwelling units in the coastal zone occupied by persons of low or

moderate income, unless the applicant provides for replacement of those dwelling units to persons or families of low or moderate income housing. The court ruled that Section 66427.5 does not provide the protection mandated by the Mello Act. The court also found that the Coastal Act was enacted to ensure a balance between protection of coastal resources and development by providing a comprehensive statutory scheme regulating land use planning in the coastal zone, including preservation of housing opportunities for all persons.

The same situation of Subdivision Condo Conversion is being presented here in Huntington Beach by Park Owners who wish to turn the existing Pacific Mobile Home Park (located in the Coastal Zone) into a Subdivision Condo Conversion (252 spaces). In September 2010, the Huntington Shorecliffs Mobile Home Park (not located the Coastal Zone) which is only two blocks North of the Pacific Mobile Home Park, was approved by the Huntington Beach City Council for Subdivision Condo Conversion (304 spaces). The same Attorney, Robert Coldren of Hart, King & Coldren (HK&C), who handled the Huntington Shorecliffs MHP Subdivision is proposing the Subdivision for the Pacific MHP. The first Subdivision Committee meeting on the Pacific MHP is being held today, March 31, 2011. It will then go to the Planning Commission meeting on April 12, 2011.

After the City Council approved the Huntington Shorecliffs, the Park Owners canceled all leases, canceled all Section 8 housing, and raised the rents up to "market rent" of \$1300 to \$1600. The lot prices have been tentatively set at \$275,000 to \$385,000 for those who may qualify. This was a Senior Park. No "lots" have been sold as yet since the Park Owner must correct serious infrastructure and flooding problems first. As of March 1, more than 70 homeowners have abandoned their homes at Huntington Shorecliffs, many with mortgages and city improvement loans still outstanding. Some left almost everything behind, since they could not afford storage on their incomes. The majority of the homeowners were in their 70's, 80's and 90's.

This is the potential future for the Pacific MHP homeowners unless the Park Owners' Subdivision Condo Conversion plans are stopped, hopefully by the enforcement of the Coastal Act and Mello Act to protect the very low, low and moderate income homeowners.

The REPORT ON IMPACT OF CONVERSION UPON RESIDENTS, dated submitted by HK&C to the City does not mention the Coastal Act nor the Mello Act.

We appreciate your efforts and expertise and great accomplishments in the protection of the Coastal Zone.

Thank you for all you do,

Mary Jo Baretich
President, Cabrillo Wetland Village HOA, Inc.
President, Cabrillo Wetlands Conservancy, Inc.
21752 Pacific Coast Hwy #23A
Huntington Beach, CA 92646
(714) 960-9507

GOVERNMENT CODE SECTION 66427.5

66427.5. At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a rental mobilehome park to resident ownership, the subdivider shall avoid the economic displacement of all nonpurchasing residents in the following manner:

(a) The subdivider shall offer each existing tenant an option to either purchase his or her condominium or subdivided unit, which is to be created by the conversion of the park to resident ownership, or to continue residency as a tenant.

(b) The subdivider shall file a report on the impact of the conversion upon residents of the mobilehome park to be converted to resident owned subdivided interest.

(c) The subdivider shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.

(d) (1) The subdivider shall obtain a survey of support of residents of the mobilehome park for the proposed conversion.

(2) The survey of support shall be conducted in accordance with an agreement between the subdivider and a resident homeowners' association, if any, that is independent of the subdivider or mobilehome park owner.

(3) The survey shall be obtained pursuant to a written ballot.

(4) The survey shall be conducted so that each occupied mobilehome space has one vote.

(5) The results of the survey shall be submitted to the local agency upon the filing of the tentative or parcel map, to be considered as part of the subdivision map hearing prescribed by subdivision (e).

(e) The subdivider shall be subject to a hearing by a legislative body or advisory agency, which is authorized by local ordinance to approve, conditionally approve, or disapprove the map. The scope of the hearing shall be limited to the issue of compliance with this section.

(f) The subdivider shall be required to avoid the economic displacement of all nonpurchasing residents in accordance with the following:

(1) As to nonpurchasing residents who are not lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent to market levels, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards, in equal annual increases over a four-year period.

(2) As to nonpurchasing residents who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

GOVERNMENT CODE SECTION 66427

66427. (a) A map of a condominium project, a community apartment project, or of the conversion of five or more existing dwelling units to a stock cooperative project need not show the buildings or the manner in which the buildings or the airspace above the property shown on the map are to be divided, nor shall the governing body have the right to refuse approval of a parcel, tentative, or final map of the project on account of the design or the location of buildings on the property shown on the map that are not violative of local ordinances or on account of the manner in which airspace is to be divided in conveying the condominium.

(b) A map need not include a condominium plan or plans, as defined in subdivision (e) of Section 1351 of the Civil Code, and the governing body may not refuse approval of a parcel, tentative, or final map of the project on account of the absence of a condominium plan.

(c) Fees and lot design requirements shall be computed and imposed with respect to those maps on the basis of parcels or lots of the surface of the land shown thereon as included in the project.

(d) Nothing herein shall be deemed to limit the power of the legislative body to regulate the design or location of buildings in a project by or pursuant to local ordinances.

(e) If the governing body has approved a parcel map or final map for the establishment of condominiums on property pursuant to the requirements of this division, the separation of a three-dimensional portion or portions of the property from the remainder of the property or the division of that three-dimensional portion or portions into condominiums shall not constitute a further subdivision as defined in Section 66424, provided each of the following conditions has been satisfied:

(1) The total number of condominiums established is not increased above the number authorized by the local agency in approving the parcel map or final map.

(2) A perpetual estate or an estate for years in the remainder of the property is held by the condominium owners in undivided interests in common, or by an association as defined in subdivision (a) of Section 1351 of the Civil Code, and the duration of the estate in the remainder of the property is the same as the duration of the estate in the condominiums.

(3) The three-dimensional portion or portions of property are described on a condominium plan or plans, as defined in subdivision (e) of Section 1351 of the Civil Code.

GOVERNMENT CODE SECTION 66474

66474. A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

c. An appellant was denied the right of City appeal because City notice and hearing procedures for the development did not comply with the provisions of the Chapter.

d. The City charges an appeal fee for the filing or processing of appeals.

2. Where a project is appealed by any two (2) members of the Coastal Commission, there shall be no requirement of exhaustion of City appeals. Provided, however, that a City government may provide, by ordinance, that notice of commissioner appeals may be transmitted to the City's appellate body (which considers appeals from the City body that rendered the final decision), and the appeal to the Commission may be suspended pending a decision on the merits by that City appellate body. If the decision of the City appellate body modifies or reverses the previous decision, the commissioners shall be required to file a new appeal from that decision. (3334-7/96)

245.26 Precedence of Local Coastal Program

Where the plans, policies, requirements or standards of the Local Coastal Program, as applied to any project in the CZ Overlay District, conflict with those of the underlying zoning district or other provisions of this chapter, the plans, policies, requirements or standards of the Local Coastal Program shall take precedence.

245.28 Conditions

Approval of a Coastal Development Permit shall be subject to conditions as necessary to ensure conformance with, and implementation of, the Local Coastal Program. Modification and resubmittal of project plans, drawings, and specifications may be required to ensure conformance with the Local Coastal Program.

245.30 Findings

A. Required Findings. A CDP application may be approved or conditionally approved only after the approving authority has made the following specific factual findings supporting the legal conclusion:

1. Local Coastal Plan. That the development project, as proposed or as modified by conditions of approval, conforms with the General Plan, including the Local Coastal Program;
2. Zoning Provisions. That the project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code;
3. Adequate Services. That at the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program; and

4. California Coastal Act. That the development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

245.32 Appeals

Development pursuant to an approved Coastal Development Permit shall not commence until all applicable administrative appeal periods expire or, if appealed, until all administrative appeals, including those to the Coastal Commission, have been exhausted. (3517-12/01)

- A. Action by the Zoning Administrator or Planning Commission to approve, conditionally approve, or deny any Coastal Development Permit may be appealed on or before the tenth working day following such action. Action by the Zoning Administrator may be appealed to the Planning Commission. Action by the Planning Commission may be appealed to the City Council. Appeals may be made directly to the Coastal Commission pursuant to Sections 13111 and 13573 of the California Code of Regulations for appealable development. (3517-12/01)
- B. Action by the City Council on a Coastal Development Permit for appealable development may be appealed directly to the Coastal Commission pursuant to Sections 13111 and 13573 of the California Code of Regulations. (3517-12/01)
- C. An appeal pursuant to this chapter may be filed only by the applicant for the Coastal Development Permit in question, an aggrieved person, or any 2 members of the Coastal Commission.
- D. An appeal to the Planning Commission shall be filed with the Planning Department. An appeal to the City Council shall be filed with the City Clerk. The appeal shall be accompanied by a fee set by resolution of the City Council and a statement of the grounds for the appeal. (3517-12/01)
- E. Notice of the local appeal shall be given as set forth in Section 245.20 or 245.22 and shall be processed in accordance with the provisions of Section 248.20. (3517-12/01)
- F. An appeal to the Coastal Commission shall be processed in accordance with the provisions of Sections 13110 through 13120 of the California Code of Regulations. (3334-7/96, 3517-12/01)

245.34 Application After Denial

Whenever a CDP request under the provisions of this section has been denied and such denial has become final, no new CDP application for the same or similar request may be accepted within 1 year of the denial date, unless the Director finds that a sufficient change in circumstances has occurred to warrant a new CDP application.

251.08 Hearings and Action

- A. Subdivision Committee. Whenever a property is to be subdivided into 5 or more parcels, the Subdivision Committee may hold a public hearing prior to reporting on the tentative map for said subdivision. Notice of the time and place thereof, including a general description of the subject matter shall be given at least 10 days before the hearing. Copies of said notice shall be mailed to the subdivider, engineer, property owner of the property proposed for subdivision. Notice shall also be given to each local agency expected to provide water, sewage, streets, schools, or other essential facilities or services to the subdivision.
- B. Notice of Public Hearings. Upon receipt of an application that is accepted as complete, the Department shall set a date for a public hearing, provide notice as required by Chapter 248 and prepare a report with recommendations. A copy of the Department report shall be forwarded to the subdivider at least three working days prior to the public hearing.
- C. Planning Commission Action. The Planning Commission or Zoning Administrator as the case may be, shall approve, conditionally approve, or deny a tentative map within 50 days after the tentative map has been accepted. This time period shall commence after certification of the environmental impact report, adoption of the negative declaration, or determination that the project is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.
- D. Factors to be Considered. In reaching a decision upon the tentative map, the Planning Commission or Zoning Administrator shall consider the effect of that decision on the housing needs of the region and balance these needs against the public service needs of its residents and available fiscal and environmental resources.
- E. Approval. The tentative map may be approved or conditionally approved if the following findings are made:
 - 1. That the proposed map is consistent with the General Plan or any applicable specific plan, or other applicable provisions of this Code;
 - 2. That the site is physically suitable for the type and density of development;
 - 3. That the design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Notwithstanding the foregoing, the Planning Commission or Zoning Administrator may approve such a tentative map if an environmental impact report was prepared with respect to the project and a finding was made that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;

4. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided.

F. Denial. The Planning Commission or Zoning Administrator shall deny approval of a tentative subdivision map if it determines that approval will result in any of the conditions as described in Government Code Section 66474.

251.10 Waiver of Time Limits for Zoning Administrator or Planning Commission Action

Any applicable time limits for acting on the tentative map may be extended by mutual consent of the subdivider and the Planning Commission or Zoning Administrator. A waiver of applicable time limits may be required to permit concurrent processing of related project approvals or environmental review on the same development project.

251.12 Appeals of Planning Commission or Zoning Administrator Action

The subdivider or any interested person adversely affected by action under Section 251.08 may, within 10 days after the decision, file an appeal under the provision of Chapter 248.

251.14 Expiration

A. The approval or conditional approval of a tentative map shall expire 24 months from its approval. The period of time may be lengthened if the project is subject to Section 66452.6(a), (b) and (c) of the Subdivision Map Act.

251.16 Extensions

- A. Request by Subdivider. The subdivider may request an extension of the expiration date of the approved or conditionally approved tentative map by written application to the Department. The application and any required fee shall be filed not less than 30 days before the map is to expire and shall state the reasons for requesting the extension.
- B. Action. The Department shall review the request, determine whether a public hearing is required based on changing conditions in the area, and submit the application for the extension, together with a report, to the Planning Commission or Zoning Administrator for approval, conditional approval, or denial at the next scheduled meeting. A copy of the Department's report shall be forwarded to the subdivider prior to the Planning Commission meeting on the extension. After conducting a public hearing or reviewing the request, the Planning Commission or Zoning Administrator may approve or deny the requested extension.
- C. Time Limit of Extensions. The time at which the tentative map expires may be extended for a period of time of up to one year, with a maximum of three one-

**SUBDIVISION COMMITTEE
MINUTES**

March 31, 2011
Room B-7, City Hall – Lower Level, Huntington Beach Civic Center
3:30 P.M.

Subdivision Committee Planning Commissioners Present: Commissioner Blair Farley, Commissioner Timothy J. Ryan, Commissioner Elizabeth Shier Burnett

Subdivision Committee Staff Members Present: Scott Hess, Bill Reardon, Debbie DeBow

Staff Present: Jennifer Villasenor, Darin Maresh, Tony Olmos

Applicant Present: Jim Hodgson, Mark Alpert, Robert Coldren

**TENTATIVE TRACT MAP NO. 17397 (PACIFIC MOBILE HOME PARK
CONVERSION – RENTAL TO OWNERSHIP)**

APPLICANT: Mark Hodgson, Pacific Mobile Home Park, LLC, 12838 Old Foothill Boulevard, Santa Ana, CA 92705

SUBDIVIDER: Mark Hodgson, Pacific Mobile Home Park, LLC, 12838 Old Foothill Boulevard, Santa Ana, CA 92705

ENGINEER: Burt Mazelow, R.T. Quinn & Associates, 1907 Border Avenue, Torrance, CA 90501

REQUEST: To subdivide an existing for-rent, mobile home park for ownership purposes within the non-appealable area of the coastal zone. The applicant proposes to subdivide the 252 existing mobile home spaces into 252 numbered lots with 31 lettered lots (interior drive aisles, landscape areas and common areas) to enable the existing park residents to purchase their own lots.

The meeting began and Committee Member Hess discussed the order of the meeting and that the role of the Committee would be to review the proposed subdivision in accordance with the Subdivision Map Act, the Huntington Beach Zoning and Subdivision Ordinance, and applicable codes and requirements.

Public Works Department, Fire Department, and Planning & Building Department Comments:

Project Planner, Jennifer Villasenor, gave an overview of the project and the proposed subdivision map, the history of the Pacific Mobile Home Park property and Huntington Street right-of-way, and provided an account of the subdivision map inadequacies and inconsistencies with applicable codes and statutes. Staff concluded the presentation with a recommendation for denial and provided the Subdivision Committee with suggested findings for the denial of the tentative tract map. No other staff members spoke on the item.

ATTACHMENT NO. 9.1

SUGGESTED FINDINGS FOR DENIAL – TENTATIVE TRACT MAP NO. 17397:

1. Section 66427.5 of the California Government Code does not apply and is in conflict with the proposed map because Tentative Tract Map No. 17397 (received and dated December 7, 2010) to convert 252 for-rent mobile home lots into condominium (ownership) lots, will result in changes to existing lot lines and exterior boundary lines and therefore, does not solely constitute a subdivision map created from the conversion of a rental mobile home park to resident ownership.
2. The proposed tentative tract map would result in conditions specified in Section 66474 of the California Government Code (and referenced in Chapter 251 of the HBZSO as the required basis for denial of a tentative map), which stipulates that a tentative map shall be denied if the proposed tentative map would result in any of the conditions listed in that section. Specifically, Section 66474 requires denial of a tentative map that is not consistent with applicable general plans. The proposed subdivision would violate the following City of Huntington Beach General Plan Land Use Element goal and policies:

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Policy LU 4.2.1: Require that all structures be constructed in accordance with the requirements of the City's building and other pertinent codes and regulations; including new, adaptively re-used, and renovated buildings.

Policy LU 4.2.6: Monitor the conditions of buildings in the City and enforce pertinent building, municipal, and zoning codes to ensure their maintenance and quality.

Although the subdivision map does not propose construction of new buildings, Policy LU 4.2.1 is applicable Citywide to ensure the quality of the City's built environment. Similar to Policy LU 4.2.6, the General Plan requires that all proposed projects comply with applicable City codes and that the City shall enforce compliance with these codes. To that end, the City cannot approve a subdivision map that would result in violations of the Zoning Code and Municipal Code, which would be the case if the subdivider elected to maintain the current lots/configuration of the mobile homes and accessory structures.

Conversely, if the subdivider intends to move the existing lot lines such that no encroachment occurs, the resulting lots may result in an inability to meet the standards and regulations of the Mobile Home Parks Act/Health and Safety Code with respect to setbacks, access, and other applicable development standards that would be required. These violations would be detrimental to the current quality of life of the park residents affected by the physical changes proposed by the tentative tract map. Although the City does not have enforcement authority to require compliance with applicable standards, the City cannot approve a tentative map for which it is unknown if violations of the Health and Safety Code would result or what the consequences of moving the existing lot lines would be on the quality of life of affected residents. Goal LU 1 aims to achieve improvement, and at a minimum, maintenance of the quality of life for City residents. The proposed tentative map would not conflict with achievement of this goal.

3. Pursuant to Section 66427 of the California Government Code, the City cannot approve Tentative Tract Map No. 17397 because the location of the buildings on the property are violative of local ordinances.
4. The City cannot make the necessary findings for approval specified in Chapter 251 of the HBZSO, which require that "a proposed map is consistent with the General Plan or any applicable specific plan, or other provisions of this Code." The proposed tentative tract map conflicts with Section 202.04 of the HBZSO, Section 12.38.030 of the Municipal Code, General Plan Land Use Element Goal LU 1 and Policies LU 4.2.1 and 4.2.6 and Sections 66427, 66427.5 and 66474 of the Subdivision Map Act.

Subdivision Committee Member Comments:

Committee Member Ryan asked staff for clarification as to how the scope of review was not limited to 66427.5 if it was resulting from a change of ownership. Staff replied that the map would result in lot/boundary changes and physical changes of the existing lots and dwelling units which was inconsistent with the statements made in the applicant's narrative.

Committee Member Shier Burnett inquired as to why staff accepted the application for review if Section 66427.5 does not limit the scope of review. Staff replied that the applicant insisted on review of the map pursuant to 66427.5 and believes that the proposed subdivision map is limited to the provisions of 66427.5. Staff also informed Committee Member Shier Burnett that staff informed the applicant of the issues upon receiving the map and offered to refund the application fees to allow the applicant to resolve the issues prior to submitting the.

Robert Coldren, representing the subdivider, thanked the Committee for reviewing the proposed subdivision map and stated that the client is not looking to file a lawsuit but it will be necessary if the map is denied. Mr. Coldren stated that the City is limited to considering the proposed tentative map only on the basis of compliance with Section 66427.5 and that the subdivider was not proposing to change legal lot lines. Mark Alpert, also representing the subdivider, stated that the vast majority of Park residents support the proposed subdivision. Committee Member Shier Burnett asked for clarification from staff, to which staff replied that only 25 percent of the residents responded to the survey so the accuracy of the statement by Mr. Alpert could not be verified and remained unknown. Jim Hodgson, subdivider, thanked the Committee for reviewing that proposed subdivision map and stated that the owners are not proposing to convert or sell lots in the immediate future.

Committee Member Ryan clarified that the action by the Subdivision Committee represents a recommendation to the Planning Commission and would not constitute final action on the proposed subdivision map. Staff confirmed.

A MOTION WAS MADE BY COMMITTEE MEMBER FARLEY, SECONDED BY COMMITTEE MEMBER SHIER BURNETT, TO RECOMMEND DENIAL OF TENTATIVE TRACT MAP NO. 17397 TO THE PLANNING COMMISSION. (APPROVED 5-0-1, Ryan - Abstained).