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DATE: October 7, 2010

TO: Planning Commission

FROM: Arlyne J. Camire, AICP, Associate Planner

SUBJECT: Text Amendment No. PL-2010-0262- Request to Amend Hayward Municipal Code (Zoning Ordinance) Section 10-1.700 Mobile Home Park District Regarding the Conversion to Seniors-Only and Non-Age-Restricted Status

RECOMMENDATION

Staff recommends that the Planning Commission recommends to the City Council that they find the text amendment exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) guidelines, Section 15183 (a) and approve the text amendment to Hayward Municipal Code Section 10-1.700 subject to the attached findings.

BACKGROUND

The City has nine mobilehome parks, comprising approximately 2,500 spaces and over 5,000 residents. The regulation of these parks, at the state and local level, is important due to the high demand for lower cost housing and the limited supply available in these parks. Vacancies in parks are rare and are quickly filled. Additionally, a substantial portion of mobilehome park residents are senior citizens (55 years of age or older), many of whom live on fixed or limited incomes. The five existing mobile home parks that are currently classified for seniors-only are New England Village, Georgian Manor, Hayward Mobile Country Club, Eden Gardens, and Spanish Ranch II.

At a work session on January 19, 2010, the City Council adopted priority goals and objectives for staff to accomplish during the 2010 calendar year. Related to the priority of Land Use and Sustainability, the Council adopted a goal of preserving affordable senior housing by protecting seniors-only mobile home parks from conversion to non-age-restricted parks.

At a work session on April 20, 2010, the City Council reviewed alternatives for modifying the Zoning Ordinance to regulate the conversion of seniors-only mobile home parks to non-age-restricted parks; considered options proposed by park owners and residents for modifying the existing Mobile Home Space Rent Stabilization Ordinance; and directed staff to form a working committee comprised of park owners, park residents, the Hayward Mobile Home Owners Association (HMOA), and City staff to review any desired proposals. The City Council also directed staff to develop a seniors-only regulation and non-age restrictive ordinance for review by the Planning Commission.

Staff recommends this regulation to further the City Council's adopted priority adopted City Council priorities for 2010

DISCUSSION

Mobile home parks remain one of the City's key sources of affordable housing. The intent of the proposed text amendment to the Zoning Ordinance would be to preserve affordable housing for senior citizens, by protecting mobile home parks that are primarily occupied by seniors from converting to non-age-restricted parks, without prior approval by the City. The residency, operation and maintenance of mobile home parks is extensively regulated under both state and federal law, and local jurisdictions lack the authority to regulate many aspects of mobile home park existence. However, the California Attorney General has recognized the rights of cities to require mobile home parks to obtain use permits prior to changing age restrictions or the lack thereof.

The proposed ordinance defines a "Seniors-Only Mobile Home Park" as one in which at least 80% of the spaces are occupied by, or intended to be occupied by, at least one person who is age 55 or older, in compliance with state and federal law. In addition, the proposed ordinance requires approval of a use permit prior to changing a park's status with respect to age restrictions.

Under the federal Fair Housing Act, a mobile home park owner may restrict residency to occupants who are 55 or older, provided that the park owner complies with certain regulations administered by the Department of Urban Development ("HUD"), including age verification surveys and the adoption of park rules and regulations reasonably intended to implement the senior-only park status. Compliance with HUD requirements provides a defense to an age discrimination claim against the owner. If more than 20% of the park's units are occupied by households without a resident who is 55 years of age or older, the park owner may be subject to an age or familial-status discrimination lawsuit. There are some exceptions to the "55 or older" rule for park employees and some family members.

In the event that a senior no longer occupies a unit and a non-senior family member desires to continue residing in the unit, federal law does not allow the eviction of the family member. However, the park owner may decline to renew the lease for that park space with the non-senior family member, if continued tenancy by the non-senior person would cause the park's senior households to drop below the 80% threshold. State law dictates the grounds for terminating tenancies in mobile home parks, and local agencies are preempted from enacting legislation in this area.

The proposed text amendment would allow seniors-only mobile home parks and non-age restricted mobile home parks in operation prior to January 1, 2010, to continue to operate "as is." Any mobile home park that operated as a seniors-only mobile home park pursuant to state and/or federal law, as of January 1, 2010, would be required to obtain a conditional use permit to become a park that is not age-restricted. Any mobile home park that operated as a non-age-restricted park as of January 1, 2010, would be required to obtain a conditional use permit to operate as a seniors-only mobile home park. This conditional use permit requirement is designed to protect and

preserve the affordable housing stock of both seniors-only and non-age-restrictive mobile home parks.

The proposed modification would also require that signage, advertising, leases and park rules and regulation for spaces in seniors-only mobile home parks state that the park is a seniors-only mobile home park, consistent with state and federal law. The proposed text amendment would not alter existing general plan land use designations or development standards.

Text Amendment Findings –

In order for the text amendment to be approved, the following findings must be made.

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed text amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward by allowing for the preservation of affordable housing for seniors and provide additional opportunities for seniors to have access to affordable housing.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans.

The proposed text amendment is in conformance with the strategies within the Revised 2009-2014 Housing Element of the General Plan.

“To address potential private market lending constraints and expand homeownership and home improvement opportunities, the City of Hayward offers and/or participates in a variety of programs. These include the: Housing Rehabilitation Loan Program; Disability Access Grant and Loan Program; Minor Home Repair Program; Mobile Home Improvement Program. Such programs assist lower and moderate income residents by increasing access to favorable loan terms to purchase or improve their homes.”

“B. Government Constraints-11. Density Bonus...State law requires the provisions of certain incentives for residential development projects that set aside a certain portion of the units to be affordable to lower and moderate income households. The City implements State law through its density bonus ordinance. Under current State law, jurisdictions are required to provide density bonuses and development incentives on a sliding scale, where the amount of density bonus and number of incentives vary according to the amount of affordable housing units provided. The City of Hayward offers a density bonus to developers who agree to construct senior citizen housing or a mobile home park.”

The Housing Element states that mobile homes can be an affordable housing option for low and moderate income households.

“Section 5.5 Housing Plan, A. Conserve and Improve the Existing Housing Stock Goal 1.0, Policy 1.2 states Preserve existing single-family housing stock occupied by lower income households by rehabilitating single-family owner-occupied and conventional and mobile homes”.

“A program to conserve and improve the existing housing stock includes the Program 14: Density Bonus which is designed to provide a senior housing development or a mobile home park.”

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

All mobile home parks within the City of Hayward are required to comply with conditions of approval. Any new mobile home park for seniors or non-age restrictive would be required to meet the development standards of Section 10-1.700, Mobile Home Park District, of the Zoning Ordinance. In addition, all State mobile home park development and safety regulations are required to be met and maintained. This would assure that all streets and public facilities existing or proposed are adequate to serve all existing and future mobile home parks.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The text amendment would not reclassify the zoning designation of Mobile Home Park (MH) or land use designation of Mobile Home Park (MHP). In addition, the adoption of senior only and non-age restricted mobile home parks would not change the land use or the zoning designation of any existing mobile home park. The intent of the proposed text amendment is to protect and preserve existing affordable housing for both seniors only and non-age restricted mobile home parks in existence prior to January 1, 2010. Any conversion of a park from seniors-only to non-age-restricted or from non-age-restricted to seniors-only would require the adoption of a conditional use permit which would assure compliance to the Zoning Ordinance.

ENVIRONMENTAL REVIEW

The proposed text amendment would not alter existing general plan land use designations or development standards of the Mobile Home Park District. Therefore, any potential effects of the proposed text amendment are adequately addressed within the final environmental impact report prepared for the General Plan and adopted by the City Council on March 12, 2002. . It has been determined that the text amendment is exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) guidelines, Section 15183 (a) Projects Consistent with a Community Plan or Zoning.

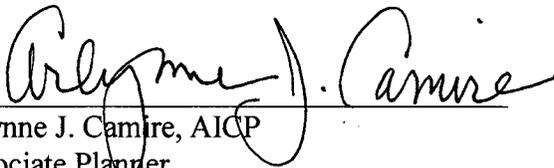
PUBLIC CONTACT

Planning Division staff, in conjunction with the City Attorney's office, engaged in discussions with the Hayward Mobilehome Owners Association (HMOA), representing residents, and the Western Manufactured Housing Communities Association (WMA), representing park owners, in preparation for the April 20, 2010, City Council work session. Staff has received a letter from WMA opposing the proposed text amendment believing that it is a violation of their rights, would create a financial burden, and would create a time consuming process. They point out that lawsuits have been filed against several jurisdictions that have adopted similar ordinances. The California Attorney General has determined that local agencies are authorized by California law to issue conditional use permits for mobile home parks related to age restrictions.

SCHEDULE

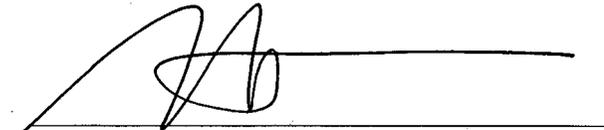
At its regularly-scheduled meeting to be held on November 16, 2010, the City Council will review the recommendation of the Planning Commission. If the Text Amendment is approved, it would be final upon adoption.

Prepared by:



Arlynn J. Camire, AICP
Associate Planner

Recommended by:



Richard E. Patenaude, AICP
Planning Manager

Attachments:

- Attachment I: Proposed Text Amendment
- Attachment II: Findings for Approval
- Attachment III: Letter in Opposition from Western Manufactured Housing Communities Association dated September 13, 2010

SEC. 10-1.700 MOBILE HOME PARK DISTRICT (MH)

Sections:

Section 10-1.705 Purpose.

Section 10-1.710 ~~Subdistricts~~ Seniors Only and Non-Age Restricted Mobile Home Parks.

Section 10-1.715 Uses Permitted.

Section 10-1.720 Conditionally Permitted Uses.

Section 10-1.725 Lot Requirements.

Section 10-1.730 Yard Requirements.

Section 10-1.735 Height Limit.

Section 10-1.740 Site Plan Review Required.

Section 10-1.745 Minimum Design and Performance Standards.

SEC. 10-1.705 PURPOSE.

The MH District shall be subject to the following specific regulations in addition to the general regulations hereinafter contained in order to promote and encourage a suitable living environment for the occupants of mobile homes.

SEC. 10-1.710 SUBDISTRICTS, SENIORS ONLY MOBILE HOME PARKS;NON-AGE RESTRICTED MOBILE HOME PARKS.

~~None.~~ A Seniors Only Mobile Home Park is a mobile home park in which at least eighty percent (80%) of the spaces are occupied by, or intended for occupancy by, at least one person who is 55 years of age or older. Any mobile home park that is operated as a Seniors Only mobile home park pursuant to state and/or federal law, as of January 1, 2010, shall be required to obtain a conditional use permit to become a park that is not age-restricted. Any park that is operated as a park that is not age-restricted as of January 1, 2010, shall be required to obtain a conditional use permit to operate as a Seniors Only mobile home park.

SEC. 10-1.715 USES PERMITTED.

- a. Primary uses.
Mobile home(s).
- b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the MH District:
 - (1) Accessory buildings and uses.
 - (2) Garage sale. (4 per year per dwelling. See General Regulations Section 10-1.2735.e.)
 - (3) Home occupation. (See definitions)
 - (4) Household pets.
 - (5) Sales and display of mobile homes.

SEC. 10-1.720 CONDITIONALLY PERMITTED USES.

- ~~None.~~ a. Seniors Only mobile home park conversion to a non-age restricted mobile home park.
b. Non-age-restricted mobile home park conversion to a Seniors Only mobile home park.

SEC. 10-1.725 LOT REQUIREMENTS.

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|------------------------------------|-------------|
| a. Minimum Lot Size: | 7 acres. |
| b. Minimum Lot Frontage: | 200 feet. |
| c. Minimum Average Lot Width: | 200 feet. |
| d. Maximum Lot Coverage Permitted: | 40 percent. |

SEC. 10-1.730 YARD REQUIREMENTS.

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| a. Minimum Front Yard: | 20 feet. |
| b. Minimum Side Yard: | 10 feet. |
| c. Minimum Side Street Yard: | 20 feet. |
| d. Minimum Rear Yard: | 10 feet. |

SEC. 10-1.735 HEIGHT LIMIT.

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|--|--|
| a. Maximum Building Height: | 40 feet. |
| b. Maximum Accessory Building Height: | 14 feet and one story. |
| c. Maximum Height for Fences/hedges/walls: | |
| (1) Front and Side Street Yard | 4 feet. |
| (2) Side and Rear Yard | 6 feet. |
| d. Special Height Requirements and Exceptions: | See General Regulations Section 10-1.2730. |

SEC. 10-1.740 SITE PLAN REVIEW REQUIRED.

Site Plan Review approval is required before issuance of any building or construction permit or construction of a fence within this district only if the Planning Director determines that a project materially alters the appearance and character of the property or area or may be incompatible with City policies, standards and guidelines. This may include fences (i.e., such as anodized gray chain link fences,) in certain circumstances.

SEC. 10-1.745 MINIMUM DESIGN AND PERFORMANCE STANDARDS.

~~None.~~ The signage, advertising, leases, and park rules and regulations for spaces in Seniors Only mobile home parks shall state that the park is a senior park.

FINDINGS FOR APPROVAL**Text Amendment No. PL-2010-0262
City of Hayward****Amendment to the Zoning Ordinance to Section 10-1.700 Mobile Home Park District
Regarding the Conversion to Seniors-Only and Non-Age Restrictive Status**

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Western
Manufactured Housing Communities
Association

September 13, 2010

RECEIVED

SEP 20 2010

CITY ATTORNEY'S OFFICE

cc: Mayor, City Council, City Manager, and Dept. <u>CA</u>
Fwd: <u>9/17/2010</u>

Hon. City Council
City of Hayward
777 B Street
Hayward, CA 94541-5007

RE: OPPOSITION TO PROPOSED MOBILEHOME COMMUNITY SENIORS-ONLY ZONING DESIGNATION

Dear Mr. Mayor & Councilmembers:

In March of this year, the Western Manufactured Housing Communities Association (WMA) and our Hayward members became aware that City Staff was reviewing the possibility of modifying the City's Zoning Ordinance to regulate the conversion of 55 & Older mobilehome communities to All-Age communities. This option was presented for discussion before your Council at a workshop on April 20, 2010.

We expressed then, and remain today, strongly opposed to this proposed modification and permitting requirement. We have also expressed this opposition in several meetings with City Staff.

WMA and the Hayward mobilehome community owners firmly believe that such local government action is preempted by Federal Law and a violation of our rights as property owners and managers. Furthermore, this new regulatory scheme would create unnecessary, time consuming and expensive layers of municipal bureaucracy. In these very difficult economic times, heaping additional burdens upon property owners, residents and City taxpayers would not be prudent.

Already lawsuits have been filed in several jurisdictions wherein this illegal course of action has taken place. Additionally, numerous complaints and formal inquiries have been made with the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, the California Department of Housing and Community Development and the California Office of the Attorney General.

When and if this matter formally comes before your Council, we respectfully urge you to reject it. For decades, Federal Law has provided appropriate protection to 55 & Older and All-Age mobilehome communities and the City of Hayward should not tamper with it.

Respectfully yours,

R. DOUGLAS JOHNSON
Regional Representative
Government & Public Affairs

c: Hayward City Clerk
Hayward City Attorney
Hayward Mobilehome Community Owners