

RESOLUTION NO. 2007-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROHNERT PARK, CALIFORNIA, UPHOLDING THE SUBDIVISION COMMITTEES' DENIAL OF A PARCEL MAP OVER A 41.40 ACRE SITE, LOCATED AT 750 ROHNERT PARK EXPRESSWAY, APN 143-040-049, RANCHO VERDE MOBILE HOME PARK "Rancho Verde MHP" (Indian Springs Ltd. and Sunset Strip Corporation)

WHEREAS, the applicant, Rancho Verde MHP, Indian Springs Ltd., and Sunset Strip Corp, submitted an application for a Tentative Parcel Map to allow for a subdivision and conversion of an existing rental mobile home park to a resident ownership mobile home park. The park is commonly referred to as Rancho Verde MHP. The site contains 41.40 acres and is located at 750 Rohnert Park Expressway. The Assessor Parcel Number is APN 143-040-049; and

WHEREAS, the applicant has proposed a Tentative Parcel Map for a single-lot subdivision with a condominium overlay that would then be further subdivided into 300 exclusive use easements, which the applicant proposes to create using a condominium plan; and

WHEREAS, on January 11, 2007, the Subdivision Committee of the City of Rohnert Park unanimously denied the request (Resolution 2006-57) after conducting a public hearing at which time interested persons had an opportunity to testify and submit related documents either in support or opposition to the proposal.

WHEREAS, the Subdivision Map Act (Government Code section 66427.5) requires a subdivider to avoid the economic displacement of all non purchasing residents in the following manner:

- (a) The subdivider shall offer each existing tenant an option to either purchase their condominium unit or to continue residency as a tenant.
- (b) The subdivider shall file a report on the impact of the conversion upon residents of Rancho Verde MHP.
- (c) The subdivider shall make a copy of the report available to each resident of Rancho Verde MHP at least 15 days prior to the hearing on the map by the City of Rohnert Park.
- (d)
 - (1) The subdivider shall obtain a survey of support from the residents of Rancho Verde MHP for the proposed conversion.
 - (2) Conduct the survey of support in accordance with an agreement between the subdivider and a resident homeowner's association, if there is one. The survey must be independent of the subdivider or the Rancho Verde MHP owner.
 - (3) Obtain the survey of support by a written ballot.
 - (4) The survey shall be limited to one vote for each occupied mobile home space.
 - (5) Submit the results of the survey of support to the City of Rohnert Park upon filing the parcel map which must be considered part of the subdivision map hearing prescribed by subdivision (e).
- (e) The subdivider shall be subject to a hearing by the City of Rohnert Park. The City may 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) Nonpurchasing residents who are **not** lower income households, as defined in Health and Safety Code section 50079.5, 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 Health and Safety Code section 50079.5, 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; and

WHEREAS, in accordance with Government Code section 66452.3 at least three days prior to the Subdivision Committee's public hearing, the staff report was served to Indian Springs, Ltd., Sunset Strip Corporation, and each tenant of the Rancho Verde MHP; and

WHEREAS, in accordance with Government Code section 65090 the requirements for public hearing notice, adequate notice was given to all required parties: and

WHEREAS, the applicant appealed the Subdivision Committee's denial of its application on January 22, 2007; and

WHEREAS, the City of Rohnert Park Planning Commission conducted an appeal hearing on March 22, 2007; and

WHEREAS, in accordance with Government Code section 65091 and Municipal Code section 16.10.020, public hearing notices were mailed to property owners within a 300 foot radius of the subject property and to all agencies and interested parties and a public hearing notice was published for a minimum of 10 days prior to the first public hearing in the Press Democrat; and

WHEREAS, on November 29, 2006, the Department of Community Development determined that the project was statutorily exempt from the California Environmental Quality Act (CEQA) Guidelines section 15282(e) which exempts: "The conversion of an existing rental mobile home park to a resident initiated subdivision, cooperative, or condominium for mobile homes as set forth in section 21080.8 of the Public Resources Code." from CEQA; and

WHEREAS, on January 11, 2007, the Department of Community Development additionally determined that the project was categorically exempt from the California Environmental Quality Act (CEQA) section 15301 which exempts Existing Facilities; and

WHEREAS, Government Code section 66474 and Municipal Code section 16.10.090(F.) provides for the denial of a Tentative Parcel Map if the decision-making body makes any of the following findings:

- (1) The proposed map is inconsistent with the General Plan or any applicable Specific Plan, any policy or guideline implementing the General Plan (including the City's Design Guidelines), or other applicable provisions;

- (2) The site is not physically suitable for the type of development;
- (3) The site is not physically suitable for the proposed density of development;
- (4) The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife in their habitat;
- (5) The design of the subdivision or the type of improvements is likely to cause serious public health problems; or
- (6) 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.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF ROHNERT PARK DOES RESOLVE AND DETERMINE THE FOLLOWING:

Section 1. That the above recitations are true and correct.

Section 2. Findings. The Planning Commission in denying, without prejudice, Planning Application PL2006-049 (Tentative Parcel Map), makes the following findings:

- A. The application does not comply with the requirements of Government Code section 66426 and Municipal Code section 16.08.030.**

Criterion Not Satisfied.

Government Code section 66426 and Municipal Code section 16.08.030 require the submittal of a Tentative Map for projects that exceed four condominium units. A Tentative Map was not submitted for this project which contains more than four condominium units. Government Code section 66428.1, as the title suggests, pertains to map waivers and is not applicable to this project since there was not two-thirds support from the owners of mobilehomes who are tenants in the park. The Parcel Map may not be approved since the project is considered a major subdivision and therefore requires submittal of a Tentative Map. Staff has not requested additional information to process the Parcel Map but instead has asked that the Parcel Map application be withdrawn and a new Tentative Map application be submitted in its place.

- B. The application does not comply with the requirements of the Government Code section 66474 and Municipal Code Section 16.10.090(F) which require compliance with the General Plan.**

Criterion Not Satisfied.

The Rohnert Park General Plan was adopted in July 2000 and includes a State certified Housing Element. The Housing Element contains narratives¹, goals, and policies, which are intended to recognize the City's need to preserve the existing affordable housing stock and ensure the long-term affordability of new, non-market rate units. While HCD does not consider the mobile homes as contributing toward the required affordable housing numbers they are considered affordable when considering General Plan compliance. There is no impropriety in recognizing that the units provide affordable housing to lower and moderate-income households within the Rancho Verde

¹ "Mobilehomes constitute a major source of affordable housing in Rohnert Park. In an effort to provide reasonable standards for, and limit space rent increases to reasonable levels, the City's voters approved Ordinance 494 in 1987." General Plan 2000, Chapter 9, page 67

Mobilehome Park. While the units are not subject to affordability covenants, they are rent restricted per Municipal Code 9.70 (based on an Ordinance which was voted in by Rohnert Park Citizens). The voter initiated and approved rent control is not considered a taking under State Law. There have been no provisions submitted by the applicant that would ensure the protection of affordable housing for the non-purchasing moderate income households.

- C. **The application does not comply with the requirements of the Government Code section 66474 and Municipal Code section 16.10.090(F) which requires that a project be denied if it creates potential for causing a serious health hazard.**

Criterion Not Satisfied.

The application does not comply with the requirements of the Government Code section 66474 and Municipal Code section 16.10.090(F) which require that a project be denied if there exists the potential for causing a serious health hazard as follows:

1. Sewer and Water. While HCD has general jurisdiction over the interior of this mobilehome park, Health and Safety Code section 18300(g)(2) specifically authorizes cities to exercise their police powers with regard to certain aspects of the interior of mobilehome parks.

Health and Safety Code 18300(g)(2) states that local authorities are not prevented from regulating the construction and use of equipment and facilities which supply gas, water, or electricity or to dispose of sewage or other waste as long as it is a reasonable exercise of their police powers.

The City of Rohnert Park applies standard regulations to residential subdivisions for the purpose of protecting the public's health, safety and general welfare. One such regulation applies to the location of common and individual sewer, water, gas, and electric lines for a residence. Specifically, common utility facilities must be located a minimum distance from one another (especially sewer and water) and may not travel below the footprint of residence. The purpose is to avoid contamination of the potable water supply and the potential for the seepage of fecal material in the soils below and surrounding a residence.

2. Secondary and Emergency Vehicle Access. While HCD has general jurisdiction over the interior of this mobilehome park, Public Health and Safety Code, Section 18300(g) allows reasonable exercise of police powers to protect the health and safety of the mobilehome park residents. The City believes that requiring a secondary access for ingress and egress, for Emergency Vehicle Access (EVA) will protect the health and safety of the residents. This will be important if the primary access were to become blocked. The existing single access at Rohnert Park Expressway could be a potential constraint in the event of an emergency thereby resulting in potential and serious health hazards to the residents.

- D. **The application does not comply with Government Code section 66427.5's requirement of a Survey of Support.**

Criterion Not Satisfied.

Government Code section 66427.5(d)(1) requires the subdivider to obtain a Survey of Support ("Survey"), which is intended to demonstrate that it is a bona fide resident conversion supported by its residents. The Survey does not indicate that this is a bona fide resident conversion because:

1. The Survey does not show support for the conversion because of the 300 residents in the MHP only 125 responded to the Survey. Of the 125 respondents, only 87 responded in favor (29%). However, of those 87 who responded favorably to the Survey, 58 changed their positions in a later petition that was circulated by the HOA, leaving only 22% in favor; and

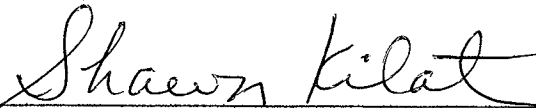
Section 3. Environmental Clearance. On November 29, 2006, staff determined that the project is Statutorily Exempt from the California Environmental Quality Act, pursuant to California Code of Regulations, Title 14, Section 15282 (e). On January 11, 2007, the Department of Community Development additionally determined that the project was categorically exempt from the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14 Section 15301 which exempts Existing Facilities

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission does hereby deny Application No. PL2006-049TPM.

BE IT FURTHER RESOLVED that said action shall not be deemed final until the appeal period has expired and that the appeal period shall be 10 working days from the date of said action.

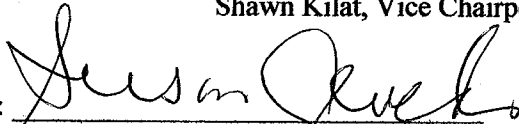
DULY AND REGULARLY ADOPTED on this 11th day of January, 2007, by the Subdivision Committee of the City of Rohnert Park by the following vote:

DULY AND REGULARLY ADOPTED on this 22 day of March, 2007, by the City of Rohnert Park Planning Commission by the following vote:



Shawn Kilat, Vice Chairperson, Rohnert Park Planning Commission

Attest:


Susan Azevedo, Recording Secretary

AYES: 3 NOES: ABSENT: 2 ABSTAIN:

ADAMS A CALLINAN Y AHANOTU A KILAT Y ARMSTRONG Y