

**Jackson Planning Commission**  
**Minutes**  
**Special Closed Session April 4, 2011**

**COMMISSION MEMBERS PRESENT:**

Joe Assereto  
Dave Butow  
Walt Hoeser, Chairman

**CITY STAFF PRESENT:**

Susan Peters, City Planner  
Andrew Morris, City Attorney

**COMMISSION MEMBERS ABSENT:**

Kathryn Devlin Vice-Chairman  
Darek Selman

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Note: The Staff Report Packet prepared for the Planning Commission is hereby incorporated into these minutes by reference as though set forth in full. Any Staff Report, recommended findings, mitigation measures, conditions, or recommendations which are referred to by Commissioners in their action motions on project decisions, which are contained in the Staff Reports, are part of these minutes. Any written materials, petitions, packets or comments received at the hearing also become part of these minutes. The recording tapes of this meeting are hereby incorporated into these minutes by reference and are stored in the City of Jackson Planning Department.

**1. CLOSED SESSION.**

- a. Conference with Legal Counsel -- Anticipated Litigation. Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: One Case (related to subdivision map application for Rollingwood Estates Mobile Home Park).

**2. RECONVENE TO OPEN SESSION**

**Jackson Planning Commission**  
**Minutes**  
**Special Meeting of April 4, 2011**

**COMMISSION MEMBERS PRESENT:**

Joe Assereto  
Dave Butow  
Walt Hoeser, Chairman  
Kathryn Devlin Vice-Chairman  
Darek Selman

**CITY STAFF PRESENT:**

Susan Peters, City Planner  
Andrew Morrison, City Attorney  
Mike Daly, City Manager  
Gisele Cangelosi, City Clerk

**COMMISSION MEMBERS ABSENT:**

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Chairman Hoeser reconvened to the regular meeting at 6:30 p.m. He stated there was no reportable action taken.

**1. Public Matters Not on the Agenda.**

None.

**2. Approval of Minutes. Minutes from the February 22, 2011 Regular Meeting.**

**Moved by Commissioner Selman, seconded by Commissioner Assereto and carried by a 4 to 1 vote (Vice-Chairman Devlin abstained) to approve the Minutes of the February 22, 2010 meeting.**

**3. Public Hearing - Tentative Subdivision Map 179, C&L Investment Co., Inc. 20 Rollingwood Drive, APN# 020-510-010 & 11 and 020-540-001.**

Vice-Chairman Devlin recused herself based on a conflict of interest. Commissioner Selman recused himself based on a conflict of interest.

City Planner Peters reported C & L Investment Co., Inc., represented by Mr. Joe Chirco, is proposing the subdivision of the four parcels which comprise the Rollingwood Mobile Home Park located at 20 Rollingwood Drive into 219 mobile home lots and 7 common area lots. The subdivision of this property would create separate legal lots to allow for individual ownership of the spaces, which the mobile home owners currently rent.

The City of Jackson General Plan designation for the project site is Single Family Residential with a Conditional Use Permit to allow for the mobile home park. While Tentative Subdivision Maps are typically subject to the California Environmental Quality Act (CEQA), projects which have no possibility of causing an environmental impact can be categorically exempted from CEQA review in accordance with Section 15061(b)(3) of CEQA. Because the proposed map is for improved property in an urbanized area no environmental impacts are anticipated and project qualifies for a Categorical Exemption.

Government Code section 66427.5, a part of the Subdivision Map Act, applies to the proposed subdivision. It provides that the subdivider applicant must avoid economic displacement of all residents by taking a number of steps. First, each existing tenant must be offered an option to either purchase the unit or continue residing as a tenant. Second, the applicant must file a report on the impact of the conversion on residents and must make that report available to each resident at least 15 days prior to the hearing. Third, a survey of support of residents must be done pursuant to a written ballot. The survey results must be provided to the City for consideration as a part of the subdivision map hearing. If the City approves the map, the applicant must avoid economic displacement to low income residents who are not purchasing their units by increasing monthly rent in accordance with the statute to avoid a sudden rent increase.

Section 66427.5 also provides that the Planning Commission may approve, conditionally approve, or disapprove the map and that the scope of the hearing is limited to whether the applicant complied with section 66427.5. The law does not explain how detailed the impact report must be and is unsettled as to the weight the Planning Commission should or must give to the survey. Thus far, no published appellate court decision sets forth any requirements for what must be in the impact report, and the statute does not describe what must be in it. Further, there is no precedential court case specifying how much weight, the Planning Commission must give to the resident survey

in making its decision. The statute only requires that the survey be done. Because the applicant has provided an impact report, conducted a resident survey, and would be required to avoid economic displacement of non-purchasing residents as a condition of approval, the Planning Commission could determine that the applicant has complied with section 66427.5.

Should the Planning Commission chose to adopt TSM 179, all of the following Findings must be made:

1. The proposed subdivision is located on land planned and zoned for residential land use as designated by the General Plan.
2. The subdivider has complied with the requirements of Government Code section 66427.5.
3. The proposed subdivision will not have a significant adverse effect upon the environment.

Should the Planning Commission chose to adopt TSM 179, the following Conditions of Approval are recommended:

1. Streets and sewer and water systems shall remain private.
2. All existing and proposed easements must be shown on the Final Map.
3. As a condition of Tentative Map approval, the subdivider shall be required to dedicate or make an irrevocable offer of dedication in fee simple all land related to the subdivision that the Engineering Department determines is needed for access rights, including land abutting the subdivision required for drainage easements, and all public utility easements.
4. All lands within the subdivision subject to inundation shall be identified on the Final Map. Limits of 100-year flood inundation shall be clearly identified by distance or elevation and certified on the map by a professional engineer or land surveyor.
5. Nothing herein shall abrogate any of the requirements of Title 25 of the California Code of Regulations including all provisions thereof relating to setbacks, drainage, roadways, parking and lot line monumentation. The subdivider shall provide confirmation that the park's existing configuration conforms with the lot lines approved by the Department of Housing and Community Development pursuant to Title 25 of the California Code of Regulations.
6. The subdivider shall offer each existing tenant the option to purchase his or her subdivided unit and shall avoid the economic displacement of all nonpurchasing residents in accordance with subdivision (f) of Government Code section 66427.5.

City Planner Peters stated staff does not recommend Conditions of Approvals 7 and 8 in the staff report and noted they should not have been included in the staff report.

Should the Planning Commission chose to approve Tentative Subdivision Map 179 for C & L Investments Co., Inc., at 20 Rollingwood Drive (APN 020-510-010 & 11, 020-540-001 & 002) the following actions are recommended:

1. Instruct Staff to file a Categorical Exemption; and,
2. Adopt a Resolution approving Tentative Subdivision Map 179 for C & L Investments Co., Inc., at 20 Rollingwood Drive (APN 020-510-010 & 11, 020-540-001 & 002) based on the Findings and subject to the Conditions of Approval in this report.

City Attorney Morrison directed his comment to the Planning Commission and noted the members of audience might find this instructive. He explained for most applications that come before the Planning Commission, they are allowed to make findings based on whether it is a project the public might want to see in Jackson, whether it looks good, or in general whether it is a good idea. With respect to a mobilehome park subdivision, the Planning Commission has different criteria to consider than it usually does. The Planning Commission has the ability only to consider whether the applicant has complied with one particular provision of State law, which is Government Code Section 66427.5 of the Map Act and that is all the Planning Commission can consider. That section of the Map Act requires the applicant to commission a survey of the park residents to determine how they feel about the proposed subdivision, to commission a report and make certain other information available to the residents. The Planning Commission can only take into consideration whether the applicant has complied with that section and that is all. The Planning Commission cannot make their decision based on whether it is a good idea, whether it is fair, whether the impact on the residents will be good or bad one. The Planning Commission is not allowed to do that; State law does not allow that in this type of application. Per the statutes the Planning Commission is allowed to consider whether the subdivider has complied with Government Code Section 66427.5, implicitly the Planning Commission can consider the results of the survey.

William Dahlin, HK&C applicant's attorney, provided the following comments:

1. Condition of approval number 1 is acceptable.
2. Condition of approval number 2 is acceptable.
3. Condition of approval number 3 is totally unacceptable, unless there is specific recognition that there will be any demands for any form of dedication or irrevocable offer of dedication in conjunction with the subdivision application.
4. Condition of approval number 4 is acceptable.
5. Condition of approval number 5 is acceptable provided it is expressly set forth and understood that the existing park layout, infrastructure are accepted and that Title 25 compliance would be deemed met pursuant to the present usage.
6. Condition of approval number 6, which simply requires compliance with Government Code section 66427.5, is acceptable.
7. Condition of approval number 7 and 8 are not acceptable. These conditions were removed as noted by City Planner Peters.
8. Government Code Section 66427.5 does not require the conversion impact report to discuss economic impacts of conversion upon the Park residents, the residents are not being forced to purchase their spaces.
9. Disagrees with information provided by Michael Kirkley regarding "in space" values and depreciation.
10. Opposes the comment that the Planning Commission and City Council should proceed like the City of Vallejo. This should be a standard we want to watch because the City of Vallejo has filed chapter 9.
11. Opposes lease agreement statement as noted in Attorney William Constantine's letter.

Chairman Hoeser opened the public hearing.

The following individual spoke against Tentative Subdivision Map 179 for C & L Investments Co., Inc., at 20 Rollingwood Drive: Bob Montgomery, Kathleen Simon, Shirley Dajnowski, Roger Awlor, Michael Kirkley, Norma Bohemnon, Thornton Consolo, David Purvis and John Otto.

The following items of concerns was discussed:

1. Current rules and regulations.
2. Equity issues because they have invested a great deal of time and money on their mobile homes.
3. Suggest Mr. Chirco buy their homes.
4. How the residents have been treated during this process.
5. Current park infrastructure and maintenance issues.
6. Residents pay taxes, maintain their lot landscaping, maintain their homes which adds value to C&L Investment property.
7. Residents are on fixed incomes and can't afford rent increases, leases or purchase of property.
8. Deny based on the survey and the lack of resident support.
9. High cost associated to move their homes.
10. Elderly on fixed incomes and the ability to obtain the necessary financing to purchase the space.
11. Economic displacement to low income residents
12. Residents have not seen proposed lease agreement.
13. How "In Space" value works and why the proposed park conversion would hurt their equity.
14. Felt resident impact report was worthless and requests a comprehensive survey so the residents know what is going on.
15. Whose property rights matter.
16. Support for State Senate Bill 444 and Assembly Bill 579.
17. Potential buyers are not being made aware the park conversion.
18. Department of Realtors does not recognize mobile homes as residential therefor the Residential Guidelines can't be used.
19. Who determines fair market rent.
20. Believes this application is a Landuse change - park to subdivision.
21. Shouldn't the original conditional use permit's conditions of approval reflect the applicant was responsible for infrastructure.
22. Reject and preserve this community.

William Dahlin, HK&C applicant's attorney, provided the additional comments:

1. Conventional financing is available for mobilehome with land.
2. HOA dues and fees are part of DRE budget process.
3. Equity issue, this is personnel property.
4. This will not result in economic displacement to low income residents.
5. The pricing was provided in impact report and was informational only because it will be flushed out in DRE budget report.
6. Will make the lease option available.
7. They residents are pulling rent information out of the air.
8. They don't have to buy the property.

9. Can't deny the application because the majority of the survey is voting against. The resident do not have the veto power.
10. Shirley Dajnowski's letter regarding Huntington Beach is erroneous because they are still in the process.
11. Comparing Sutter Creek Mobilehome Park and Rollingwood is like comparing apples to oranges.
12. The point and purpose is set forth in the government code and applicant has complied.

Joe Chirco, applicant, was present to answer questions of the Planning Commission. He stated the residents all signed an agreement. Their intent was not to displace the residents and thought they would be in favor of application which gives them the opportunity to buy the land. He has always taken an interest in the park and it's residents. He stated if he sold the park, the new owner would not care for the park residents and their rents will jump to fair market value.

The following individual spoke in favor of the Tentative Subdivision Map 179 for C & L Investments Co., Inc., at 20 Rollingwood Drive: Lois McDonald.

Hearing no further comments from the public regarding Chairman Hooser closed the public hearing.

Documents submitted for the record and provided to the Planning Commission for consideration:

1. Hart, King & Coldren, A Professional Law Corporation, applicant's attorney, dated February 2011.
2. William J. Constantine, Attorney, Rollingwood resident's attorney, dated March 15, 2011.
3. Shirley Dajnowski, Rollingwood resident, dated March 21, 2011.
4. Bob Dominick, Rollingwood resident.
5. Robert Ianni, Rollingwood resident, dated March 16, 2011.
6. William J. Constantine, Attorney, Rollingwood resident's attorney, dated March 21, 2011.
7. Hart, King & Coldren, A Professional Law Corporation, applicant's attorney, dated March 22, 2011.
8. Michael Kirkley, two documents, How "In Space" Value Works and Why the Proposed Park Conversion Will Hurt Your Equity and City of Vallejo's mobile home conversion requirements.
9. Shirley Dajnowski, Rollingwood resident, dated April 4, 2011, addendum to her letter dated March 21, 2011.
10. Shirley Dajnowski, Rollingwood resident, GSMOL President's Report.
11. Shirley Dajnowski, Rollingwood resident, email regarding Huntington Beach proposed and approved Subdivision Condo Conversion.
12. Shirley Dajnowski, Rollingwood resident, web article regarding De Anza Mobile Home Park in Santa Cruz.
13. Shirley Dajnowski, Rollingwood resident, email from Mike Newhard, Homeowner Advocate GSMOL and COMOCAL member, Sun Valley Mobile Estate, Livermore, CA.
14. Shirley Dajnowski, Rollingwood resident, email from Bob Slagle, Palm Springs View Estates, Palms Springs, CA.

After considerable discussion among the Planning Commission and staff the following motion was made:

Moved by Commissioner Butow, seconded by Commissioner Assereto, and unanimously carried to: deny have not complied with government code 66427.5 denies Tentative Subdivision Map 179 for C & L Investment Company Inc., because based upon the testimony received during the public hearing on the Application and based upon the following findings:

1. The applicant has failed to comply with subsection (b) of section 66427.5, by filing an inadequate and incomplete report on the impact of the subdivision of the park upon residents of the park. The report addressed only the impact on residents opting not to purchase the lots upon which their homes are located, and did not adequately or clearly address the financial impact of the subdivision on residents wishing to purchase the lots occupied by their homes.
2. The survey of residents conducted by the applicant pursuant to subsection (d) of section 66427.5 shows 16 residents in favor of the subdivision and 135 residents opposed to the subdivision, reflecting a deep lack of support by the residents for the subdivision. The Planning Commission has considered the results of the survey as required by section 66427.5, and finds that the survey results justify a denial of the Application. The Planning Commission further finds that the survey results justify denial based upon the uncodified legislative intent reflected in AB 930, the 2002 legislation adding the resident survey requirement to section 66427.5.
3. The applicant has failed to comply with subsection (f) of section 66427.5 by providing inadequate information concerning the "market level" of rent, which may be charged to nonpurchasing residents who are not lower income households. The applicant has provided only an estimate, not an "appraisal conducted in accordance with nationally recognized professional appraisal standards," as required by subsection (f).

#### 4. Administrative Reports.

City Planner Peters stated the A-TCAA Sutter Family Homes would be making a presentation at the April meeting regarding proposed project to construct four single-family homes for a transitional living program in Jackson. No application is required because this location is zoned for that use and this item is informational only.

Adjourn 9:03 p.m.

Attest:

  
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Gisele Cangelosi, City Clerk

Date Approved: April 18, 2011