



County of Santa Cruz

BOARD OF SUPERVISORS

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FIFTH DISTRICT

AGENDA: 11/6/01

October 23, 2001

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: HOUSING ACTION PLAN PROPOSAL

Dear Members of the Board:

At our October 2, 2001, workshop on affordable housing, we heard reports on efforts by the County and other local governmental agencies on how we might increase affordable housing opportunities for Santa Cruz County residents and how we might assist them in responding to the crisis in housing costs in our community. We also heard from a number of informed and concerned individuals regarding the existing problems and possible solutions.

At the conclusion of the workshop, the Board directed staff to return on November 6, 2001, with a response to a number of affordable housing program suggestions raised by Board members. In addition, we agreed that if Board members had additional suggestions, it would be helpful if those suggestions were submitted at the same time. Therefore, I am submitting this letter with proposals I hope would become part of any Board housing action plan with which we go forward.

The following proposals address affordability of new construction, existing housing, and tenant protections. Certainly, they will not solve the housing crisis, but they are proposals that I believe can be implemented now and that would provide real assistance to County residents.

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NEW CONSTRUCTION

1. SECOND UNITS - We can increase the number of second units legally constructed in the County. The following programs would revise the County's Second Unit program and provide additional incentives to property owners for construction of second units:
 - a. FEE SUBSIDIZATION - I believe that we need a new approach to fee subsidization. In the past, proposals for reducing the cost of accessory units have focused on waiving fees. This reduces Planning Department revenue and invites criticism from those concerned that second units are getting special treatment. I propose that we establish an Affordable Second Unit Housing Fund of \$250,000 utilizing housing funds from either Redevelopment or the In-Lieu Fee fund. This Fund would be used to subsidize the development and building fees for affordable second units on a first come, first served basis. Given that the second units would be permanently affordable to low income people, the per unit subsidy costs to cover the fees would be appropriate, and significantly less than the usual per unit subsidy costs for low income developments.
 - b. LIMITED AMNESTY - The County instituted a limited amnesty program some years ago. Under that program, owners of existing second units that were illegally constructed had six months to submit applications to legalize them, thus avoiding the penalty fees that would otherwise have been imposed. The units still had to meet the County's regulatory requirements but a number of units were legalized under this approach. I believe that we should resurrect this program for a limited period of time.
 - c. EASE OTHER REGULATIONS - The Housing Advisory Commission and County staff should be directed to review the affordable second unit ordinance with the goal of suggesting other regulatory changes that would make it easier to produce affordable second units while maintaining the County's regulatory requirements. I would hope that we would be able to act upon recommendations within six months.

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- d. SECOND UNITS ON AGRICULTURAL LAND - The Board has discussed the feasibility of allowing affordable second units on agricultural land. The Board should move this project along by directing preparation of the necessary ordinance amendment.
2. INCLUSIONARY HOUSING PROGRAM - IN-LIEU FEES - The Housing Advisory Commission is recommending that the Board eliminate the option of in-lieu fees for larger projects and I strongly support this approach.

A recent report from the Brookings Institution recommended allowing in-lieu fees only when doing so would lead to the creation of more affordable units than would otherwise be produced under the Inclusionary program. Unfortunately, this has not been our experience with these fees. We haven't gotten additional affordable units from in-lieu fees. In fact, we haven't gotten the number of affordable units that would have been constructed under the requirements of the inclusionary ordinance. I believe that we should eliminate the in-lieu fee option for market rate developments of five or more dwellings.

In addition, I believe we should consider amending the ordinance to require in-lieu fees for projects of between two and four units. Fees for five or more units with partial unit requirements should also be considered.

Eliminating the in-lieu fee option for larger, more expensive projects does involve trade-offs. In order to provide additional flexibility in the implementation of the program, market rate developers should be allowed to cluster inclusionary units on portions of their property as long as design standards are met.

3. REZONINGS - We can create additional sites for affordable housing developments by rezoning selected and appropriate parcels of land to densities suitable for these developments. In particular, industrial and commercial zoning classifications should be analyzed and appropriate sites considered for rezoning to multi-family residential densities with requirements that at least 50% of the units be affordable.

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In addition, the next General Plan Amendment should identify suitable affordable housing sites and these sites should be designated for multi-family densities as long as the developments are at least 50% affordable.

County staff, along with the Housing Advisory Commission, should review existing vacant and underutilized commercially and industrially zoned parcels within the urban area for their suitability as affordable housing sites and provide material for Board consideration within six months.

EXISTING HOUSING

1. ACQUISITION OF EXISTING UNITS - The purchase of existing housing units can assure their permanent affordability at a cost more modest than the subsidy of new units. The Board should ask staff to analyze funding sources and financial feasibility for the purchase of existing homes.
2. FIRST TIME HOME BUYER PROGRAM - The Board could amend the First Time Home Buyer Program in order to allow higher subsidies to purchasers in exchange for permanent affordability restrictions. The In-Lieu Fee Fund could finance this program.
3. RECRUITMENT OF SECTION 8 PROPERTY OWNERS - With the increase in housing prices throughout the county, it has become more and more difficult for households which have received Section 8 vouchers to find property owners willing to rent to them. We can help by establishing a program to recruit and retain rental property owners in the Section 8 program. The Board should direct the Redevelopment Agency to solicit proposals from community agencies to establish and operate a program to recruit and retain rental property owners in the Section 8 housing voucher program.

TENANT PROTECTIONS

1. TENANT PROTECTION ORDINANCE - Over recent months, the Board has been made aware of many instances where tenants have been confronted with massive rent increases with little time to adjust to them. Current law requires landlords to provide their tenants with only 30 days notice before imposing a rent increase of

any size. Adopting an ordinance that would increase the notice requirements for rent increases beyond those currently required by State law would reduce the impact of steep rent increases on tenants. One additional month of notice could be required for each percentage point increase in rent over the percentage increase in the previous year's cost of living. I believe the Board should ask County Counsel to develop an ordinance to meet these objectives for consideration by the Housing Advisory Commission and by the Board.

2. EVICTION ASSISTANCE - We have prevented the eviction of tenants with short-term financial problems through the existing program that subsidizes tenants, under certain circumstances, who are threatened with eviction. This program has proved to be enormously valuable and I believe the Board should increase the funding to the existing eviction protection program.

The Housing Action Plan outlined above is not intended to foreclose any other options. My hope is that the Board will agree to move forward on these proposals as well as other worthy suggestions that are presented.

Therefore, I recommend that the Board of Supervisors take the following actions:

1. Approve the concept of a Second Unit Fee Subsidization Program and direct the Redevelopment Agency to return on January 8, 2002, with detailed program guidelines and actions necessary to establish the proposed Affordable Second Unit Housing Fund.
2. Direct Planning staff to return on February 5, 2002, with a Second Unit Limited Amnesty program for Board consideration.
3. Request the Housing Advisory Commission and Planning staff to review the affordable second unit ordinance and return to the Board on May 7, 2002, with recommendations for revising the ordinance in order to make it easier to provide affordable second units.
4. Direct the County Counsel's office, in cooperation with the Planning staff, to prepare an ordinance amendment permitting affordable second units on agricultural land for Board consideration on February 5, 2002.

5. Agree, in concept, to eliminate the in-lieu fee option for inclusionary housing units, initiate an in-lieu fee program for projects of between two and four units and where partial units are required, and allow greater flexibility in clustering inclusionary units in larger projects. Further, direct staff, after consultation with the Housing Advisory Commission, to return with the appropriate ordinance revisions on or before **May 7, 2002**.
6. Direct staff, in consultation with the Housing Advisory Commission, to review existing vacant and underutilized commercial and industrially zoned parcels for their suitability as affordable housing sites and return with their recommendations on or before May 7, 2002.
7. Direct Planning staff to include in the work program for the upcoming General Plan Amendment process an analysis of the potential for designating additional affordable housing sites.
8. Direct County staff, in consultation with the Housing Advisory Commission, to analyze potential funding sources and the financial feasibility of establishing a special fund for the purchase of existing housing developments and report back with their recommendations on or before May 7, 2002.
9. Direct County staff to prepare and return to the Board, on or before May 7, 2002, amendments to the First Time Homebuyer Program allowing higher subsidies to purchasers conditioned on permanent affordability agreements.
10. Agree to allocate \$30,000 in Redevelopment housing funds for a program to recruit and retain rental property owners in the Section 8 program and direct the Redevelopment Agency to solicit proposals within three months that would establish and operate such a program, with a report to the Board on February 12, 2002.
11. Direct the County Counsel to draft an ordinance, for consideration by the Housing Advisory Commission and the Board, on or before May 7, 2002, requiring a longer notice period for steep rent increases.
12. Agree to double the amount of funding allocated to the tenant eviction program and direct the Redevelopment

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Agency to return to the Board on December 11, 2001,
with the financing mechanism for carrying out this
action.

Sincerely,

Mardi Wormhoudt

MARDI WORMHOUDT, Supervisor
Third District

MW:ted

cc: Housing Advisory Commission
Planning Director
Redevelopment Agency Administrator
County Counsel

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County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

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SUSAN A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

November 1, 2001

Agenda: November 6, 2001

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

Affordable Housing Action Plan

Dear Members of the Board:

On October 2, 2001, your Board held an Affordable Housing Workshop which addressed a broad range of issues impacting housing costs in our community. While many of the issues addressed in the workshop involved external and regional factors well outside the purview of the Board of Supervisors, your Board directed staff to pursue over 20 items spanning a variety of issues that can begin to be addressed by your Board at a local level. Your Board directed staff to present an action plan on today's agenda. (See October 2nd Board letter and minute order, Attachment 1.)

For the purposes of fashioning an organized response to your Board's direction, staff from the Planning Department, the RDA and the CAO's Office have grouped your Board's directives into several categories.

- a Multi-Family Housing Sites and the Potential for Increased Affordable Housing Opportunities Throughout the County
- a Second Units
- Affordable Housing Ordinance (17.10) and related issues
- Miscellaneous Program Areas and Additional Reports
- County Counsel Legal Opinions on a Variety of Issues

We are pleased to present your Board with a proposed action plan to respond to your October 2nd directives. Given the wide range of issues raised by your Board, and that some of these issues will require extensive staff evaluation and analysis, the recommended Affordable Housing Plan includes an implementation schedule which calls for a series of actions over the next six months. In addition, it is recommended that some of these issues are better addressed in the next update

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of the County's Housing Element and General Plan. Attachment 2 is the itemized Action Plan and Implementation Schedule. What follows is a more detailed discussion of the key components of the proposed action plan.

The Potential for Increased Affordable Housing Opportunities Throughout the County

Your Board's direction on October 2nd included a request for staff to pursue a variety of issues involving the potential for increasing the number of affordable housing opportunities on existing multi-family zoned properties and identifying other large parcels throughout the County for rezoning to maximize affordable housing opportunities. In addition, Board members expressed concern about the approval of single family subdivisions on parcels zoned for multi-family housing and the high purchase price (\$695,000 average price) of new homes built in recently approved subdivisions in the County. At that time, your Board provided the following direction to staff:

- Conduct a preliminary report on potential re-zoning to multi-family residential uses of various large suitable parcels in various parts of the County.
 - a To discuss strategies for preserving multi-residential sites for maximum use possible, taking into consideration existing constraints, and including consideration of sites located near transportation corridors throughout the County.
- To consider increasing the percentage of affordable units to be required of larger developments.
- To identify any remaining high density properties and consider the possibility of purchasing identified parcels.
 - a Evaluate the advantages/disadvantages of re-instituting county-wide H-site designations.

In response to these directives, Planning staff has evaluated the preliminary development potential of properties zoned "Residential Multi-Family" which can accommodate more than 5 additional units, as well as that of other vacant/underutilized residentially zoned property greater than one acre. This analysis of our existing zoning revealed the following:

- ▶ there is a total of 79 acres of land zoned for multi-family residential uses in the County which have a development potential of more than five units. The combined development potential of these parcels, without factoring in development constraints, is 856 multi-family units.
- ▶ there is a total of 320 urban acres of land zoned for other residential uses (i.e., single family) which contain at least one acre that is underutilized or vacant. These parcels may be appropriate for accommodating additional development.

In addition to these acres within the urban services line, the Board requested that staff consider possible rezonings outside of the urban areas, particularly those located near transportation corridors. It should be understood, that under Measure J and the County's General Plan, areas

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outside of the urban services line (which includes primarily the Live Oak, Soquel and Aptos planning areas) are generally not allowed to be developed at higher densities. This is due to a variety of factors including the availability of urban services, terrain, environmental and resource issues and the like. A copy of the county map delineating the urban services line is provided as Attachment 3. However, there may be limited opportunities inside the rural services line that could be developed at urban densities which would require further staff efforts to identify.

If the Board were interested in pursuing greater geographic distribution of affordable housing throughout the County, modifications to the policies in the General Plan would be required. As demonstrated in attachment 10, the number of affordable units by planning area varies widely, with the preponderance of units in the Live Oak (962) and Pajaro Planning Areas (510). In an effort to increase the numbers of units in other areas, the Board could examine, in a supplemental report, what general plan policies would require modification in order to permit future development of affordable housing at densities appropriate for such developments. Planning staff can provide a further report on these issues on December 11, 2001.

It is also worth noting that Planning staff has reviewed the development project approvals that have occurred on RM-zoned properties over the past five years. This analysis indicates that since 1996, aside from the Redevelopment Agency assisted projects, only one project has been built as a multi-family project. During this time period, four single-family developments were built on parcels zoned for multi-family residential use, producing 46 single-family homes. The average home size of units built on these properties was 2,400 square feet and average lot size of 6,814 square feet.

In an effort to address your Board's stated concern and consider approaches to maximize the potential affordable housing opportunities on appropriately zoned sites, your Board could consider measures designed to:

1. Encourage the development of multi-family housing on RM-zoned properties throughout the County thereby discouraging development at lower densities on these sites.
2. Increase the percentage of affordable housing on appropriate sites through the identification of suitable parcels for possible purchase by the County or a non-profit developer as affordable housing sites.
3. Increase the 15% affordability requirement to trigger density bonus options available in the current zoning/General Plan for these parcels.

These strategies or more fully discussed below:

Encourage better utilization of RM-zoned properties and maximize housing opportunities. Your Board's suggestion to discuss strategies for to potentially preserve multi-family residential sites for maximum possible affordable housing use raises a critical question about whether to insure that the remaining RM-zoned properties are used to increase affordable housing opportunities.

In an effort to encourage multi-family zoned residential sites to generate maximum affordable housing opportunity sites, your Board could establish a policy which would require, as part of approval of any residential development proposed for RM-zoned property that is below the General Plan density range, that the Approving Body could make certain findings that the proposed use is consistent with the General Plan and appropriate given the need for housing in the community. In addition, this approach could be extended to all projects which are proposed to be developed at a

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density level below the General Plan density. If this policy approach is acceptable, staff recommends that your Board direct County Counsel and the Planning Department to return to your Board on December 11, 2001 with a specific recommendation to implement this approach.

In addition, as a more long term initiative, based on the Board's concern about the limited amount of housing opportunities available throughout the County, as part of the General Plan update, Planning staff could be directed to make every effort to identify additional properties county-wide that could be zoned for multi-family housing.

"Housing"(H)-Site Program: Your Board's suggestion that staff consider re-activating the H-site program provides an opportunity to respond to a number of issues raised by your Board. The H-site program has been used very effectively to identify suitable parcels for affordable housing development and to increase the percentage of affordable housing on appropriate sites. Since 1983, five properties with 339 units were developed under this program.

The H-site program, which is currently specified in Section 13.10431 of the Santa Cruz Zoning Ordinance, is a combining district which the Board used to implement the Local Coastal Program Land Use Plan (LCP) housing policies. (See Attachment 4)

Similar to the County's park site acquisition program, the H-site program allows for the possible acquisition of the designated parcels for affordable housing. The implementation of the program requires that your Board designate certain properties by re-zoning them to add the H combined zone district to the existing zoning. The H-site program would be triggered by a development application on the designated parcels. In the case of an application for a project on an H-site that is anything other than a 100% affordable housing project, the County has up to 12 months to determine whether it wished to purchase the site, or arrange for the purchase of the site, for an affordable housing project. A report regarding the acquisition is prepared for review by the Board. The report would address funding sources, development potential, time lines, and other pertinent issues of concern to your Board. If your Board decides to proceed with a project, negotiations with the property owner, and potentially with an affordable housing developer, for the acquisition of the property would commence. If the County decides not to pursue an affordable housing project on the site, the property would be subject to a 35% affordable requirement rather than the standard 15% requirement. Any project developed on the proposed H-site would also be eligible for a density bonus and development incentives, as allowed for in State law and our local density bonus program.

The re-activation of this program could address issues raised by your Board. In order to proceed, the Planning staff would need to review the existing sites suitable for higher density residential development with a goal of identifying sites equally distributed throughout the County that could accommodate potential new units. It is recommended that staff return to your Board on December 11th with recommended sites for your Board to consider designating as "H-sites".

Increase 15% inclusionary requirement to 20%

Your Board directed staff to explore increasing the percentage of required affordable housing for larger development projects. While subjecting only larger projects to an increased requirement may

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have some appeal given the economies of scale, staff is concerned that developers would seek to develop projects beneath the threshold where the affordability requirement increases, thereby inadvertently encouraging the development of fewer units. As a result, staff would suggest that any increased affordability requirement apply to all projects subject to the inclusionary requirement.

Based on a generalized discussions among planning professionals, it appears that many jurisdictions are evaluating the effectiveness of the inclusionary programs in their communities. With skyrocketing housing costs, many have begun to consider the impact of increasing the inclusionary percentage, and there are a number of jurisdictions which have required an inclusionary percentage greater than 15%. In order to address our own housing cost crisis, we would suggest that the Board consider increasing the percentage in our community to 20%. Planning staff could return to your Board on December 11, 2001 with a specific ordinance revision to accomplish this goal. It is worth noting that the 20% requirement would trigger the density bonus provisions of State and local law, thereby increasing the number of units that could potentially be built.

Second Units

Your Board focused on two general strategies to possibly increase the development of second units in the County:

1. The possibility of expanding the second unit program to allow for farm worker housing to be developed as second units on parcels that are designated for agricultural use; and
2. The development of a subsidized financing program that would facilitate the construction of second units.

A discussion of these two strategies follows:

Second Units on Agriculturally Zoned land: On April 25, 2001, your Board conceptually approved the development of an ordinance to allow for second units to be developed on agricultural zoned land. (See Attachment 5). The program described to your Board at that time would permit second units on agricultural land with the following conditions:

- a the units must be occupied by family members or farm workers (farm workers must earn at least half of their annual income from agriculture);
 - the maximum size of the units would be 800 square feet rather than 1,200 square feet regardless of the size of the parcel
 - the units must be sited adjacent to existing structures to minimize the impact on the agricultural use of the site; and
 - the units must meet other development standards that are sensitive to and appropriate for rural sites.
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In an effort to move this program forward, it is recommended that your Board direct Planning staff to return to your Board on November 20, 2001 with a proposed ordinance amendment and that your Board initiate the public review process at that time, with a final ordinance returning back to your Board on or before April 9, 2002.

Second Unit Subsidy Program: Your Board asked staff to explore potential approaches for expanding interest in the County's Second Unit Program. In particular, there was interest in the potential to provide financial assistance as a means to encourage the construction of more small affordable rental units. Attachment 6 provides a detailed discussion of this item. In summary, that report suggests that a subsidy program which provides \$10-15,000 of subsidy in exchange for long term commitments to rent the unit to a lower income household could be feasible. RDA staff will need additional time to develop a formal recommendation on how such a program would work, and is suggesting that this item return to the Board in the context of your Board's consideration of the ordinance amendments described above.

Affordable Housing Ordinance (17.10) and related issues

There were a number of additional program areas pertaining to the County's affordable housing programs that were addressed by your Board on October 2nd. These program areas are discussed below:

In Lieu Fees/17.10:

Staff has reviewed the HAC recommendations and completed an analysis of the in-lieu fee program and other associated changes to the County's Affordable Housing Program (County Code Section 17.10. (Attachment 7). Based on their input, staff suggests that the Board consider a number of changes designed to:

1. Increase the number of affordable units produced by this program;
2. Eliminate the in-lieu fee program;
3. Increase flexibility for developers to meet the affordable housing requirements by creating a new program to allow developers to acquire and convert market rate units into Measure J units, so long as the developer provides for a minimum of two affordable units for every inclusionary unit that would otherwise be required to be built.
4. Adjust program operations to better mitigate the loss of units through demolition of existing units.

The key recommendations included in this analysis are:

- Eliminate the in-lieu fee option.
- Expand the inclusionary requirement to include all minor land divisions.

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- e Eliminate the "rounding" method of establishing the inclusionary requirement and calculate the number of affordable units subject the inclusionary requirement to be exactly equal to the inclusionary percentage, including any fractional amounts more or less than a whole unit.
- e Establish a new Developer Financed Measure J Housing Fund to acquire and convert a greater number of existing units to Measure J units than would otherwise be created through the inclusionary program. Proposed program guidelines for the Fund are:

A developer's contribution to the Fund would be based on the 15 or 20% proportional requirement that is tied to each eligible market rate unit. This would allow for a development that is not required to construct an affordable unit (2-7 unit projects) or where there is a fractional obligation above a whole unit (e.g. a 2.5 unit obligation) to fulfill program requirements.

The contribution amount would be based on a formula which would 1) encourage the construction of inclusionary units in modestly priced developments while providing for an incentive for higher end developers to contribute to the Fund; and 2) ensure that, at a minimum, the contribution amount must result in the acquisition and conversion of at least two market rate units for each inclusionary unit that would have been required. Depending on the price of the market rate unit and the corresponding contribution amount to the Fund, it is anticipated that this program would yield two to five affordable units for each inclusionary unit that would have otherwise been required to be built.

All units acquired through this program would meet criteria established by the County, include income and occupancy restrictions consistent with the Measure J program, and be occupied prior to final occupancy of the approved development.

- Require development projects to obtain approval from the Approving Body of how the project will meet its affordable housing obligation. Any changes would require approval by the Approving Body.

Loss of Units Through Demolition of Existing Homes.

Staff has conducted a review of current Planning Department residential development review practices and has identified two key issues related to the removal of existing units which warrant specific direction from your Board to improve program effectiveness:

- e Currently, for each existing unit removed from a project site, an equal number of new, market-rate units built in the project are exempted from the inclusionary requirements, even though the replacement unit is typically more expensive than the

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demolished unit. This results in the **loss** of an existing unit and the reduction in the affordable housing obligation for the developer. Your Board should consider no longer exempting demolished units from the inclusionary requirements.

- State and local laws require a developer in the Coastal Zone to provide replacement housing on a one-to-one basis when a threshold number of units occupied by low and moderate income households are demolished. However, in the case of projects which involve the demolition of units beneath the threshold¹, the replacement housing requirements are not required but are subject to the discretion of the Approving Body. (Attachment 8 includes applicable County Code and State Government Code provisions.) Based on a review of development applications, replacement housing requirements in the Coastal Zone associated with the demolished units have not been imposed on projects to the full extent permitted by local and state law. Your Board could direct staff to thoroughly evaluate the potential applicability of replacement housing provisions in the case where local discretion is permitted.

To address the issues discussed above, Planning staff, working with County Counsel, RDA, and the CAO's Office, proposes to return to your Board on December 11, 2001 with specific programmatic and administrative recommendations concerning the issues discussed above. In the event your Board increases the 15% inclusionary obligation, the corresponding changes will be incorporated in the changes discussed above.

Miscellaneous Program Areas and Additional Reports

Your Board also initiated a request for staff to review a number of other program areas and furnish your Board with additional information about a variety of matters. What follows is a brief discussion of each of these items and a proposed time line.

Reduction of Floor Area Ratio from 50% to 40%

The reduction of FAR limits from 50% to **40%** would reduce the maximum size of newly built units in the unincorporated County and create other significant consequences concerning non-conforming use and other planning issues. You will recall, that the Board also directed the Planning Department to return with an analysis of the large house provisions of the codes. The reduction in floor areas could be reviewed in conjunction with this effort. The Planning Department proposes to evaluate this proposal and return to your Board on April 9, 2002 with a further report on this issue.

Increasing the Percentage of Affordability Required on Annexed Lands:

¹ Replacement housing is subject to the discretion of the Approving Body if the demolished or converted structure contains less than three units, or if more than one residential structure is involved, if 10 or fewer units are proposed for demolition.

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This issue was discussed by your Board in the context of the recent Franich Annexation, where 50% of the units were required to be affordable. A more detailed discussion of this topic is included in Attachment 6. In summary, the Board could request LAFCO to adopt a policy requiring minimum levels of affordability for all new annexations of vacant land.

Expansion of mobile home parks

Your Board's interest in exploring the potential for new mobile home parks will be evaluated by the Planning Department and a report will be submitted to your Board on April 9, 2002.

Increasing the use of manufactured housing

Your Board's interest in exploring the potential for increasing the use of manufactured housing will be evaluated by the Planning Department and a report will be submitted to your Board on April 9, 2002.

Constructing More Agricultural Housing

This is an item that your Board directed staff to review in light of the findings of the recent Farmworker Survey. A report was presented to the Board on October 2, 2001 on this item. Attachment 6 provides a more detailed discussion on the proposed new directions, particularly focused on developing an approach for utilizing the State's Employee Housing Act. It is recommended that RDA staff report back on this program on January 29, 2002.

Increasing RDA housing set-aside from 20% to 25%. based on the City of Santa Cruz's program:

The Board directed staff to evaluate the potential to expand the housing funds provided through the Redevelopment Agency's Low and Moderate Income Housing Set Aside Fund. Attachment 6 provides a more detailed discussion on this issue.

As your Board is aware, over the past two years, the Agency has allocated an unprecedented amount of funds to assist a wide variety of housing projects throughout the County. This year, for the first time in the Agency's history, we are on the verge of receiving proposals for meritorious projects for which we may not have adequate funds available.

As a result, we are now investigating additional local funding sources. Your Board's directive to consider increasing the housing set aside from 20% to 25% would present a possible funding source to augment resources available to address housing needs in the community.

Increasing the set aside from 20% to 25% would result in a transfer of approximately \$800,000 from capital projects to housing projects annually. It appears that such a transfer would be possible within the project and bonded indebtedness commitments of the Agency. However, the report suggests that it may be more appropriate to make such a transfer annually as part of the budget process rather than adopt a re-appropriation of tax increment revenues. One benefit of the annual

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budget approach includes confirming augmentations annually in the context of outstanding project commitments which allows your Board to address competing priorities in the context of the budget needs. But more importantly, such an approach would provide far greater flexibility in how financed projects operate, given that the projects funded through capital funds would not be subject to the restrictions imposed on projects which receive Low and Moderate Income Housing Fund financing. If your Board is interested in this approach, staff could be directed to provide an annual budget allocation from capital projects to housing projects in an amount which would total a 25% housing set aside, based on existing formulas, and that this amount be included in future recommended RDA Budgets, beginning in FY 02-03 to support the creation of low and moderate income housing opportunities countywide. The FY 2002-03 baseline amount is estimated at \$800,000 with the idea that future year allocations grow in proportion to the Agency's tax increment growth.

Report on the possibility of establishing linkage fees, based on the City of Watsonville's program:

Your Board's interest in considering the potential of assessing linkage fees on non-residential development will be explored by County staff. It is worth noting that the County has very limited commercial and non-residential development activity that would be impacted by a proposal based on the program established in the City of Watsonville. The Planning Department will prepare a report on this issue in February 12, 2002.

Planned Unit Developments (PUDs) in the County

The County Code was amended in 1962 to create a process for reviewing and approving certain types of projects that met the objectives of the Zoning Ordinance but did not meet all of the specific requirements of the residential or commercial site standards. This process, and the permits that were issued as a result of the process, were called Planned Unit Developments or PUDs. The PUD ordinance allowed for the development of mixed use projects (residential and commercial) as well as for projects such as townhouse developments where required setbacks and separation between structures could not otherwise be approved. In practice, PUDs were almost exclusively used for the development of residential only projects where there was a need to vary from the strict application of the specific zone district.

The 1982 Zoning Ordinance was the last year the PUD program was included in the County Code. The PUD ordinance established standards, findings and procedures for the review of special permits. Most notably, the procedures required the PUD permit to be approved by the Board of Supervisors, based on a recommendation from the Planning Commission, through the adoption of an ordinance. Examples of PUDs include Sand Dollar Beach, Canon del Sol, Woodland Heights, Willowbrook Village, and Paradise Park. Because the PUD was adopted by the Board of Supervisors as an ordinance, amendments to the PUD were processed as ordinance amendments.

In 1983, as a part of the implementation of the Local Coastal Program Land Use Plan, the PUD ordinance was eliminated and language was added to the County Code to allow flexibility in the design of residential land division projects. This language, Section 13.10.324(d)1(i) of the County Code, is as follows:

1. *Parcels Created from New Land Divisions*

(i) Within any new land division project, all development standards on all lots or parcels which abut the periphery of the project site are subject to all the restrictions stated in this section unless a variance is obtained. No parcel shall be created smaller than 3,500 square feet in area. On individual lots or parcels within any land division project not abutting the periphery of the project site, site and structural dimensions may vary from the General Requirements for the zone district, provided that the approved standards and dimensions for each new lot or parcel are specifically indicated on the approved tentative map.

This section has been used to approve many projects in the County, including the Chanticleer apartments, Merrill Street project, the Farm Project and Vista Verde, all apartment projects. It was also used to approve the Pajaro Lane project, a mixed apartment and townhouse project with differing densities. It has not, however, been used extensively by the private sector.

The PUD program provided for added flexibility in site design similar to the language provided for in the current County Code for residential development. PUDs however, offered added design flexibility as well as a mechanism to "lock-in" site specific design standards through the adoption of a PUD ordinance. While additional flexibility was added to our local codes in the mid 1980's, there are some features of the PUD program which may foster the development of affordable housing. In order to promote further review of the value of reenacting ordinance provisions similar to those of the 1980's, a proposed draft ordinance is provided which could be forwarded to the Planning Commission for review and recommendation (Attachment 9). This proposal is similar to the one that was in effect previously and has been updated by Planning staff to reflect current development review practices.

Evaluation of the County's First Time Home Buyer Program:

The Board expressed an interest in targeting the Redevelopment Agency's First Time Home Buyer Program to public employees, initially focusing on County employees. As you know, on August 28, 2001 your Board received a report from the RDA which discussed a number of complex issues associated with developing a program with other jurisdictions that would benefit local governmental employees. Nonetheless, the Agency has developed a First Time Home Buyer program that staff believes will be extremely attractive to moderate income home purchasers who are willing to commit to the program's current requirement to require long term resale restrictions in exchange for assistance in unit purchase. Attachment 6 provides more details on this program and a proposed outreach program. Staff is suggesting that, once this new program is fully operational, that special presentations be given to County employees and other employee groups educating potential program participants about the availability of this program. It is suggested that staff report back to the Board on the effectiveness of this marketing approach on April 9, 2002. It is worth noting that Senator McPherson's SB-459, which was requested by the Board, was recently approved by the Governor and will increase the price range of units eligible for this program.

Identify strategies to attract employers to our community that pay higher wages

There are a wide variety of factors, largely determined by regional and macro economic forces, which determine wage structure and the types of employers that locate in Santa Cruz County. It is recommended that this proposal be referred to the Workforce Investment Board (WIB), which is staffed by the Human Resources Agency. The WIB will evaluate this proposal in the context of their overall and on-going strategic efforts to address a variety of workforce development issues in the community.

Statistical information on renters and the number of units rented and those used by homeowners:

Based on 2000 census information, there are a total of 55,942 housing units in the unincorporated County with 50,351 occupied housing units. There are 34,283 (68.1%) owner occupied units and 16,068 (31.9%) renter occupied units. It is worth noting that the updated Housing Element will include a more detailed analysis of the housing needs in the community, including the rental and ownership housing needs of various income groups.

Economic model information re. the elasticity of market pricing versus what is generated and how we can maximize our opportunities:

The updated Housing Element will consider a wide range of issues pertaining to housing prices, relationships between supply and demand and the extent to which local land use regulations impact housing costs in the community.

Provide information relative to vacation rentals versus permanent housing

Analysis to be conducted by the Planning Department, the Assessor's Office and Treasurer/Tax Collector and will be presented to your Board on February 12, 2002.

Information on the size of the general plan area and the actual acreage covered in relation to the number of homes and the number of affordable units:

Information addressing the distribution of affordable units by Plan Area, taking into account the total number of housing units in the Plan Area as well acreage and population densities, are included in Attachment 10.

County Counsel Legal Opinions

Your Board also requested County Counsel to provide legal opinions on the following issues. (See Attachment 11).

The County's authority to limit the occupancy of single family dwellings.

The cannot limit the number of occupants of a single family dwelling based on whether the occupants are unrelated persons. However, the County may continue to enforce other provisions of the County Code that establishes minimum standards for addressing particular impacts related to residential uses. (Off-street parking, minimum lot widths, set-backs, etc.)

The status of the University of California in relation to local ordinances.

The University is not subject to local land use regulations when it is utilizing its property in a manner consistent with its educational mandate.

The County's authority to regulate the temporary use of residences for short term vacation rentals:

The County does have the authority to regulate the use of residential property for short-term commercial use. The Planning Department, Assessor's Office and Treasurer/Tax Collector will return to your Board on February 12, 2002 with a report on this issues, at which time, further direction regarding the development of an ordinance may be appropriate.

Anti-Retaliatory Eviction Ordinance

It is within the Board's power to enact an anti-retaliation ordinance and it is suggested that County Counsel work with staff to develop an ordinance for Board consideration on February 5, 2002.

Conclusion/Recommendations

This report includes a wide variety of proposed actions for consideration by your Board. The combined impact of the proposed recommendations provides for a greatly expanded housing program to address the issues that are within the purview of the Board of Supervisors. It is therefore recommended that your Board take the following actions:

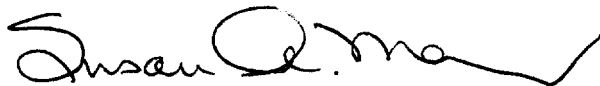
1. Accept and file this report;
2. Consider the Proposed Affordable Housing Action Plan and Implementation Schedule (Attachment 2) and determine whether to take action on any of the following items:
 - a. Approval of a policy to require the Approving Body must make certain findings as part of approval of a residential development that is below the General Plan density range and that the proposed use is consistent with the General Plan and appropriate, given the need for housing in the community, and return to the Board on December 11, 2001 with specific program recommendations;
 - b. Direct staff to identify potential H-sites county-wide and return to the Board on December 11, 2001 to discuss site options;
 - c. Direct Planning staff, as part of the General Plan update, to make every effort to identify additional properties county-wide that could be zoned for multi-family housing and to provide a further report on December 11, 2001 on general plan policies that would require modification in order to permit future development of affordable housing at appropriate densities throughout the County;
 - d. Direct staff to return to your Board on December 11, 2001 with proposed recommendations to increase the inclusionary affordability requirement from 15%

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- e. to 20%
Direct the Chair of the Board to write to LAFCO requesting LAFCO adopt a policy requiring a minimal level of affordability for annexed properties;
 - f. Direct the RDA to:
 - i. return to your Board on January 29, 2002 with a status report on the potential for increasing agricultural housing under the State Employee Housing Act program;
 - ii. return to your Board on April 9, 2002 with a status report on the Down payment Assistance Program; and
 - iii. Direct the RDA Administrator to provide an annual budget allocation from capital projects to housing projects in an amount which would total a 25% housing set aside, based on existing formulas, and that this amount be included in future recommended RDA Budgets, beginning in FY 02-03 to support the creation of low and moderate income housing opportunities countywide.
 - g. Refer consideration of strategies to attract employers to our community that pay better wages to the to the Workforce Investment Board as part of their overall and on-going strategic efforts to address a variety of workforce development issues in the community.
 - h. Direct the Planning Department to return to your Board on November 20, 2001 with a proposed ordinance amendment to permit second units on agriculturally zoned land and to initiate the public review process, with a final ordinance approval on or before April 9, 2002;
 - i. Direct the RDA to evaluate a pilot program to provide subsidies to encourage the development of second units, to be developed in conjunction with the Board's consideration of the final ordinance on or before April 9, 2002;
 - j. Refer the proposed PUD ordinance (Attachment 9) to the Planning Commission for review and recommendation;
 - k. Approve the following changes to the County's Affordable Housing programs and direct Planning staff to work with the CAO, RDA and County Counsel, and return to your Board on December 11, 2001 with specific changes and administrative recommendations:
 - i. Eliminate In Lieu Fee;
 - ii. Eliminate "rounding" inclusionary unit obligation and calculate the number of affordable units to be exactly equal to the inclusionary percentage of the number of eligible market units; and
 - iii. Approve the creation of a Developer Financed Measure J Home Purchase Fund as described in this letter.
 - iv. Expand the inclusionary percentage requirement to projects with two units or more
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- v. Delete current provision which exempts demolished units from inclusionary requirement and encourage the imposition of replacement housing requirements for demolished units
- l. Direct Planning staff to report back to your Board on April 9, 2002 on issues pertaining to 1) the impact of reducing the floor area ratio from 50% to 40%; 2) the expansion of mobile home parks, 3) the increased use of manufactured housing; and 4) the possibility of establishing linkage fees for non-residential development;
- m. Direct the Planning Department to include in the updated Housing Element information pertaining to housing needs and housing pricing issues;
- n. Direct the Planning Department, the Assessor's Office and Treasurer/Tax Collector to report back to the Board on February 12, 2001 with information relative to vacation rentals versus permanent housing; and
- o. Direct County Counsel to work with the Planning Department and the CAO's Office to develop an anti-retaliatory eviction ordinance and to return to your Board on February 5, 2002 with a proposed ordinance.

Very truly yours,



Susan A. Mauriello
County Administrative Officer

ES:SM

attachments:

- 1. October 2, 2001 Board letter and Minute Order
- 2. Affordable Housing Action Plan and Implementation Schedule
- 3. Map of Urban Services Line
- 4. H Sites - Santa Cruz County Zoning Ordinance
- 5. Report on Second Units on Agricultural Land
- 6. RDA Report
- 7. Report on the Affordable Housing Ordinance and Related Issues
- 8. County Code and State Government Code sections re. Replacement Housing
- 9. Proposed PUD Ordinance
- 10. Plan Area Data
- 11. County Counsel Memorandum, October 24, 2001

cc: Planning Department
Redevelopment Agency
County Counsel
Planning Commission
Housing Advisory Commission

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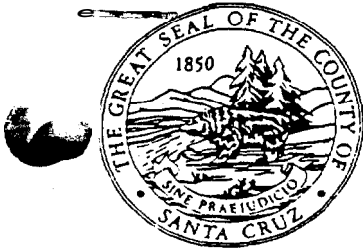
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ATTACHMENT 1

October 2,2001 Board letter and Minute Order

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County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSAN A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

September 26, 2001

Agenda: October 2, 2001

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

Affordable Housing Workshop

Dear Members of the Board:

On August 7, 2002 your Board scheduled an Affordable Housing Workshop and directed staff to invite representatives from the four city councils as well as the Housing Authority to make a presentation. In addition, your Board approved a tentative outline for the agenda which has now been finalized as Attachment 1. In conjunction with these issues, staff was directed to prepare a report and make a presentation on housing issues in the County. This letter is intended to respond to the Board's direction.

The agenda provides for a staff presentation, representatives for each jurisdiction to make a presentation, and for the County Housing Authority to make a presentation. A public comment period would follow the jurisdiction presentations. It is our understanding that SEIU has indicated an interest in addressing the Board on these issues as a part of the public comment.

The attached materials provide a number of additional reports that the Board's requested:

- An updated status report on the proposed "Fair Share" housing needs allocation and the May 22nd Board report on the impact of the proposed Fair Share Housing Needs Allocation (Attachment 2);
- The August 28, 2001 Board report prepared by the Redevelopment Agency concerning the potential for the County to work with other jurisdictions to jointly develop employee housing programs (Attachment 3);

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- A follow up report on farm worker housing issues associated with the Farm Worker Health and Housing Survey and Needs Assessment (Attachment 4); and
- An update on the status of land use, housing and water resource issues associated with a recently adopted Watsonville City water policy pertaining to portions of the unincorporated County (Attachment 5).

In preparation for this workshop, Chairman Tony Campos wrote a letter to the Mayors of the four jurisdictions and the Housing Authority and indicated that the Board would **like** to receive in today's packet any materials that would be helpful to the discussion of the housing issues. Thus far, we have received reports from Housing Authority (Attachment 6), the City of Scotts Valley (Attachment 7), the City of Capitola (Attachment 8) and the City of Watsonville (Attachment 9). We have also attached the report prepared by County staff which provides for an Overview of County Housing Activities (Attachment 10). This report was submitted to your Board last Spring and, in accordance with your Board's direction, was transmitted to the four jurisdictions in the County. Finally, the Housing Advisory Commission has also submitted information about their role in addressing housing issues (Attachment 11).

The Affordable Housing Workshop will present an overview of housing issues in our community. Your Board will also receive input from other jurisdictions and the public at large. In addition, your Board will have an opportunity to formulate strategies for future consideration.

It is therefore **RECOMMENDED** that your Board take the following actions:

1. Hold a workshop on Affordable Housing;
2. Accept and file this report and the attachments hereto; and
3. Direct staff to prepare an action plan in accordance with the direction provided by your Board.

Very truly yours,



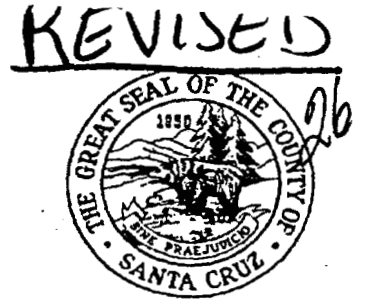
SUSAN A. MAURIELLO
County Administrative Officer

SM:ES



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COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of October 2, 2001

REGULAR AGENDA Item No. 036

(CONSIDERED report on Affordable Housing in Santa Cruz County;
(A) conducted workshop on Affordable Housing;
(B) accepted and filed report and the attachments;
(C) directed staff to return on November 6, 2001 with a report that includes, but is not limited to, the following: a) report on the ramifications of raising the percent of redevelopment funds available for affordable housing; b) report on the issue of linkage raised by the City of Watsonville; c) information generated on the possibilities for second units on agricultural land; d) County Counsel report on the status of the University of California in relation to local ordinances; e) staff analysis of the Housing Advisory Commission recommendations on in-lieu fees; f) a preliminary report on potential rezoning of multi-residential uses of various large suitable parcels in various parts of the County; g) the history of and potential for planned unit developments in the County; h) the impact of changing floor area ratios to 40% instead of 50%; i) legal information on the number of people that can live in one unit; j) statistical information on the numbers and needs of renters; k) strategies for preserving multi-residential sites for the maximum use possible, looking at existing constraints to establish actual development potential including sites located near transportation corridors throughout the County; l) present economic modeling information to address the elasticity of market pricing versus what is generated and how we can maximize our opportunities; m) information on the number of units rented and those used by home owners; n) the impact of increasing the percentage of affordability required on annexations of Redevelopment areas, and on larger developments; o) provide information relative to vacation rentals versus permanent housing and how many exist; p) information on the size of the general plan area and the actual acreage covered in relation to the number of homes and the number of affordable units; q) information on methods to expand second units including subsidizing the fees; r) identify any remaining high density properties and consider the possibility of purchasing identified parcels; s) evaluate the advantages/disadvantages of reinstituting county-wide H-site designations; t) identify strategies to attract employers to our community that pay better; u) identify the advantages of increasing the 15 percent rate of affordability on certain projects, where appropriate; v) possibility of expanding the number of mobile home parks and increasing the use of manufactured homes and constructing more agricultural housing including those under State programs; w) identify

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed seal of said Board of Supervisors.

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of October 2, 2001

REGULAR AGENDA . Item No. 036

the recommended changes to the County First Time Home Buyer Program;
x) and further encouraged Board members to submit letters with other
concrete proposals for housing initiatives on November 6, 2001

Considered report on Affordable Housing in Santa Cruz County;

Upon the motion of Supervisor Wormhoudt, duly seconded by Supervisor Almquist, the Board, by unanimous vote, conducted workshop on Affordable Housing; accepted and filed report and the attachments; directed staff to return on November 6, 2001 with a report that includes, but is not limited to, the following: a) report on the ramifications of raising the percent of redevelopment funds available for affordable housing; b) report on the issue of linkage raised by the City of Watsonville; c) information generated on the possibilities for second units on agricultural land; d) County Counsel report on the status of the University of California in relation to local ordinances; e) staff analysis of the Housing Advisory Commission recommendations on in-lieu fees; f) a preliminary report on potential rezoning of multi-residential uses of various large suitable parcels in various parts of the County; g) the history of and potential for planned unit developments in the County; h) the impact of changing floor area ratios to 40% instead of 50%; i) legal information on the number of people that can live in one unit; j) statistical information on the numbers and needs of renters; k) strategies for preserving multi-residential sites for the maximum use possible, looking at existing constraints to establish actual development potential including sites located near transportation corridors throughout the County; l) present economic modeling information to address the elasticity of market pricing versus what is generated and how we can maximize our opportunities; m) information on the number of units rented and those used by home owners; n) the impact of increasing the percentage of affordability required on annexations of Redevelopment areas, and on larger developments; o) provide information relative to vacation rentals versus permanent housing and how many exist; p) information on the size of the general plan area and the actual acreage covered in relation to the number of homes and the number of affordable units; q) information on methods

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

COUNTY OF SANTA CRUZ

STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of October 2, 2001

REGULAR AGENDA Item No. 036

to expand second units including subsidizing the fees; r) identify any remaining high density properties and consider the possibility of purchasing identified parcels; s) evaluate the advantages/disadvantages of reinstituting county-wide H-site designations; t) identify strategies to attract employers to our community that pay better; u) identify the advantages of increasing the 15 percent rate of affordability on certain projects, where appropriate; v) possibility of expanding the number of mobile home parks and increasing the use of manufactured homes and constructing more agricultural housing including those under State programs; w) identify the recommended changes to the County First Time Home Buyer Program; x) and further encouraged Board members to submit letters with other concrete proposals for housing initiatives on November 6, 2001

cc:

✓ CAO

Human Resources Agency

Health Services Agency

City of Watsonville

City of Santa Cruz

City of Capitola

City of Scotts Valley

UCSC

Housing Authority

Cabrillo College

Dominican Hospital

Planning Department

Redevelopment Agency

Planning Commission

Housing Advisory Commission

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed seal of said Board of Supervisors.

Page 3 of 3

by *Susan A. Mauriello*, Deputy Clerk, ON October 17, 2001

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ATTACHMENT 2

Affordable Housing Action Plan and Implementation Schedule

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AFFORDABLE HOUSING ACTION PLAN - IMPLEMENTATION SCHEDULE

Topic Area	Minute Order	Proposed Action	Time Line
Multi-Family Housing Sites			
Preliminary report on potential rezoning of multi-residential uses of various large suitable parcels in various parts of the County	i f	The development potential of RM-zoned sites and other residentially zoned properties is included in this report.	Nov. 6, 2001
Strategies for preserving multi-residential sites for maximum use possible, taking into consideration existing constraints, and sites located near transportation corridors throughout the County	k	Develop program to require findings be approved as part of approving any development which is below the General Plan density range.	Nov. 6, 2001 conceptual approval Dec. 11, 2001 with recommendations
Evaluate the advantages/disadvantages of re-instituting county-wide H-site designations	s	Direct staff to identify potential H-sites; direct Planning staff to evaluate GP policies to increase affordable housing countywide; direct Planning to make every effort to identify additional properties county-wide that could be zoned for multi-family housing as part of GP update	Nov. 6, 2001 conceptual approval Dec. 11, 2001 with recommendations General Plan
Identify any remaining high density properties and consider the possibility of purchasing identified parcels	r		
Consider increasing the percentage of affordability on larger development	n	Increase affordability requirement to 20%.	Nov. 6, 2001 conceptual approval
Identify the advantages of increasing the 15% rate of affordability on certain projects, where appropriate	u		Dec. 11, 2001 with recommendations
Second Units			
Possibility to allow 2 nd units on agricultural land	c	Planning develop ordinance for Board review	Nov. 20, 2001
Consider subsidy program for second units	q	RDA consider pilot program to provide subsidies to encourage development of 2 nd units	April 9, 2002 - coincide w/ adoption of ordinance amendments
Affordable Housing Ordinance (17.10) and Related Issues			
In Lieu Fees/17.10	e	Eliminate In Lieu Fee Eliminate "rounding" inclusionary unit obligation and calculate the no. of affordable units to be exactly 15% New Developer Financed Measure J Home Purchase Fund to purchase a greater no. of existing units than the no. of affordable units otherwise required to be constructed on-site 15% requirement to projects with two units or more	Nov. 6, 2001 conceptual approval Dec. 11, 2001 Consider specific changes and administrative recommendations
Program adjustments to address loss of units through demolition		Delete current provision which exempts demolished units from inclusionary req. & encourage the imposition of replacement housing requirements for demolished units	

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AFFORDABLE HOUSING ACTION PLAN - IMPLEMENTATION SCHEDULE

Topic Area	Minute Order	Proposed Action	Time Line
Impacting of reducing the floor area ration (FAR) from to 50% from 40%	h	Planning analysis and report back with recommendations	April 9, 2002
Increase % of affordable housing on annexed lands	n	Board policy directive to LAFCO	Nov. 6, 2001
Expansion of mobile home parks	v	Planning Report back	April 9, 2002
Increased use of manufactured housing	v	Planning Report Back	April 9, 2002
Constructing more agricultural housing under State program	v	RDA Report Back	January 29, 2001
Miscellaneous Program Areas and Additional Reports			
Ramifications of raising the percent of redevelopment funds available for affordable housing from 20% to 25%	a	Augment housing funds as part of Budget	approve as part of 2002-03 Budget
Consider possibility of establishing linkage fees	b	Planning report back with recommendations	February 12, 2002
History of and potential for Planned Unit Developments (PUDs) in the County	g	Consider reenacting PUD ordinance and direct Planning Commission to review draft ordinance	Nov. 6, 2001
Identify recommended changes to the County's First Time Home Buyer Program:	w	RDA embark on public education program	April 9, 2002
Identify strategies to attract employers to our community that pay better	t	Refer to Workforce Investment Board (WIB)	Nov. 6, 2001
Statistical information on the numbers and needs of renters and the number of units rented and those used by homeowners	j, m	information included in this report and further analysis in updated Housing Element	Nov. 6, 2001 December 2002
Economic modeling information to address the elasticity of market pricing versus what is generated and how we can maximize our opportunities	l	Planning to include in updated Housing Element	December 2002
Provide information relative to vacation rents versus permanent housing	o	Planning, Assessor and Treasurer/Tax Collector report back	February 12, 2002
Information on the size of the general plan area and the actual acreage covered in relation to the number of homes and the number of affordable units;	p	Planning report in packet	Nov. 6, 2001

AFFORDABLE HOUSING ACTION PLAN - IMPLEMENTATION SCHEDULE

Topic Area	Minute Order	Proposed Action	Time Line
County Counsel Legal Opinions on a Variety of Issues			
The status of the University of California in relation to local ordinances	i d	UC exempt from local ordinances	No further Action Recommended
Legal information on the number of people that can live in one unit	i	Board cannot limit the number of occupants of a single family dwelling based on whether the occupants are unrelated persons	No further Action Recommended
Regulation of residential property for vacation rentals	o	Board has authority to regulate residential property for short-term commercial use. Recommend Board consider draft ordinance following the report back from Planning, the Assessor's Office and the Treasurer Tax Collector.	February 12, 2002
Anti-Retaliatory Eviction ordinance	from 10/16	Board has authority to develop an anti-retaliatory eviction ordinance. Recommend County Counsel work with the Planning Department and the CAO to develop a proposed ordinance	February 5, 2002

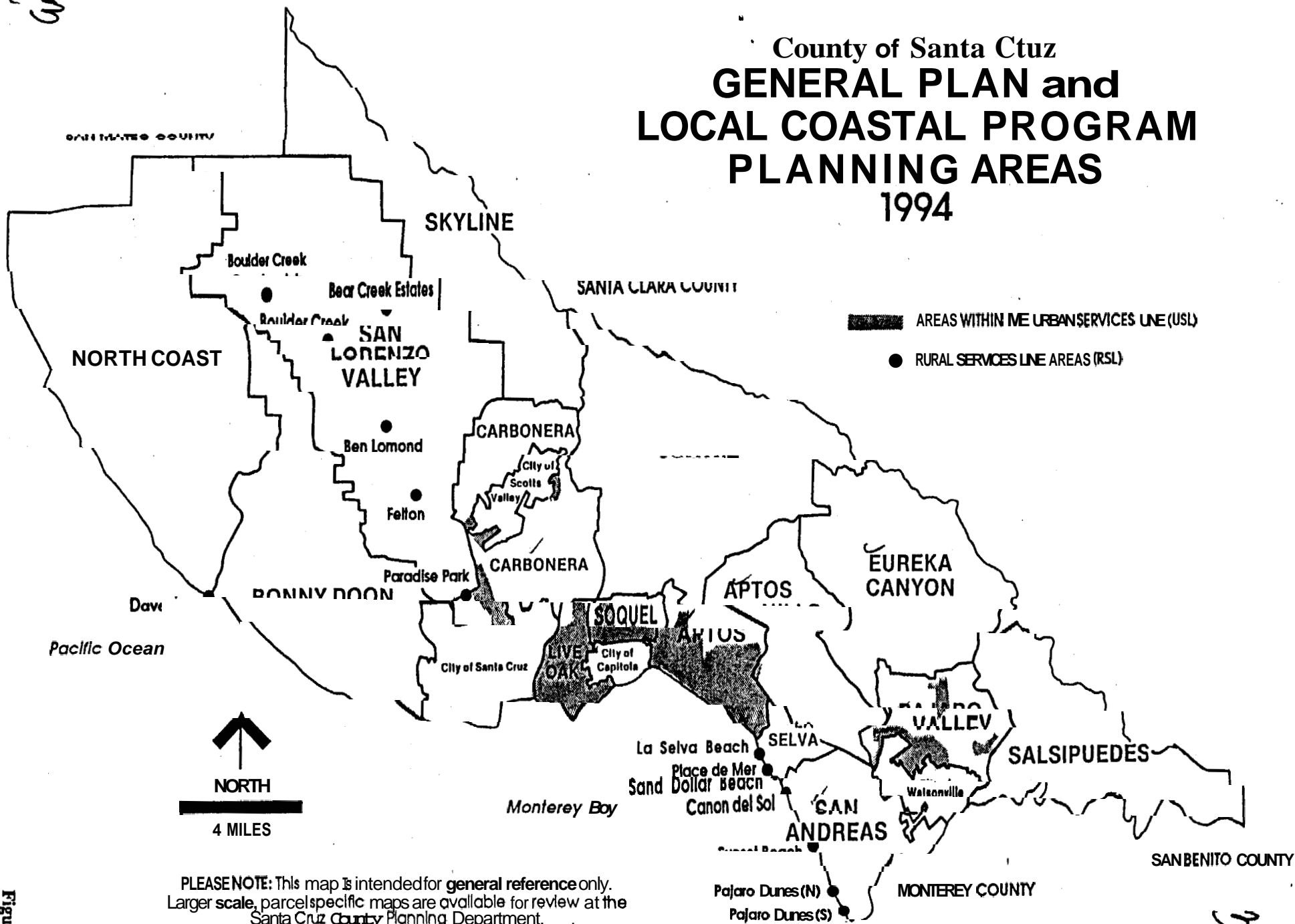
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ATTACHMENT 3

Map of Urban Services Line

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County of Santa Cruz GENERAL PLAN and LOCAL COASTAL PROGRAM PLANNING AREAS 1994



ATTACHMENT 4**H-SITES**

- **Section 13.10431 - 13.10433 in Zoning Ordinance**

geologic hazard **is** located in order to provide early notice of the development constraint and to allow precise determination of the presence and location of the hazard at the time of development project review. (Ord. 3344, 11/23/82; 3432, 8/23/83)

13.10.423 Use and development standards in the Geologic Hazards "GH" Combining District.

In addition to the regulations for development and use imposed by the basic zone district, all projects shall be subject to the provisions of the Geologic Hazards Ordinance, Chapter 16.10 as appropriate based on the type of specific geologic hazard(s) which are present on the property and the location of the project. (Ord. 3344, 11/23/82; 3432, 8/23/83)

Article III. "H" Assisted Housing Combining District

13.10.431 Purposes of the Assisted Housing "H" Combining District.

The purpose of the Assisted Housing "H" Combining District **is** to increase the supply of housing affordable to low and moderate-income households by means of the designation of sites for one hundred (100) percent affordable housing projects which are to be developed in accordance with the affordable housing policies of the Local Coastal Program Land Use Plan.

13.10.432 Designation of the Assisted Housing "H" Combining District.

The Housing "H" Combining District shall be applied to those parcels designated as "Assisted Housing Sites" in the Local Coastal Program Land Use Plan.

13.10.433 Use and development standards in the Assisted Housing "H" Combining District.

Applications for development projects comprised of one hundred (100) percent affordable housing shall be processed by the County on a priority basis. Applications for projects for other than one hundred (100) percent affordable housing shall be processed in accordance with the housing site review procedures of the County's Housing Development Fund Program Guidelines. The County shall have twelve (12) months from the date of application to decide whether to acquire the site for assisted housing. If the County decides not to acquire the property, the owner may proceed with development consistent with the land uses and densities indicated by the General Plan and Local Coastal Program Land Use Plan,

provided that thirty-five (35) percent of the units will be affordable.

Article IV. "I" Statement of Intention Combining District

13.10.441 Purposes of the Statement of Intention "I" Combining District.

The Statement of Intention Combining District denotes those lands for which the Board of Supervisors has adopted a Statement of Intention in accordance with Section 1630 of the State Revenue and Taxation Code. The Statement of Intention constitutes a rebuttable presumption that the Board of Supervisors intends to refrain from rezoning the subject property in the predictable future. (Ord. 1786, 10/17/72; 3344, 11/23/82; 3432, 8/23/83)

13.10.442 Designation of the Statement of Intention "I" Combining District.

Those parcels for which the Board of Supervisors has granted a Statement of Intention are designated with an "I" Combining District. (Ord. 1786, 10/17/72; 3344, 11/23/82; 3432, 8/23/83)

13.10.443 Uses and development standards in the Statement of Intention "I" Combining District

This zoning classification imposes no restrictions beyond those of the basic zoning district. (Ord. 1786, 10/17/72; 3344, 11/23/82; 3432, 8/23/83)

Article V. "L" Historic Landmark Combining District

13.10.451 Purposes of the Historic Landmark "L" Combining District.

The purposes of the Historic Landmark "L" Combining District are:

(a) To preserve, protect, enhance, and perpetuate those structures, objects, sites and areas of historic, archaeological, cultural, architectural, engineering, or aesthetic significance, importance, and value as part of the development, heritage or cultural characteristics of the County, state or nation.

(b) To identify those structures, objects, sites and districts which have been designated as Historic Resources by the Board of Supervisors pursuant to the provisions of the County Code, Chapter 16.42., Historic Resource Preservation.

ATTACHMENT 5

April 25,2001 Board letter re. Second Unit Ordinance on Agriculturally Zoned Land



County of Santa Cruz

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR SANTA CRUZ CA 95060-4000
(831) 454-2580 . FAX: (831) 454-2131 TDD: (831) 454-2123
ALVIN D. JAMES, DIRECTOR

April 13, 2000

Agenda: April 25, 2000

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

Consideration of Proposed Amendments to the Housing Element of the Santa Cruz County General Plan

Members of the Board:

At your Board's direction, the Planning Department has explored options for amending the Housing Element of the County's General Plan to add programs and policies that 1) would enable the Housing Element to be certified by the California Department of Housing and Community Development (HCD) and 2) are consistent with local policies and priorities. In addition, your Board recently agreed to enter into a **MOU** Regarding Affordable Housing with the City of Watsonville. That **MOU** addresses a variety of housing issues, including the County's Housing Element.

Proposed **Housing** Element Changes

Based on your Board's comments at the October 19, 1999 public hearing concerning the earlier proposed modifications to the Housing Element and discussing issues with staff at HCD, County staff recommends that your Board consider the potential changes that are listed below and described in Attachment 1 to this report:

Farm Worker Housing: allow farm worker housing to be developed as **second** units on parcels that are designated for Agricultural uses

expand **current** efforts **to** rehabilitate and replace existing substandard farm worker housing

identify sites and **seek funding** for a new migrant farm worker housing facility

RV Parks: codify changes to allow **RV** spaces to be converted to permanent affordable housing

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Development Fees: provide for the County to finance development fees or other costs to reduce the cost and increase the production of affordable housing, including second units

The current proposal does not include the mixed use development policies or the South County second unit pilot program that were proposed in October 1999. However, even without these elements, staff projects that the above new programs and policies would allow approximately the same number of units to be built as would be possible under the October 1999 proposal. While the new build-out projection is 283 units lower than is reported as possible in the current adopted Housing Element, the new policies should result in a higher percentage of farm worker units being produced than either the adopted Housing Element or the 1999 proposal. Attachment 2 shows the projected built-out estimates under the current 1994 Housing Element, the October 1999 proposal and the programs, and policies that are proposed in this report.

Rather than incorporate these proposed programs and policies into a new draft amended Housing Element, staff is bringing these policies to your Board for consideration as concepts. If these proposed programs and policies are acceptable to your Board in concept, staff recommends that representatives of your Board and County staff meet with State HCD to discuss these proposed policy changes and to seek HCD's commitment to certify the Housing Element subject to the County further developing and adopting these programs and policies as amendments to the County's Housing Element. In order to facilitate our discussions with HCD, staff prepared the attached report (Attachment 3) which summarizes the County's housing activities. This report is a compilation and updating of existing material that was used for other purposes. This information has been combined into a single document that makes it easier to present information on the County's behalf. Assembly Member Keeley has been most helpful and supportive to date and has offered to assist the County in our dealings with HCD concerning the Housing Element.

Watsonville MOU

While your Board and County staff have been working for more than five years to secure HCD's certification of the Housing Element, the status of the County's Housing Element was raised as an issue during the recent negotiations related to the proposed new Watsonville third high school. As part of the high school negotiations, the County agreed to enter into a MOU Regarding Affordable Housing with the City of Watsonville. In that MOU, the County made certain assurances relative to the Housing Element and to work with others toward countywide solutions to housing problems (Attachment 5). Attachment 5 compares the existing Housing Element and the policies proposed in this report with the agreements in the MOU.

Summary and Recommendation

On October, 19, 1999, your Board agreed to make it a priority in our State Legislative Package to try to obtain certification from HCD. By agreeing to enter into the MOU

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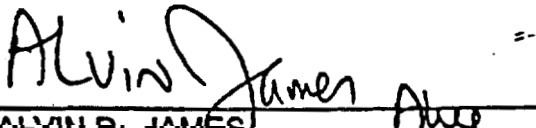
with the City of Watsonville, your Board agreed to proceed with efforts to **certify** the County's Housing Element. At your Board's direction, staff has identified potential changes to the Housing Element that are **consistent** with local policies, address issues raised in the MOU with Watsonville and, we believe, should result in State HCD certifying the Housing Element.

In order to move forward with the County's efforts to secure HCD's certification, staff recommends that your Board:

1. Adopt in concept the proposed policy changes and unit projections presented in this report; and
2. Direct staff to schedule a meeting with the Director of State HCD that includes at least the Chair of the Board of Supervisors, CAO, Planning Director and Assembly Member Keeley; and
3. Direct the Chair of the Board of Supervisors to **forward** this report to Assembly Member Keeley and request his participation in our meeting with HCD; and
4. Direct staff to report back to your Board regarding the results of discussions with State HCD, including a recommendation concerning the setting of a public hearing to receive public testimony regarding the amendment of the Housing Element.

Respectfully Submitted,

RECOMMENDED


ALVIN D. JAMES
Planning Director


SUSAN A. MAURIELLO
County Administrative Officer

Attachments

1. Proposed Housing Element Programs **and** Policies
2. Comparison of Housing Build-Out Estimates
3. Housing Activities and Accomplishments Report
4. "MOU Regarding Affordable Housing" with the City of Watsonville
5. Comparison of Current and Proposed Housing Policies and Affordable Housing MOU

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Proposed Housing Element Programs and Policies

The following housing programs and policies were developed for consideration by the Board of Supervisors of Santa Cruz County. The goal in developing these programs and policies was to amend the County's **1994** Housing Element, with the goal of securing certification of the Housing Element from the California Department of Housing and Community Development.

I. Farm Worker Housing

Agriculture is one of the largest and most important sectors of the economy for Santa Cruz County. An adequate supply of decent safe **and** sanitary housing for farm workers is **critical** for the health of the local economy and population. The County's **1995** Farmworker Housing Needs Assessment Study estimated that there was a need for 2,200 additional farm worker housing units at the time, including 350 units that needed major rehabilitation. The Study also estimated that an additional **1,180** units would be needed by the year 2002. Evidence of the need for farm worker housing can be seen in the fact that the Santa Cruz County migrant farm worker housing project, which is owned by the State's Office of Migrant Services (**OMS**) and operated by the Santa Cruz County Housing Authority, has the highest turn away rate of all the **OMS** centers in California.

The County will consider the following three new programs, which are described below, to improve the condition and increase the supply of farm worker housing.

1. Farm family and farm worker second units
2. Expanding current efforts to rehabilitate and replace farm worker housing
3. Develop a new migrant farm worker housing project

In addition to these three programs, the County will 1) analyze the local regulations for farm worker housing and update these requirements to be consistent with recent changes in state law, 2) identify additional options for encouraging and facilitating the development of farm worker housing throughout the County and 3) aggressively promote the development, maintenance and operation of decent safe and affordable housing options for both permanent and seasonal farm workers by farmers, agricultural interests, agricultural and farm worker cooperatives, nonprofit housing, the housing authority and others.

A. Farm family and farm worker second units. At present second units are not allowed on land that has an Agricultural land use designation and/or zoning because of concern that housing is not compatible with agricultural land uses. However, because an adequate supply of farm worker housing is needed to support the agricultural sector, the County will consider allowing second units that are restricted for use by members of the farmer's family and farm workers to be built on Agricultural land. This approach would allow a greater number of farm worker housing units to be produced than is currently possible under the County Codes. For these farm worker second units built

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on CA and other agricultural land, the County's existing second unit ordinance would be modified as follows:

1. the units must be occupied by family members or farm workers (farm workers must earn at least half of their annual income from agriculture),
2. the maximum size of the units would be 800 square feet rather than 1,200 square feet regardless of the size of the parcel,
3. the units must be sited adjacent to existing structures to minimize the impact on the agricultural use of the site, and
4. the units must meet other development standards that are sensitive to and appropriate for rural sites.

in addition, the County will consider 1) allowing the use of single section manufactured housing and park models as farm family or farm worker second units and 2) allowing for the financing of development fees.

B. Farm worker housing rehabilitation and replacement program. The County will expand current programs to assist in financing the rehabilitation, upgrading and, where necessary, replacement of dilapidated and substandard farm worker housing both on and off farm sites throughout the County. In developing this program, the County will also attempt to identify and minimize local requirements and procedures that impede the rehabilitation and replacement of substandard farm worker housing. The County will also attempt to identify barriers to the use of conventional financing and structure. the County's financing program to be compatible with and leverage private financing to the greatest extent feasible. The County will also seek the highest possible leveraging of local Redevelopment funds from other sources including HCD's Farmworker Housing Grant Program and Rental Housing Program, the Federal Home Loan Bank's Affordable Housing Program, the Department of Agriculture's Rural Development Programs and the Treasury's Community Development Financial Institution's fund.

C. Migrant farm worker housing project. The County will work to identify an appropriate site for a second migrant farm worker housing facility within the County. Prime considerations in seeking this site would include access to utilities and public services, proximity to work sites and the impact of the development on agricultural production and the environment. The County will seek funding from the State's Office of Migrant Services (OMS) and the Department of Agriculture. (Seeking state funding for a second OMS site in Santa Cruz County is already included in the County's Legislative Program for the year 2000.)

II. RV Park Conversion Ordinance, A number of RV parks in Santa Cruz County that were developed and approved for temporary and recreational use are currently being used to provide permanent housing for very low income households in violation of their use permits. In two cases, the more intense use of the parks in combination with inadequate maintenance and management practices resulted in severe violations of health and safety codes. Rather than displace the residents who have come to rely on this housing, the County developed and is considering the adoption of an ordinance that would allow most of these temporary/recreational parks to convert to long-

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Proposed Housing Programs and Policies

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term/permanent occupancy. The draft proposed ordinance is currently being considered by the Planning Commission and is scheduled to return to the Board of Supervisors in June for consideration.

As currently proposed, the approval to convert a park or spaces within a park to permanent occupancy status would be subject to various conditions, including:

1. Complying with the water and wastewater standards established by the County Environmental Health Department for permanent occupancy parks;
2. Complying with or obtaining waivers of various development standards,
3. Limiting initial occupancy to very low income households (those who earn no more than **50%** of area median income), and
4. Limiting the rents that may be charged either for park spaces or for RV units and spaces that are rented together.

Allowing the conversion of short-term RV spaces to long-term permanent occupancy will expand the County's permanently affordable housing stock.

111. **Development Fee Financing Program.** The development fees that are charged by the County and other public agencies to finance public services and offset the impacts of development on the local infrastructure can be a deterrent to the development of affordable housing. In order to encourage the development of permanently affordable housing, the County will: 1) evaluate its development fees and the fees charged by others, 2) consider reducing fees if it is appropriate and/or possible and 3) explore using Redevelopment housing funds or funds from other sources to reduce the impact of development fees on affordable housing. This program would continue and expand the current subsidies that the County provides for affordable housing projects and would be available for second units.

The County will consider structuring this program in various ways, including reimbursing the appropriate agencies for the cost of fee, paying various fees directly and lending funds to the project sponsor to pay the fees. Approval to finance fees would be subject to various conditions, including compliance with the County's Affordable Housing Guidelines.

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Comparison of Housing Build-Out Estimates

Potential Units That Can Be Produced

Type of Development	1994 HE	1999 -- Draft HE	2000 HE Proposal	Change-1994-2000
Urban Areas				
Development on Vacant and Underutilized Parcels	5,316	5,316	5,316	0
Residential in Conjunction w/Commercial Development on Vacant and Underutilized Parcels	588	2,257	588	0
Units from Bonus Density Development	529	599	599	70
Second Units				
Current Regulations	4,373	3,420	4,373	0
Model Program	0	953	0	0
Rural Areas				
Development on Vacant and Underutilized Parcels	6,699	6,699	6,699	0
Residential in Conjunction w/Commercial Development on Vacant and Underutilized Parcels	0	210	0	0
A6 438 Units*	0	134	0	0
Farm Worker Housing Preservation/Replacement	0	0	150	150
RV Park Conversions	0	0	150	150
Second Units**				
Current Regulations	11,398	8,956	9,060	(2,338)
Model Program	0	104	0	0
Farm Work Housina	0	0	1,685	1,685
Total New Units Possible at Build Out	28,903	28,648	28,620	(283)

* The 1999 build-out estimates included the rebuilding of the Murphy's Crossing and San Andreas farm labor camps and the conversion of Golden Torch RV/travel trailer park; The 2000 estimates assume that additional farm labor camps will be rehabilitated and rebuilt and that multiple RV parks will convert to permanent occupancy.

** The second unit estimates that were adopted in 1994 have been reduced to eliminate rural parcels that are smaller than one acre because these parcels generally cannot handle the wastewater generated by both a primary and secondary unit. The estimated number of rural second units was also reduced in the 1999 estimates to eliminate these smaller lots. The farm worker second unit estimates for the proposed 2000 Housing Element update assume that 75% of the one acre and larger parcels that are zoned for Agricultural uses can accommodate a second unit.

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Comparison of Current and Proposed Housing Policies and the Affordable Housing MOU

1	Housing Element (HE) was adopted by the Board of Supervisors on May 25, 1994.	Current Housing Policies				Proposed New Housing Policies				Affordable Housing MOU w/City of Watsonville			
		a	b	c	d	a	b	c	d	a	b	c	d
		Various HE programs and policies support the development of affordable housing including inclusionary housing, density bonuses, second units, farm worker housing and other special needs housing. HE Policy 41 encourages larger units that are appropriate for families with children. HE Policies 35 and 36 encourage and support farm worker housing.	Various commitments to housing rehabilitation exist in HE Policies 25, 26, 28 and 48.	Improved processing for all development is the object HE Policy 2. HE Policy 7 provides for a review of all residential development fees. Priority processing is included in HE Policies 2, 11 and 35 and in the County's Density Bonus ordinance.	The County's Affordable Housing Program (HE Policy 11b and Chapter 17.1 of the County Codes) require most housing developments to include 15% affordable units.	Board of Supervisors to consider the Housing Element policy modifications described below on April 25, 2000 and agree set a public hearing after meeting with State HCD to review these policies.	Memorandum of Understanding shall act in good faith to hold a public hearing to consider the adoption and submission for certification by HCD modifications to the County's Housing Element that includes as a minimum the consideration of the following elements:	Increase quality, affordable housing for all segments of the community, with particular emphasis on agricultural workers, families with children, and first-time home buyers; and	Allow farm worker housing to be built as second units on parcels designated for Commercial Agriculture throughout the County. Seek a site and funds for migrant farm worker housing. Allow short-term/transitory RV/trailer parks to convert to permanent housing.	Increase affordable housing through rehabilitation of existing housing and creative purchasing opportunities in general; and	Create new incentives for the development of new affordable housing units such as fee reductions and priority processing; and	Allowing farm worker housing on individual Agricultural parcels ensures that the housing will be disbursed throughout the County.	Geographically disperse affordable single and multi family housing throughout the County, particularly such housing for agricultural workers in the North and South County.

Redevelopment Agency Report

- e Requiring Greater Levels of Affordability as Part of New Annexations
- e Potential for Increasing **RDA** Affordable Housing Funding
- e Incentives for Constructing Second Units
- e Expansion of the First Time Home Buyer Program
- e Incentives for Providing More Farm Worker Housing

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Redevelopment Agency Recommendations From October 2, 2001 Affordable Housing Workshop

The Board of Supervisors approved a long list of potential program directions for staff to explore at the end of the October 2, 2001 Affordable Housing Workshop. The CAO's Office, in their role of coordinating the response to those suggestions, has requested that Redevelopment staff review the following possible policies:

- ▶ requiring the production of affordable housing units as part of new residential annexations to cities;
- ▶ expanding funding for affordable housing through increasing the Redevelopment Agency's contribution to fund affordable housing projects and programs;
- ▶ exploring incentives for creating a greater number of low income rental units through the County's Second Unit Program;
- ▶ expanding the Redevelopment Agency's First Time Home Buyer Program, particularly in regard to County employees; and
- ▶ expanding housing opportunities for farmworkers.

This report is intended to explore these five housing policy opportunities in more detail, with the intention of providing specific directions for implementing new or expanded programs if the Board so desires.

Requiring Greater Levels of Affordability as Part of New Annexations

This was one of the approaches suggested by staff to increase the number of new affordable housing units. Simply put, by requiring a substantial percentage of affordable housing as part of new residential annexations, a share of the enhanced value of the property would be captured by the community for the purpose of expanding available affordable housing. This approach has been used in a number of high-cost housing areas in the country. Requirements as high as 80% affordability have been required in some areas. Locally, the Franich annexation in Watsonville required 50% affordability.

Staff believes that a 50% affordability standard is appropriate, with an understanding that the units would have permanent affordable covenants, whether for rental or for-sale housing. The specifics of unit type would need to be addressed in the context of a

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particular project.

We have reviewed this concept with the LAFCO Director who indicated that there are two different ways to implement such an approach. The first would be for LAFCO to adopt a policy mandating such a requirement of all residential subdivisions. The other would be for each city to adopt such policies and integrate such a program and requirements into their respective general plans. We believe that the best initial approach would be for the Board to request LAFCO to adopt a policy requiring future residential annexations to conform with affordable housing requirements as described above.

Potential for Increasing Affordable Housing Funding Through Redevelopment

One critical aspect of an effective affordable housing strategy is to ensure adequate local financial resources to provide the key financing to enable projects to proceed. Not only are local funds essential in terms of attracting outside financial resources, but often the local funds are needed at the front end to acquire the site and cover pre-development costs.

The County currently has few funding sources to provide that key financing. The most significant source is the Redevelopment Agency's Low and Moderate Income Housing Fund (LMIHF), which currently generates approximately \$3.2 million of tax increment revenues annually. Other sources include In-Lieu Housing fees and loan repayments from past grant-funded housing loan programs. The RDA's tax increment funds are used to secure payments on tax exempt bonds that are sold periodically.

For the twelve years since the Agency's creation, we have had the good fortune to have generated adequate local funding sources, primarily through the Agency's LMIHF, to finance meritorious projects proposed over the past decade. As the volume of housing projects and programs has increased and the level of local per unit subsidy has been raised to retain project competitiveness, the demands on local funding sources has grown significantly. As a result, for the first time the Agency is close to a position of not being able to fund all of the potential projects contemplated. With the next projected infusion of housing funds through bond issues not anticipated until 2004/05, there are few alternatives available to meet the upcoming funding shortfall.

While there are a number of other possible approaches for generating additional local financing for affordable housing (all of which are complex and controversial), the Board's initial inquiry was regarding the potential for increasing the percentage used for the Redevelopment Agency's LMIHF Set-Aside. Under State Law, redevelopment agencies must set aside a minimum of 20% of their gross tax increment revenues for affordable housing projects. As a result of the formula used to set aside these funds

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and pay the pass-throughs to other taxing entities, the actual amount of the set-aside, as a percentage of the Agency's total project funding, exceeds 20%. For the Live Oak-Soquel Project Area, the set-aside is approximately 26.6% of the total funds available to the Agency to finance its various housing and capital projects.

While Redevelopment Law establishes a minimum set-aside of 20%, a number of agencies throughout the State are electing to increase the set-aside above that minimum. For example, the City of Santa Cruz has decided to increase its housing set-aside to 25%, effective FY 2002-03. Recently signed legislation will require an increase of the housing set-aside to 30% for project areas extending their terms.

The following table provides a sense of the financial implications of increasing the set-aside to either 25% or 30%, in the context of the current year's budget:

Analysis Based on FY 2001-02 Proposed Budget			
	20% Housing Set-aside Scenario (Current)	25% Set-Aside Scenario	30% Set-aside Scenario
Total Tax Increment	\$17 million	\$17 million	\$17 million
Pass-Throughs	\$4.82 million	\$4.82 million	\$4.82 million
LMIHF Set-Aside	\$3.24 million	\$4.05 million	\$4.87 million
Capital Projects	\$8.95 million	\$8.14 million	\$7.33 million

One can see a change of 5% in the set-aside results in a transfer of approximately \$800,000 from capital to housing projects within the context of the current fiscal year numbers. As time goes on and the tax increment base grows, the dollar value of that transfer would grow accordingly.

Clearly, augmenting the funding available to the LMIHF would enhance our local funding base and expand the potential volume of housing projects that could be undertaken. At the same time, such a transfer would reduce the revenue stream to finance the Agency's capital projects. However, the impact of such a reduction would likely not be great, given that the pace of projects has historically been governed more by the complexity of the land use, design and community input process than by available financing.

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If a permanent shift in the allocation of tax increment revenues were to take place, it would need to be phased in on a time line compatible with retiring current outstanding bonded indebtedness. The shift would also need to be evaluated in light of a recent Appeals Court opinion which appears to allow the local school districts to retroactively request a 2% pass-through. We are currently analyzing the potential financial impact — to both the LMIHF and Capital Projects Fund — of this court decision, but believe that a 5% shift most likely can be accommodated. Lastly, any permanent change to the housing set-aside formula would ultimately require adoption of a resolution by the Agency's Board of Directors.

Alternatively, rather than adopting a resolution formally increasing the LMIHF set-aside, there is some merit to instead consider spending capital project funds directly for affordable housing projects. Under such an approach, the Board would increase the housing assistance funding as described above, but do it in a fashion which would provide more flexibility in project financing by not restricting funding as is required for expenditures from the LMIHF. For example, currently state law does not allow affordable housing funds to be spent to assist households with incomes greater than 110% of median. Given the unique circumstances of our local housing/income context, a substantial percentages of households with incomes up to 150% of median are unable to purchase entry level housing. By allocating additional capital project financing resources annually for housing rather than through formally increasing the housing set-aside, flexibility would exist to at least explore the desirability of programs to serve that income level.

Under this approach, staff would recommend a policy of shifting the equivalent of a five percent increase in the housing set-aside (\$800,000 in the first year) with the potential of increasing that amount annually based on the growth in tax increment revenues. The actual amount annually transferred would be considered and approved by the Board as part of the annual budget cycle.

Given the current demand for funding for affordable housing projects and programs, an augmentation of redevelopment funding for housing could certainly be justified. Of the two options discussed, staff believes that the second approach has greater appeal.

Incentives for Constructing Second Units

As part of the October 2 presentation, staff indicated that, while the County had made the Second Unit Program more appealing over the years, more could be done to encourage property owners to take advantage of that program. While 91 units have been constructed under this program since its inception in 1985, over 294 applications have been made for second units. It is not completely clear to the Planning Department why such a large disparity between applications and completed projects

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exists, but suggestions included: poorly conceived projects which were denied or withdrawn; the existing five unit annual cap for the Live Oak Planning Area limiting the ability to approve projects; or that the projects are particularly complex, thereby taking very long to be processed.

One additional impediment to second unit construction is the cost of construction, permits and fees versus the restricted rental price. The following chart provides a generalized overview of the typical cost for constructing a second unit.

Typical Second Unit Cost (Urban area - 640 square feet)		
Predevelopment/planning	\$5,000	
Utility Connections	\$10,000	
Permits and Fees	\$20,000	mostly impact fees
Construction	\$64,000	assumes \$100/sq.ft.
Total Development Costs	\$99,000	

If one amortizes these costs over 30 years and adds increased property taxes and insurance, the total monthly holding cost for the unit approximates \$850. When this is compared to the allowed rent of approximately \$880, one can see why there is little financial incentive to construct these units for use as a lower income rental unit. Add to this the additional burden of income-qualifying renters and responding to monitoring report requests, and one can see why few of these units are being proposed to add new rental housing. Instead, from talking with Planning staff, it appears that most of the units are proposed either to resolve code enforcement complaints or to house "family members."

If the Board wishes to create an incentive for expanding the use of the Second Unit Program to produce a significant number of new rental units, a number of actions are suggested:

- ▶ provide priority processing through the permit process for units committed to be managed as lower income rental units;
- ▶ work with the water and sanitation districts to allow shared meters and connections between the second unit and the main dwelling unit, thereby reducing connection fees and utility construction costs; and
- ▶ consider providing financial assistance from the Redevelopment Agency's LMIHF (approximately \$10-15,000 per unit) to provide the gap financing to make

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these projects pencil out or lift the restrictions on rents and let the increase to market rents cover the current financial gap.

Additional research will be required in terms of how best to structure potential financial assistance for such projects. It is therefore recommended that this item return to the Board on March 5, 2002.

Expansion of the Redevelopment Agency's First Time Home Buyer Program

This past June your Board, as the Board of Directors for the Redevelopment Agency, approved a number of changes to the Agency's First Time Home Buyer Program. Those changes were designed to expand the effectiveness of this program in a higher cost housing market. Among the many changes, the Agency's assistance was increased from \$25,000 to \$50,000 per unit. Since that time, Senator McPherson's SB 459 has been signed into law, further expanding the price range of housing units eligible for this program. With these combined changes, staff believes that the revised First Time Home Buyer Program will once again be an effective strategy to assist moderate income households purchase homes while at the same time protecting the affordability of these homes for future purchasers.

The Board had asked whether there was a way to utilize this program to provide greater stability in the public sector workforce, particularly County employees. Staff believes that a focused outreach program educating County employees on this program would be an effective way of expanding participation by County employees. We are proposing that such an effort take place as part of the County's employee education program, coordinated through the Personnel Department.

We are scheduled to report back to the Board on the status of this program in April of 2002. It would be appropriate to expand that report to include a discussion of outreach efforts and effectiveness with County employees.

Incentives for Providing More Farmworker Housing

This item was the topic of a separate report on the Board's October 2 agenda. That report focused on a number of different approaches for expanding farmworker housing opportunities. One approach is addressed elsewhere in this report — second units for farmworkers on agricultural lands. Another key program staff is suggesting is that we approach is the creation of farmworker housing units on agricultural sites under the State's Employee Housing Act Regulations.

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There has been considerable discussion over the years about the potential for constructing farmworker housing under the State's Employee Housing Act. This program was designed to provide housing for employees, commonly referred to as labor camps but can be used to house farmworker families. Under this law, the County is preempted from applying zoning standards to farmworker housing projects designed to accommodate 5-12 employees and located on agricultural lands. Such a project would only be subject to the County's building and environmental health permit process and not zoning or use approvals. Projects for less than 5 or more than 12 units are subject to broader county discretionary approvals. The units can take the form of boarding houses, tents, mobile homes, bunkhouses or other housing accommodations.

While this program has been on the books since 1992, it has not been utilized for new housing in our County for a number of reasons. Local farmers have been hesitant to get involved in the landlord business, particularly lessors with no incentive to make long term improvements on properties covered by short term leases. Additionally, lacking a clear prototype for how such farming could be cost-effectively designed and constructed, farmers have been hesitant to get involved. Finally, the Farm Bureau has expressed concerns about placing more housing units on farm land.

In terms of design, UC Davis has recently designed a modular bunkhouse-style housing unit for six to eight seasonal workers. Separate food preparation, eating and sanitary facilities would be required. Unfortunately, no manufacturer has yet set up to produce these units, although a project is currently planned in Riverside County for 64 men using eight of these units.

With progress on the unit prototype and financial assistance some landowner farmers could become interested in the program, particularly if a number of projects were bundled under the oversight and management of a non-profit housing entity. One particular funding source -- the Joe Serna Jr, Farmworker Housing Grant Program -- is designed to meet the unique funding needs for this particular housing type. We will continue to explore options for testing the practicality of this program in our unique market conditions.

Staff is currently scheduled to report back to the Board on another aspect of farmworker housing assistance — the North Coast Rehabilitation Pilot Program — in early 2002. It would be appropriate to expand that report to cover these additional related farmworker housing issues.

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ATTACHMENT 7

**Report on Affordable Housing Ordinance (17.10) and
Related Issues Program**

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IN LIEU FEES

On February 27, 2001, your Board considered a report regarding the status of the current housing in-lieu fee program. Following consideration of the report, your Board directed Planning staff to work with the Housing Advisory Commission (HAC) to develop recommendations regarding changes to the housing in-lieu program. The following material includes a description of the HAC's recommendations, an analysis of the effects of these recommendations and staff's recommendations.

Background

The in lieu fee program, last amended in 1997, allows developers to choose the method for meeting their affordable housing obligation. The methods for meeting the affordable housing obligation include the construction of the unit(s) on or off-site, payment of in lieu fees or payment to a non-profit housing provider. The amount of the fees were also revised in 1997 to create a graduated fee schedule that was intended to encourage the construction of units in the lower price range and allow developers of high end homes to contribute the appropriate in lieu fee. Since 1997, however, the housing prices in Santa Cruz have risen to the point (average home price = \$899,000') where there are no new homes in the lower house prices. As a consequence, developers are opting to pay the in lieu fee instead of constructing new affordable units. The current in lieu fee for a housing development of homes priced at \$899,000 is \$286,400 per unit.

Housing Advisory Commission Recommendation

The Housing Advisory Commission, as directed by your Board, considered the issue of the in-lieu fee program at meetings in July, August and September. Following a wide ranging discussion, the HAC concluded that the current in lieu fee program was not functioning as intended. In a letter to your Board (Attachment 1), the HAC summarized its position and forwarded a number of recommendations for your board's consideration.. The HAC recommended that your Board direct the Planning Department to prepare amendments to Chapter 17.10 (Affordable Housing Requirements) to:

1. Calculate the number of affordable units on exactly 15% of the number of units subject to the inclusionary requirement, without rounding up or down;
2. Lower the inclusionary requirement to 2-unit land divisions, with an exemption for the first unit (minor land divisions);
3. Require the construction of all affordable units required as a result of #1 above, either on or off site, and the payment of in lieu fee for any fraction less than a whole unit or more than a whole unit;
4. Implement a revised in lieu fee schedule that is based on the sales price

'Sales figures based on new home sales in the unincorporated area between July 1, 2000 and August 2001. Based on Assessor's database and building permit records.

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of the unit and that is proportionately progressive as sales price increases.

The Housing Advisory Commission believes that the implementation of these changes to Chapter **17.10**, as well as other changes to the County's policies and ordinances necessary to encourage the production of housing to serve all income groups, are important steps to alleviate the current housing crisis.

Analysis

The first three HAC recommendations listed above are inter-related. If implemented **as** recommended, the method of calculating the number of affordable units required for a specific project would be the actual number equal to **15%** of the units subject to the inclusionary requirement. The number would not be rounded up or down to determine the affordability requirement as is currently specified in the ordinance. Instead, the inclusionary requirement would be exactly **15%**, including any fractional amounts more or less than a whole unit.

The HAC further recommended that developers of projects which resulted in any whole number of affordable units be required to build the affordable unit, either on-site or off-site, and that any fractional amount of a unit (either less than one unit or greater than a unit) pay the proportionate amount of in lieu fee. The HAC also recommended eliminating the exemption for minor land divisions so that this recommended system would apply to all land divisions creating two units or more (with the first unit, either existing or new, being exempt). The following table illustrates the application of the current ordinance and the HAC recommended change:

<u>Table Illustrating Affordable Unit Generation and HAC Recommendations</u>					
<u>Number of New Units/Lots</u>	<u>Required @ 15%</u>	<u>Affordable</u>	<u>Actual Percentage - Current Ordinance</u>	<u>Affordable Unit Required/In Lieu Fee Fraction - (HAC)</u>	<u>Actual Percentage - HAC Proposed Changes</u>
		<u>Required - Current Ordinance</u>			
1	0.15*	0	0	0/0.15*	15%
2	0.30	0	0	0/0.30	15%
3	0.45	0	0	0/0.45	15%
4	0.60	0	0 (No requirement < 5 units)	0/0.60	15%
5	0.75	1	20%	0/0.75	15%

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<u>Number of New Units/Lots</u>	<u>Required @ 15%</u>	<u>Affordable Unit Required - Current Ordinance</u>	<u>Actual Percentage - Current Ordinance</u>	<u>Affordable Required/In Lieu Fee Fraction - (HAC)</u>	<u>Actual Percentage - HAC Proposed Changes</u>
6	0.90	1	16.7%	0/0.90	15%
7	1.05	1	14.3%	1/0.05	15%
8	1.20	1	12.5%	1/0.20	15%
9	1.35	1	11.1%	1/0.35	15%
10	1.50	1	10%	1/0.50	15%
11	1.65	2	18.2%	1/0.65	15%
12	1.80	2	16.7%	1/0.80	15%
13	1.95	2	15.4%	1/0.95	15%
14	2.10	2	14.3%	2/0.10	15%
15	2.25	2	13.3%	2/0.25	15%
16	2.40	2	12.5%	2/0.40	15%
17	2.55	3	17.6%	2/0.55	15%
18	2.70	3	16.7%	2/0.70	15%
19	2.85	3	15.8%	2/0.85	15%
20	3.00	3	15.0%	3/0.00	15%
21	3.15	3	14.3%	3/0.15	15%
22	3.30	3	13.6%	3/0.30	15%
23	3.45	3	13.0%	3/0.45	15%
24	3.60	4	16.7%	3/0.60	15%
* One single family dwelling on an existing lot is exempt from Chapter 17.10. Therefore, on a vacant lot, the first unit would not be subject to the 15% requirement.					

As can be seen from the table, the application of the 15% affordable housing requirement using the 'rounding' allowance creates several inequities. A 5-unit project has a requirement for 1 affordable unit, just as a 10-unit project does, but a 10-unit project is better able to spread the cost of the affordable housing unit over the 9 other units than the smaller project can. Also, because of the 'rounding' allowance, the 10-unit project does

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not actually meet its 15% requirement (1 unit out of 10 = 10%), where a 5-unit project exceeds its 15% requirement (1 unit out of 5 = 20%). This inequity makes smaller projects less feasible, forcing developers to propose projects which do not have an affordable housing requirement (less than 5 units) rather than maximizing the number of units allowed under the existing zoning. This results in an inefficient use of the County's scarce residential land.

Also included in the HAC recommendation is request that your Board consider revising the in lieu fee structure. The current in lieu fee table is shown below for homes sales prices, including the percentage of the home price represented by the in lieu fee.

Average Home Price		Percent*	
From	To Less Than	In Lieu Fee	
	\$420,000	\$160,000	38%
\$420,000	\$440,000	\$168,000	38%
\$440,000	\$460,000	\$176,000	38%
\$460,000	\$480,000	\$184,000	38%
\$480,000	\$500,000	\$192,000	38%
\$500,000	\$520,000	\$200,000	38%
\$520,000	\$540,000	\$208,000	39%
\$540,000	\$560,000	\$216,000	39%
\$560,000	\$580,000	\$224,000	39%
\$580,000	\$600,000	\$230,400	38%
\$600,000	\$640,000	\$236,800	37%
\$640,000	\$680,000	\$246,400	36%
\$680,000	\$720,000	\$256,000	36%
\$720,000	\$760,000	\$264,000	35%
\$760,000	\$800,000	\$270,400	34%
\$800,000	\$880,000	\$276,800	31%
\$880,000	\$960,000	\$286,400	30%
\$960,000	\$1,040,000	\$296,000	28%
\$1,040,000	\$1,120,000	\$304,000	27%
\$1,120,000	\$1,200,000	\$312,000	26%
\$1,200,000	\$1,320,000	\$318,400	24%
\$1,320,000	\$1,440,000	\$324,800	23%
\$1,440,000	\$1,600,000	\$331,200	21%
\$1,600,000	\$1,800,000	\$339,200	19%
\$1,800,000	\$2,000,000	\$345,600	17%
\$2,000,000		\$352,000	18%

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* Table presents the in lieu fee required for one inclusionary unit at various market prices. For example: a 8-unit project would have 1 inclusionary unit. For \$600,000 units, 1/8 of the \$230,400 in lieu fee (\$28,800) would be paid for each market rate home built.

As is illustrated in the table, the current in lieu fee schedule requires a higher contribution, in relation to sales price, from developers of houses in the lower price range than in the higher price range. This factor, along with the fact that most of the new homes are in the upper price range, creates a situation where developers are more likely to pay the in lieu fee than build the unit. The HAC did not recommend any specific formula to replace the current in lieu fee table, but it did recommend that the amount of the in lieu fee be tied to the purchase price of the home and that the in lieu fee be proportionately progressively as the sales price increases. The Commission also recommended that the in lieu funds collected be used by the County to provide decent and affordable housing to as many persons who cannot currently purchase market rate homes as possible.

Staff Recommendation

Staff agrees with the intent of the Housing Advisory Commission's recommendations to improve the functioning of the County's affordable housing program. Staff also agrees with some, but not all, of the HAC's specific recommendations.

Staff supports the HAC's recommendations regarding extending the applicability of Chapter 17.10 to all new development greater than a single family dwelling (removal of the exemption for minor land divisions) and the equal application of the 15% affordability requirement to all of these new units. The implementation of these two changes will result in an increase in the number of affordable units generated by new development.

In addition, staff recommends that the current exemption for existing housing units be discontinued if the existing unit is proposed to be demolished. It makes no sense to provide an exemption for a unit that is being replaced with a new house. If existing units are to be retained and incorporated into the development, then staff believes it is appropriate to exempt these units from the affordable housing calculations.

These changes would also eliminate the current disincentive that the minor land division exemption creates for potential projects that are in the 5-6 unit range. Developers with a choice of developing 4 units, with no affordability requirement, or 5 - 6 units meeting the zone district density, with an affordability requirement of one unit, will invariably choose the 4-unit project. This results in larger, more expensive homes and fewer housing units. Under the HAC recommended scenario, all of the units would be subject to the 15% affordability requirement. The incentive would be for the developer to construct as many units as possible to offset the affordability requirement.

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In addition, the development of rental housing will be given a boost by the proposed ordinance amendments. The proposed language eliminating the 'rounding' to calculate the affordability requirement would mean that rental projects of less than 7 units would

not have an affordable housing requirement (6 units x 15% = 0.90 units). Projects of 7 units or greater would have to provide the number of affordable units required by the whole number of affordable units (7 units x 15% = 1.05 units, provide 1 units; 21 units x 15% = 3.15 units, provide 3 units). Also, because there is no requirement or ability for rental units to pay in lieu fees, this type of use will be given an advantage over projects with for-sale units.

Staff would, however, recommend that the current in lieu fee program be eliminated and a new program instituted in its place. This program, entitled the Developer Financed Measure J Housing Fund, would focus on the conversion of existing housing stock to occupancy and affordability levels consistent with Measure J. Developers of land divisions which have an inclusionary housing requirement (7 units or greater as proposed), could either construct the unit on site or be required to satisfy their affordable housing obligation through the purchase and conversion of 2 or more existing units to the standards established by the County's Measure J program. The developer's contribution towards the program would be equivalent to cost of the affordable unit or the applicable housing program fee. **Any** fractions of units above or below a whole unit would continue to contribute to the Fund, based on the revised fee calculation, discussed below. It is from 2 to 5 units per required affordable unit could be converted to affordable housing through this program.

The current amount of the housing impact fees are too low. As discussed above, these fees were set before the real estate prices in Santa Cruz County escalated to the present level. The revised in lieu fee that staff is developing would be a relatively simple formula, such as is shown below:

$$(\text{house/lot price}) - (\text{affordable unit price}) \times (80\%) = \text{Housing Fund Fee}$$

This type of formula would result in the following changes to the actual in lieu fees charged for typical 3, 6 and 10 unit developments of \$500,000 homes:

Project (units subject to 15% require- ment)	Affordability Requirement		Current In Lieu Fee	Revised In Lieu Fee (assuming no unit built and 80% in lieu fee)*	Difference
	Current	Proposed			
3 units (2)	0	0.30	0	\$72,000	+\$72,000
6 units (5)	1	0.75	\$200,000	\$180,000	-\$20,000

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10 units (9)	1	1.35	\$200,000	\$324,000	+\$124,000
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* $(\$500,000 - 200,000) \times 80\% = \$240,000 \times 0.15 = \$36,000/\text{unit}$

This table illustrates the effects of incorporating a number of the HAC recommendations. The percentage of the fee per each unit sales price is 7.2%. As mentioned above, staff is still working on the development of a new fee schedule. A full discussion of the alternatives will be presented at a later date as a part of the amendments to Chapter 17.10, as directed by the Board.

Staff does not agree with the HAC recommendation that would require the construction of affordable units instead of allowing for the payment of in lieu fees for whole units. Staff believes that there are situations, like extremely high end housing projects, where there are better alternatives than requiring the developer to sell a \$200,000 affordable unit to a qualified buyer amidst a number of \$1 million homes. One alternative to simply accepting an in lieu fee would be to require the developer to use an equivalent amount of money to purchase existing houses for conversion and sale to eligible buyers as long-term affordable units. With this option, the County has the potential to provide housing for more than one household for each affordable unit required by the new development.

However, staff believes that it is important to establish the method for the developer to meet the affordable housing requirement before the building permits are issued or work commences on the subdivision improvements. Therefore, staff recommends that the decision on whether the unit is to be built on-site or existing housing should be purchased and converted to affordable housing should be made by the Approving Body (Planning Commission or Board of Supervisors) during the project decision making process. Staff proposes that criteria be developed, in consultation with the HAC, for use in this determination.

Recommendation:

It is recommended that your Board direct Planning staff to prepare a report and amendments to Chapter 17.10 to incorporate the following changes into the Affordable Housing Ordinance:

- ~ Amend the ordinance to make the 15% inclusionary requirement applicable to all projects of two or more units, with ~~an~~ express exemption for the existing or first new unit on a vacant parcel (delete the minor land division exemption);
 - ~ Delete the provision which allows 'rounding' of the inclusionary requirement and that exempts the demolition of existing housing units from the affordable unit calculations;
 - ~ Eliminate the existing in lieu fee program;
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- ~ Develop a new mechanism for developers to use to meet their affordable housing obligation. This program would require developers to purchase existing single **family** dwellings and convert these units to long-term affordable units; and
- ~ Develop criteria for the use of the Approving Body in determining whether in lieu fees should be paid or the required affordable unit should be built.

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ATTACHMENT 8

**Replacement Housing:
Applicable County Code and State Government Code provisions**

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Chapter 12.04

RELOCATION REGULATIONS

Sections:

12.04.010	Purpose.
12.04.020	Preliminary requirements.
12.04.030	Application procedure.
12.04.040	Processing procedure.
12.04.050	Findings,
12.04.060	Conditions.

12.04.010 Purpose.

The purpose of this chapter is to regulate the relocation of a group or series of existing dwelling structures ~~from~~ any building site to another building site which is within the unincorporated County area. (Ord. 3067, 5/12/81; 3426, 8/23/83)

12.04.020 Preliminary requirements.

(a) Any person or persons moving ~~two~~ or more units to ~~or from~~ any lot or lots ~~within~~ any calendar year shall be subject to the provisions of this chapter.

(b) If any structure which is proposed to be relocated ~~was~~ not a legal dwelling unit on January 1, 1979, the applicant shall obtain a residential building permit allocation for it or demonstrate that ~~an~~ allocation was issued for its original construction either in the unincorporated County area or in another jurisdiction having a ~~similar~~ allocation process.

(c) Relocation of five or more dwellings to the ~~same~~ or contiguous parcels shall be subject to the requirement that 15 percent of the units must meet the County's affordable housing requirements ~~as~~ stated in Section 17.10.030. (Ord. 3067, 5/12/81; 3426, 8/23/83)

12.04.030 Application procedure.

(a) Any person who wishes to relocate more than one single-family or ~~multiple-family~~ dwelling in any one calendar year shall ~~first~~ obtain a relocation approval processed according to Section 18.10 Level IV, a special inspection, and a moving and building permit ~~from~~ Inspection Services.

(b) The permit application shall include a completed application form; a dimensioned site plan of the proposed new location drawn to scale and showing all existing and proposed structures; photographs showing the front, sides, and rear of the structure; specifications for proposed wall and roof materials and colors; and an application fee determined by resolution of the Board of Supervisors. (Ord. 3067, 5/12/81; 3426, 8/23/83)

12.04.040 Processing procedure.

(a) The application shall first be referred to the Building Official for a special inspection to determine whether each dwelling is of standard construction and is structurally sound.

(b) If the Building Official determines that the buildings are suitable for moving, the approving body shall determine whether the dwellings, their proposed location, and their intended use will comply with County policies and regulations.

(c) Before the approving body authorizes the issuance of a relocation permit, the procedure for Level IV processing described in Chapter 18.10 shall be followed and a notice containing the same information as the mailed notice shall be posted on the proposed site. (Ord. 3067, 5/12/81; 3426, 8/23/83)

12.04.050 Findings

The following findings shall be made prior to granting, approvals pursuant to this chapter in addition to the findings required for the issuance of a development permit in accordance with Section 18.10.230(a).

(a) ~~On~~ completion of the installation, the structure will meet applicable provisions of the Uniform Building Code as determined by the Building Official; and,

(b) The design of the installation will be compatible with the character of the surrounding neighborhood; and,

(c) The project will comply with the County's affordable housing regulations. (Ord. 3067, 5/12/81; 3426, 8/23/83)

12.04.060 Conditions.

A relocation permit may be issued subject to appropriate required conditions such as

(a) Posting of a cash deposit, an assigned savings account, or a surety bond of \$1,500 to cover any costs incurred by the County of Santa Cruz to obtain compliance with the conditions of the permit, including reasonable attorney's fees.

(b) Compliance with the affordable housing requirements as stated in Section 17.10.030.

(c) Providing adequate parking and maneuvering space.

(d) Use of certain exterior materials, colors, and textures on the walls and roof.

(e) Planting and maintenance of certain landscaping materials.

(f) Erosion control and site restoration on the vacated parcel.

provide proof of publication in a newspaper of general circulation within the community where the structure is located, of the following notice:

THIS STRUCTURE IS AVAILABLE FOR SALE OR REMOVAL, ARRANGEMENTS TO PURCHASE OR RELOCATE THE STRUCTURE MUST BE MADE BY _____ (30 days after the first publication of the notice).

The notice shall be published at least once a week for a period of thirty days, and shall contain a photograph of the structure, the address of the structure, and the telephone number and/or address of the owner of the structure, or the person authorized to arrange for the sale or relocation of the structure if some person other than the owner is so authorized. The notice shall also contain a statement encouraging persons interested in purchasing or relocating the structure to contact the County Planning Department for full information on the procedures applicable to relocation of structures. The notice shall be at least three inches by four inches. In addition, the notice shall be posted on the structure in a conspicuous location. The notice shall contain the telephone number of the County Planning Department.

(c) Relocation Requirements. The owner of a residential structure scheduled for demolition which has been determined to be habitable, (1) shall allow 90 days from the end of the Public Notice period for the relocation of the structure, provided that a good faith offer to purchase or relocate the structure has been received. No demolition of a structure which has been determined to be habitable shall be permitted if an offer to purchase or relocate the structure, is received within thirty days after first publication of the notice required by Section 12.06.050(b), and if relocation is accomplished within the period specified in this section. (Ord. 3322, 11/23/82; 3427, 8/23/83)

12.06.060 Requirements regarding demolished or converted **affordable** housing within **the Coastal Zone**.

Within the Coastal Zone, the requirements for replacement housing as provided in Government Code Sections 65590 and 65590.1, and any amendments thereto, shall apply to the demolition or conversion of affordable housing. These requirements shall be in addition to any other applicable provisions and requirements as set forth in state and federal statutes and regulations, the Housing Element of the County's General Plan, the Santa Cruz County Code, including but not limited to Chapter 8.45,

and any other policies of the County of Santa Cruz. (Ord. 3322, 11/23/82; 3427, 8/23/83; 3882, 12/15/87; 4507, 8/4/98)

12.06.070 Requirements regarding demolished or converted **lower** income housing outside the Coastal Zone.

(a) The following provisions and requirements shall apply to the demolition or conversion of lower income housing outside the Coastal Zone. These requirements shall be in addition to any other applicable provisions and requirements as set forth in state and federal statutes and regulations, the Housing Element of the County's General Plan, the Santa Cruz County Code, and any other policies of the County of Santa Cruz.

(b) The conversion or demolition of existing residential dwelling units occupied by lower income persons or households as defined in Section 50079.5 of the Health and Safety code shall not be authorized unless the requirements of either subsection (b)(1) or subsection (b)(2) of this section are satisfied:

(1) Relocation assistance is provided to each permanent resident of such a dwelling unit who, as a result of the conversion or demolition of such dwelling unit, relocates off site, as follows:

A. Reimbursement of actual moving expenses, not to exceed eight hundred dollars (\$800.00) per adult resident; and

B. The right of first refusal for purchase, rental or leasing of a replacement dwelling unit, if any, including the right to require the owner of such replacement unit to participate in any housing assistance program benefitting the displaced resident; and

C. Payment of a relocation payment in the same amount established pursuant to County Code Chapter 8.45; or

(2) Provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income in like manner as is required under County Code Section 12.06.060 inside the Coastal Zone.

12.06.080 Regulations of chapter deemed additional.

Sections 12.06.060 and 12.06.070 of this chapter are intended to be in addition to and in no way to override, alter or diminish:

(a) Procedural protections designed to prevent abuse of the right to evict tenants;

(b) Either Section 65863.7 of the Government Code relating to the withdrawal of accommodations that

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GOVERNMENT CODE

SECTION 65590-65590.1

65590. (a) In addition to the requirements of Article 10.6 (commencing with Section 65580), the provisions and requirements of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision.

The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

(1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.

(2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resources Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code. However, the coastal-dependent or coastal-related

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use shall be consistent with the provisions of the land use plan portion of the local government's local coastal program which has been certified as provided in Section 30512 of the Public Resources Code. Examples of coastal-dependent or coastal-related uses include, but are not limited to, visitor-serving commercial or recreational facilities, coastal-dependent industry, or boating or harbor facilities.

(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.

(4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subdivision. As otherwise required by this subdivision, the replacement units shall, (i) be located within the coastal zone if feasible, or, if location within the coastal zone is not feasible, shall be located within three miles of the coastal zone, and (ii) shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition.

The requirements of this subdivision for replacement dwelling units shall not apply to the demolition of any residential structure which has been declared to be a public nuisance under the provisions of Division 13 (commencing with Section 17000) of the Health and Safety Code, or any local ordinance enacted pursuant to those provisions.

For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction.

(c) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location. If a local government makes this determination and authorizes the conversion or demolition of the residential structure, it shall require replacement of any dwelling units occupied by persons and families of low or moderate income pursuant to the applicable provisions of subdivision (b).

(d) New housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. Where it is not feasible to provide these housing units in a proposed new housing development, the local government shall require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof. In order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to, modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees.

(e) Any determination of the "feasibility" of an action required to be taken by this section shall be reviewable pursuant to the provisions of Section 1094.5 of the Code of Civil Procedure.

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(f) The housing provisions of any local coastal program prepared and certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code prior to January 1, 1982, shall be deemed to satisfy all of the requirements of this section. Any change or alteration in those housing provisions made on or after January 1, 1982, shall be subject to all of the requirements of this section.

(g) **As** used in this section:

(1) "Conversion" means a change of a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, **or** similar form of ownership; or a change of a residential dwelling, including a mobilehome, or a mobilehome lot in a mobilehome park, or a residential hotel to a nonresidential use.

(2) "Demolition" means the demolition **of** a residential dwelling, including a mobilehome, as defined in Section 18008 of the Health and Safety Code, or a mobilehome lot in a mobilehome park, as defined in Section **18214** of the Health and Safety Code, or a residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, which has not been declared to be a public nuisance under Division **13** (commencing with Section 17000) of the Health and Safety Code or any local ordinance enacted pursuant to those provisions.

(3) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

(h) With respect to the requirements of Sections 65583 and 65584, compliance with the requirements of this section is not intended and shall not be construed as any of the following:

(1) A statutory interpretation or determination of the local government actions which may be necessary to comply with the requirements of those sections; except that compliance with this section shall be deemed to satisfy the requirements of paragraph (2) of subdivision (c) of Section 65583 for that portion of a local government's jurisdiction which is located within the coastal zone.

(2) A limitation on the program components which may be included in a housing element, or a requirement that a housing element be amended in order to incorporate within it any specific provision of this section or related policies. Any revision of a housing element pursuant to Section 65588 shall, however, take into account any low- or moderate-income housing which has been provided or required pursuant to this section.

(3) Except as otherwise specifically required by this section, a requirement that a local government adopt individual ordinances or programs in order to implement the requirements of this section.

(i) **No** provision of this section shall be construed as increasing or decreasing the authority of a local government to enact ordinances or to take any other action to ensure the continued affordability of housing.

(j) Local governments may impose fees upon persons subject to the provisions of this section to offset administrative costs incurred in order to comply with the requirements of this section.

(k) This section establishes minimum requirements for housing within the coastal zone for persons and families of **low** or moderate income. It is not intended and shall not be construed as a limitation or constraint on the authority or ability of a local government, as may otherwise be provided by law, to require or provide low- or moderate-income housing within the coastal zone which is in addition to the requirements **of** this section.

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65590.1. Any local government which receives an application as provided in Section 30600.1 of the Public Resources Code to apply the requirements of Section 65590 to a proposed development shall apply these requirements within 90 days from the date on which it has received that application and accepted it as complete. In the event that the local government has granted final discretionary approval to the proposed development, or has determined that no such approval was required, prior to receiving the application, it shall, nonetheless, apply the requirements and is hereby authorized to conduct proceedings as may be necessary or convenient for the sole purpose of doing so.

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ATTACHMENT 9

Proposed PUD Ordinance

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18.10.180-- PLANNED UNIT DEVELOPMENTS("PUD's")

(a) Purpose

In certain instances the objectives of the zoning ordinance may be achieved by the development of planned units which do not conform in all respects with the land use pattern designated on the zoning map of the district regulations prescribed by this ordinance. A planned unit development may include a combination of different dwelling types and/or a variety of land uses which complement each other and harmonize with existing and proposed land uses in the vicinity. In order to provide locations for well-planned developments which conform with the objectives of the zoning ordinance although they deviate in certain respects from the zoning map and the district regulations, the County Board of Supervisors is empowered to grant use permits for planned unit developments, provided the developments comply with the regulations prescribed in this Chapter and are consistent with the County General Plan/Local Coastal Program Land Use Plan.

(b) Where Allowed

A planned unit development may be located in any zoning district upon the granting of a use permit in accordance with the provisions of this Chapter.

(c) Permitted Uses

A planned unit development shall include only uses permitted either as permitted uses or conditional uses, in the zoning district in which the planned unit development is located, subject to the following exception:

- (1) Any use permitted in any residential or "C-1" district either as a permitted use or a conditional use, or any combination of such uses may be included in a planned unit development on a site of ten (10) acres or more, located in an "R-1", "RR", "RA", or "RM" district, where consistent with the General Plan.

18.10.181 -- PLANNED UNIT DEVELOPMENT APPLICATIONS

Applications for Planned Unit Development Permits shall conform to the following specific requirements:

(a) Contents

The application shall be accompanied by a development plan of the entire planned unit development that includes all of the required application submittal requirements of Section 18.10.210.

(b) Density

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In addition to the data and drawings prescribed in Section **18.10.210**, the application shall be accompanied by a tabulation of the area proposed to be devoted to each land use and a tabulation of the average density in the area or areas proposed to be devote to residential use.

13.10.332 -- PLANNED UNIT DEVELOPMENT HEARINGS

(a) Notice

The Planning Commission shall hold a public hearing on each application for a planned unit development. Notice of said hearings shall be given as specified in Section **18.10.223**.

(b) Hearing Procedure

The Director shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the Planning Commission for its consideration. At the public hearing, the Commission shall review the application and the report, and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it will be operated or maintained, particularly with respect to the findings prescribed in Section **18.10.183**.

18.10.183-- PLANNED UNIT DEVELOPMENT PERMIT FINDINGS

The Planning Commission may recommend the granting of a Planned Unit Development as was applied for or in modified form **if**, on the basis of the application and evidence submitted, the Planning Commission makes the following findings in addition to the findings required by Section **18.10230**:

(a) That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purposes of the district in which the site is located.

(b) That the proposed location of the planned unit development and the conditions under which it would be operated or maintained will not be detriment to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

(c) That the proposed planned unit development will comply with each of the applicable provisions of this Chapter.

(d) That the standards of dwelling unit density, site area and dimensions, site coverage, yard spaces, heights of structures, distances between off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of this Chapter.

(e) That the standards of dwelling unit density, site coverage, yard spaces, heights of structures,

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distances between structures and off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities.

(f) That the combination of different dwelling types or the variety of land use in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity.

(g) That the proposed use is consistent with the General Plan/Local Coastal Program Land Use Plan.

18.10.184-- PLANNED UNIT DEVELOPMENT; OFFICIAL ACTION

(a) Action by Planning Commission

Following the public hearing, the Planning Commission may deny the planned unit development, continue consideration of the planned unit development, or recommend approval of the planned unit development, with or without modification. Planning Commission action to approve a planned unit development shall be in the form of a resolution recommending to the Board of Supervisors approval, with or without modifications, of the planned unit development.

(b) Appeals of the Action of the Planning Commission

If the Planning Commission recommends against a proposed planned unit development, its action shall be final unless the matter is considered upon appeal or special consideration by the Board as provided in Sections 18.10.340 and 18.10.350, respectively. Appeals of planned unit developments which include land division applications shall be subject to the procedures of Section 14.10.312.

(c) Action of the Board of Supervisors

The Board of Supervisors shall schedule a public hearing to consider the recommendations of the Planning Commission regarding applications for a planned unit development. Notice of the public hearing shall be given pursuant to Section 18.10.223. Following the public hearing, the Board of Supervisors may deny the planned unit development, continue consideration of the planned unit development, or approve the planned unit development, with or without modification. Actions to approve the planned unit development shall be by adoption of an ordinance amending County Code Chapter 13.10 to establish specific zoning and site standards for the planned unit development.

(d) Finality of Action on Planned Unit Development

No new application for a Planned Unit Development permit shall be filed for the same or substantially the same use on the same or substantially the same property within one year after

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denial of same without the consent of the Board of Supervisors.

18.10.185 -- PLANNED UNIT DEVELOPMENT STANDARDS

(a) District Regulations

Development standards for site area and dimensions, site coverage, yard spaces, heights of structure, distances between structures, off-street parking and off-street loading facilities and landscaped areas shall in the aggregate be at least equivalent to the standards prescribed by the regulations for the district in which the planned development is located.

(b) Density

The average number of dwelling units per net acre shall not exceed the maximum number of dwelling units prescribed by the site regulations or the site area per dwelling unit regulation for the district in which the planned unit development is located subject, however, to the exception that the average number of dwelling units per developable acre may exceed the maximum number of dwelling units prescribed for a district by not more than ten percent in a planned unit development on a site of ten acres or more, but not to exceed the density specified by the General Plan/Local Coastal Program Land Use Plan.

(c) In "SU" Districts

The development standards and density requirements of subsections (a) and (b) above shall not apply in the "SU" Districts wherein the standards and density must be consistent with the applicable General Plan/Local Coastal Program Land Use Plan, as determined the Planning Commission and the Board of Supervisors.

(d) In Residential Districts

The following conditions shall be required in planned unit developments located in an "R-1", "RA", "RR" or "RM" district:

- (1) All products produced on the site of any of the permitted uses shall sold primarily at retail on the site where produced.
- (2) Not more than five persons shall be engaged in this production, repair or processing of materials, except that this provision shall not apply to cafes, restaurants and soda fountains.
- (3) No uses shall be permitted and no process, equipment or materials shall be employed which is found by the Planning Commission or the Board of Supervisors to be injurious to property located in the vicinity by reason of excessive odor, fume dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibration, illumination, glare unsightliness or heavy

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truck traffic, or to involve any hazard of fire or explosion.

(4) All planned unit developments shall meet the requirements of Chapter 13.11 - Site, Architectural and Landscape Design Review. .

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ATTACHMENT 10

PLANNING AREA DATA

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PLANNING AREA DATA

PLANNING AREA	ACRES	POPULATION	POP/ACRE	# OF PARCELS*	# OF UNITS	2ND UNITS	MEASURE J	1 ST TIME HB**	OTHER AFF. UNITS***	TOTAL AFFORDABLE UNITS	% OF AFFORDABLE	% OF HOUSING UNITS IN PLANNING AREA THAT ARE AFFORDABLE
APTOS	6628.05	18697	2.821	9851	9010	5	34	3	107	149	0.07	1.65
APTOS HILLS	12869.10	5415	0.421	2339	1848	18	0	5	60	83	0.04	4.33
BONNY DOON	27660.51	3499	0.126	1506	1110	13	0	0	0	13	0.01	1.17
CARBONERA	23.82	8048	0.596	3931	3389	13	1	0	18	32	0.01	0.94
EUREKA CANYON	20828.78	4661	0.224	1907	1392	11	0	0	0	11	0.00	0.79
LA SELVA BEACH	1693.05	1969	1.163	1127	980	3	0	0	0	3	0.00	0.31
LIVE OAK	3061.80	28665	9.362	8592	9971	11	242	5	704	962	0.43	9.77
NORTH COAST	44978.16	810	0.018	706	272	0	0	0	0	0	0.00	0.00
PAJARO VALLEY	6879.81	13798	2.006	3130	3014	8	15	24	463	510	0.23	16.82
SALISPUEDES	17467.86	1384	0.079	508	270	0	0	1	18	19	0.01	7.04
SAN ANDREAS	9083.24	2016	0.222	1007	851	0	0	0	185	185	0.08	21.74
SAN LORENZO VALLEY	47745.31	26666	0.559	17803	16531	11	13	5	44	73	0.03	0.72
SKYLINE	22177.62	3117	0.141	1912	1129	7	0	0	0	7	0.00	0.62
SOQUEL	2814.69	8075	2.869	3366	3314	11	67	0	85	163	0.07	4.92
SUMMIT	32006.39	6997	0.219	2530	1837	8	0	0	0	8	0.00	0.44
TOTALS		255602		60215	54918	119	372	43	1684	2218	1.00	4.04

* From County Tax Assessor
 RDA First Time Home Buyer Downpayment Assistance program (requires a long-term affordability restrictions)
 ++ "other" includes HUD Section 8, Housing Authority projects and other non-profit affordable housing
 +

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ATTACHMENT 11

County Counsel Memorandum, October **24,2001**

- The County's authority to limit the occupancy of single family dwellings
- The County's authority to impose its land use regulations on the University of California
- The County's authority to regulate the temporary use of residences for short term vacation rentals
- The County's authority to enact an anti-retaliatory eviction ordinance



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Margaret Burks

October 24, 2001

Agenda: November 6, 2001

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

Re: RESPONSE TO QUESTIONS RAISED DURING AFFORDABLE HOUSING WORKSHOP

Dear Members of the Board:

On October 2, 2001, your Board conducted an extensive workshop on affordable housing. At the conclusion of that workshop, your Board directed that staff respond to certain questions and issues raised during the course of that proceedings through reports that were scheduled to return on this date. The following questions concerning the County's legal authority were directed to this Office: (1) the County's authority to limit the occupancy of single family dwelling units; (2) the County's authority to impose its land use regulations on the University of California; (3) the County's authority to regulate the temporary use of residences for short-term vacation rentals; and (4) the County's authority to enact an anti-retaliatory eviction ordinance.

DISCUSSION

- 1. The County's authority to limit the occupancy of single family dwelling units.** Generally speaking, a land use restriction which focuses on the identity of a dwelling's occupants (i.e., a biological family versus a group of unrelated individuals, or renters versus owner occupants), rather than the intensity of use to which the dwelling is put is unlawful.

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See *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123; *College Area Renters and Landlords Ass'n v. City of San Diego* (1996) 43 Cal.App.4th 667.

On constitutional privacy grounds, the Supreme Court in *Adamson* struck down an ordinance which imposed a numerical limitation on the number of nonfamily-related persons who could live together in a single-family residential zone district. In *College Area Renters*, an ordinance limiting the number of adults in rented single-family housing was found to have violated equal protection principles to the extent that it distinguished between owner versus renter-occupied residences.

It is also the case that State law, in the form of the Uniform Housing Code, generally governs the establishment of occupancy standards. See *Briseno v. City of Santa Ana* (1992) 6 Cal.App.4th 1378. While a local government may make changes to these regulations, it must follow certain procedures and determine that the changes are "...reasonably necessary because of local climatic, geological, or topographical conditions." Health and Safety Code Section 17958.7

The County Code presently defines the term "dwelling unit" without placing limitations on the number of persons that may therein reside:

A structure for human habitation providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, with the restrictions that only one kitchen or set of food preparation facilities is allowed in each dwelling unit and an interior stairway shall be provided between all stories. County Code Section 13.10.700-D (Emphasis added.)

The County Code does establish a numerical limitation

Family. One person living alone, or two or more persons related by blood or marriage or a group of not exceeding five persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit, in a dwelling unit as distinguished from a group occupying a hotel, club, fraternity or sorority house. County Code Section 13.10.700-F (Emphasis added.)

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Because the cited definition restricts the total number of unrelated occupants that may reside within a dwelling unit (not to exceed five), places no corresponding limit on the number of persons related by blood or marriage, it is the opinion of this Office that this provision is not legally enforceable under the ruling in *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123.

The County may continue to enforce the other provisions of the Code that do establish minimum standards for addressing particular impacts related to residential uses. For example, Section 13.10.552 establishes the standards for off-street parking required for residential uses. In addition, standards for minimum lot widths, maximum lot coverage and floor area to lot area ratios, set-backs, maximum building height and story limitations are also established to address concerns related to residential density.

2. The County's authority to impose its land use regulations on the University of California.

As a general rule, whenever the State is conducting a sovereign activity, it is not subject to local land use controls unless the state legislature consents to such regulations. *Hall v. City of Taft* (1956) 47 Cal.2d 177. The Regents of the University of California is charged with the administration of the University and acts as an arm of the state itself. *Regents of University of California v. City of Santa Monica* (1978) 77 Cal.App.3d 130, 135. The California Constitution vests the Regents of the University of California with ownership and control of all university property. California Constitution Article IX, Section 9 (a).

A county is authorized to enact ordinances which are not in conflict with general laws. California Constitution Article XI, Section 7. However, the California Constitution does not authorize municipalities to apply local zoning restrictions to state agencies (*Town of Atherton v. Superior Court* (1958) 159 Cal.App.2d 417, 424-427), a power which may be granted only by legislative consent.

In *City of Santa Monica*, the University of California undertook a renovation project within the City of Santa Monica and paid, under protest, construction permit fees assessed by the City. The Regents filed a claim for damages, alleging that it was not subject to the City's construction permit fees. The trial court found for the Regents and permanently enjoined the City from enforcing the ordinances against the University and refunded the fees paid plus interest. On appeal, the trial court decision was affirmed.

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...in view of the virtually plenary power of the Regents in the regulation of affairs relating to the university and the use of property owned or leased by it for educational purposes, it is not subject to municipal regulation. "When ... [the state] engages in such sovereign activities as the construction and maintenance of its buildings, . . . , it is not subject to local regulations unless the Constitution says it is or the Legislature has consented to such regulation." (*Hall v. City of Taft* (1956) 47 Cal.2d 177, 183 [302 P.2d 574].) Thus, the Regents in constructing improvements solely for educational purposes are exempt from local building codes and zoning regulations *Regents of University of California v. City of Santa Monica*, supra, 77 Cal.App.3d at 135-136 (Emphasis added.)

Consequently, when the University is making use of its property for purposes consistent with its educational mandate, it is not subject to local land use regulations.

3. The County's authority to regulate the temporary use of residences for short-term vacation rentals.

Under the County's police power authority, it may regulate the use of residential property for short-term commercial purposes. In the case of *Ewing v. City of Camel-by-the-Sea*, (1991) 234 Cal.App.3d 1579, the court upheld an ordinance enacted by the defendant city which prohibited the use of residential property zoned R-1 for commercial lodging (e.g., bed and breakfast, hostel, hotel, inn, resort, or other transient lodging) for periods of less than **thirty** consecutive calendar days. A property owner challenged the ordinance claiming that it resulted in an unlawful taking of his property. The appellate court upheld the ordinance finding that the city had a legitimate governmental purpose in maintaining the residential character of its neighborhoods and that the ordinance was reasonably related to this purpose. The court also found that the minimal diminution of property rights caused by the ordinance was outweighed by the public interest in maintaining permanent residential areas.

4. The County's authority to enact an anti-retaliatory eviction ordinance.

It is within the Board's power to enact an anti-retaliation ordinance based on the County's authority to regulate matters of the public health and safety that are not in conflict with general law. *Fisher v. City of Berkeley* (1984) 37 Cal.3d 644.

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In the landlord-tenant context, Civil Code § 1942.5 provides protections against retaliatory evictions.¹ Subdivision C deals with retaliatory action against a tenant who “has lawfully organized or participated in a lessees’ association or an organization advocating lessees’ rights or has lawfully and peaceably exercised any rights under the law.” This section “provides the tenant with an affirmative cause of action against the landlord for retaliatory eviction. *Western Land Office, Inc. v. Cervantes* (1985) 175 Cal.App.3d 724.

However, Civil Code § 1942.5 explicitly disclaims any effect to limit the power of local governments to regulate evictions. (*Ibid*) The City of Berkeley has an ordinance that protects tenants from arbitrary, discriminatory or retaliatory evictions. (Berkeley CA Ordinance § 13.76.030, See *deZerger v. Meggs* (2000) 83 Cal.App.4th 28).

IT IS THEREFORE RECOMMENDED that your Board accept this report.

Very truly yours,

DANA MCRAE, COUNTY COUNSEL

By  FOR
RAHN GARCIA
Chief Assistant County Counsel

RECOMMENDED:

SUSAN A. MAURIELLO
County Administrative Officer

cc: County Administrative Officer
Planning Director

¹ See attached copy of Civil Code § 1942.5.

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§ 1942.5

HIRING
Div. 3

§ 1942.5. Retaliation; prohibited acts; violations; remedies: penalties

(a) If the lessor retaliates against the lessee because of the exercise by the lessee of his rights under this chapter or because of his complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of his rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, or has made an oral complaint to the lessor regarding tenantability; or

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability; or

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice; or

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability; or

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke the provisions of subdivision (a) more than once in any 12-month period.

(c) It shall be unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of such acts, for the purpose of retaliating against the lessee because he or she has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(d) Nothing in this section shall be construed as limiting in any way the exercise by the lessor of his rights under any lease or agreement or any law pertaining to the hiring of property or his right to do any of the acts described in subdivision (a) or (c) for any lawful cause. Any waiver

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HIRING OF REAL PROPERTY
Pt. 4

§ 1942.5

by a lessee of his rights under this section shall be void as contrary to public policy.

(e) Notwithstanding the provisions of subdivisions (a) to (d), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (c), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or (c). If such statement be controverted, the lessor shall establish its truth at the trial or other hearing.

(f) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1) The actual damages sustained by the lessee.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to such act.

(g) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

(h) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

(Added by Stats.1979, c. 652, p. 2005, § 2.)

Historical Note

Former § 1942.5 added by Stats.1970, c. 1280, p. 2316, § 5, relating to same subject matter as present section, **was** repealed by Stats.1979, c. 652, p. 2005, § 1.

Derivation: Former § 1942.5, added by Stats.1970, c. 1280, p. 2316, § 5.

Forms

See West's California Code Forms. Civil.

Cross References

Employee community housing, application of this section to retaliatory employment actions against tenants, see Health & Safety Code § 17031.7.

Law Review Commentaries

California's new legislation on a landlord's duty to repair. (1971) 3 U.C.D. Law Rev. 131.

Changing landlord-tenant relationship in California: Economic analysis of the swing-

ing pendulum. Werner Z. Hirsch and Joel G. Hirsch (1983) 14 Southwestern L.R. 2.

Green v. Superior Court: New remedy for California tenant. (1975) 5 Golden Gate L.Rev. 145.