# County of Santa Cruz

**PLANNING DEPARTMENT**

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March 30,2002

Agenda: April 9,2002

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

**AFFORDABLE HOUSING ORDINANCE AMENDMENTS**

Members of the Board:

On January 15,2002, your Board considered a number of recommended amendments to the County's Affordable Housing Ordinance (Chapter 17.10). The proposed amendments were a result of your Board's review of the Housing Action Plan presented on November 6,2001. As a part of your Board's actions on the Housing Action Plan and suggestions made by Board members, your Board accepted a number of conceptual ordinance changes intended to improve the County's Affordable Housing program and directed staff to prepare ordinance amendments incorporating these changes.

**BACKGROUND**

At the January 15th meeting, your Board continued the proposed ordinance amendments to February 5, 2001, and directed staff to prepare additional information regarding the parts of the proposed ordinance relating to increasing the affordability requirement from 15% to 20% and changing the applicability of the ordinance from 5 or more units to 2 or more units. On February 5,2002, staff requested additional time to complete the report on these two parts of the ordinance, but presented the remainder of the ordinance to your Board for consideration. The recommendations considered on February 5 included the following:

- Elimination of the in-lieu fee alternative to construction of affordable units in new developments and the creation of a new Existing Unit conversion program;
- Elimination of the current 'rounding' method of determining the inclusionary unit obligation, and its replacement with a fractional fee program to equal exactly the inclusionary percentage of the number of eligible units;
- Termination of the current staff practice of exempting new housing units from the inclusionary requirements by adding an unambiguous definition of "new "unit in 17.10.

Following deliberations on the above proposed amendments to Chapter 17.10, and after receiving input from developers about certain features of the proposal, your Board directed that staff provide further information about some of the proposed amendments and that staff analyze some of the alternative proposals provided by the public during the February 5 public hearing of this item. The minute order

containing these directions is attached to this letter (Attachment 1). Specifically, your Board directed staff to report on:

1. An alternative basis for the fractional unit fees, based on the cost to produce an affordable unit rather than on the formula proposed on February 5 (the difference between the market price and the affordable price);
2. The advantages and disadvantages of including affordable second units in new residential projects to replace fractional unit fees, as proposed by developers;
3. The potential loss of rental housing stock which might result from the proposed "Existing Unit Conversion" option, and/or possible measures to protect against such losses, and strategies to address the impact of the Existing Unit program on existing residents ;
4. The advantages and disadvantages of using a flat ratio of 2:1 to determine the number of converted units required under the proposed Existing Unit Conversion option;
5. Requiring a smaller percentage of inclusionary units of smaller projects than that required of larger projects (those above a certain threshold of units); and
6. Consider measures to ensure the habitability and physical quality of existing units accepted for use under the proposed Existing Unit program.

A summary of staffs analysis and recommendations are presented below. A complete discussion of these topics is included as Attachment 2 to this report. Staff has also completed its analysis of the items continued from the January 15,2002 Board discussion.

This report provides a complete analysis of the proposed changes and responds to specific issues raised by your Board.

## SUMMARY OF PROPOSED ORDINANCE AMENDMENTS

The conceptual ordinance changes approved by your Board on November 6,2001 as part of the County's Housing Action Plan focused on three general program areas:

- Eliminate the in-lieu fee option and establish the Existing Unit Conversion Program to provide developers with a new option to meet program requirements;
- Ensure program requirements apply equally to all projects;
- Increase the number of affordable housing units generated through the program.

The proposed ordinance amendments (Attachment **3)** and proposed Affordable Housing Guidelines (Attachment 4) have been prepared and address the comprehensive changes discussed in this letter. What follows is a discussion of each of the three program areas mentioned above.

### Eliminate the in-lieu fee option and establish the Existing Unit Conversion Program

**As** you know, the Affordable Housing Ordinance currently allows for developers to satisfy their

inclusionary requirement by either constructing units on-site, working with a non-profit organization to create new affordable units, or to pay a fee in-lieu of creating new units.

The current in lieu fee program is not working as originally envisioned. When the fee schedule was established in 1997, most of the home sales were in the $250,000 to 400,000 range and there was a reasonable relationship between the fee and the prevailing home prices. At these levels, it was projected that most developers would opt to construct affordable units rather than pay the in lieu fee. Even with recent adjustments to the fee schedule, with the bulk of homes priced in the $600,000 to $800,000 range, most developers prefer to pay the fee instead of building units.

Last year the Housing Advisory Commission recommended that your Board eliminate the in-lieu fee option. Staff reviewed the HAC recommendation and included it in the Housing Action Plan presented on November 6th, which was approved in concept by your Board at that time As discussed in the Housing Action Plan, eliminating the in-lieu fee, however, would limit the options available to developers to comply with the ordinance. In an effort to ensure developers have **a** range of options to satisfy the program requirement, on November 6,2001, your Board conceptually approved a new alternative for developers who prefer not to construct affordable housing as a part of their project. Whereas the in-lieu fee option explicitly allowed developers to not create new affordable housing, the proposed Existing Unit Conversion Program would require developers to convert two existing market rate units for each affordable housing unit obligation.

At the February the meeting, your Board asked to staff to evaluate the advantages of a fixed 2:1 ratio for this program, rather than a formula which would be tied to the average purchase price of the market rate homes. The original proposal was designed to require projects with higher priced homes to convert a larger number of units as a way to ensure that the developers' contribution to the program was linked to the market-rate home values. Upon further analysis, staff believes that the proposed 2:1 ratio would be a simpler process to administer, would be more easily understood by both the public and the developer community, and provides for a more equal application of the ordinance.

While the disadvantage of this system is that it places a proportionally greater burden on homes in the lower end of the price range, this is an optional alternative to the production of affordable units on site, and it is presumed that developers of lower-priced projects would tend to build on site rather than utilize this option. In addition, the requirement would be proportional to the project's size if the base unit sizes of the converted units are based on the size of the market-rate units - more expensive homes, which tend to be larger, would have to provide larger converted units to satisfy this requirement. To this end, the proposed program guidelines are designed to encourage developer to provide two comparable units for each required inclusionary unit, (e.g. if a developer is building predominately three bedroom market rate units, the requirement would be to provide two three-bedroom units).

Because this is a new program, it is recommended that the Department return to your Board in 2003 with a one year program evaluation.

Your Board also requested staff consider the potential loss of rental housing stock which might result from the proposed program. Section 12(e) of the proposed amendments to the Affordable Housing Guidelines requires that units to be converted under the program may not be subject to any rent limits,

resale price restrictions, or other affordable housing restrictions, and that the conversion of multi-family rental property to condominium ownership will not be approved as part of the project. Section 12(f) specifies that, if the units to be converted are occupied and rented by moderate or lower income households at the time of conversion, the occupying tenants must be given the first right of refusal to purchase the units; if the tenants cannot purchase the unit, the developer would be required to provide the tenant with relocation benefits equivalent to three months actual rent or the fair market rent, as determined by HUD, whichever is greater.

In addition, your Board inquired about measures to ensure the habitability and physical quality of existing units accepted under the Existing Unit Conversion Program. As indicated in Section 12(c) 1 and 2 of the proposed Affordable Housing Guidelines , unit size is proposed to be consistent with the Measure J program requirements for inclusionary units, and shall not be less than 75% of the average size of market rate units. In an effort to provide for program flexibility, Section 12 (c) of the Guidelines allow for the Planning Director to grant exceptions to this policy where developers propose to provide for a greater number of units or enhanced affordability.

Your Board's concern about the overall quality and condition of converted units is also addressed in Section 12(c) 3 of the Guidelines. That language, developed in discussion with the Building Section of the Planning Department and the Redevelopment Agency staff, provides three key requirements:

1) All units must comply with the Program Housing Quality Standards used by HUD to address Health, Safety and Sanitary issues;
2) All units accepted in the program must have been built after the 1973 building and related codes were put into place or substantially rehabilitated under modern building standards. This ensures that the structure meets modem foundation, wiring and plumbing requirements; and
**3)** Prior to being accepted into the program, the developer must furnish the County Redevelopment Agency with a report prepared by a certified housing inspector that provides for a comprehensive evaluation of the unit. The **RDA** Rehabilitation Program Specialist will evaluate the report and determine what work, if any is needed to provide for a reasonable assurance that the future homeowner is not likely to be faced with substantial maintenance costs over a reasonable time frame.

This process will ensure that the purchasers of the units will not be saddled with large housing maintenance expenses in the early years of the conversion. The developer would have the option to make necessary improvements to bring any older unit up to these standards. In addition, all units will also be required to comply with the pertinent provisions of the California Health and Safety Code in regard to Housing Quality Standards.

**Equal Application of the Ordinance to all Projects.**

As discussed in the November 6'' letter, the current ordinance specifically allows for rounding the affordable housing requirement for a project where the affordable housing obligation is less than or more than a whole number.

For example, projects with an affordable housing requirement of 0.50 or less are rounded down. In the case of a 5 unit project, the affordable housing obligation is to provide one unit, which equals a 20% requirement (1/5 = .20) , even though a strict application of a 15% requirement would result in a **.75** unit obligation (5 *.15 = .75). Conversely, the strict application of a 15% requirement on a 10 unit project

would result in a 1.5 unit obligation, though under the rounding feature of the ordinance, a 10 unit project also has a one unit obligation, resulting in an actual 10% requirement (10 units, 1 affordable = 1/10 = 10%). As a result, the actual percentage of inclusionary units built in each project varies widely.

The chart below shows how the rounding feature of the existing ordinance results in an unequal application of the affordable housing requirement:

| **SAMPLE PROJECT SIZE** No. of Market Rate Units in Proposed Project | **EXISTING ORDINANCE** Affordable Unit Requirement | |
|---|---|---|
| | No. Units | Percent of Total |
| 5 | 1 | **20.0%** |
| 7 | 1 | **14.3%** |
| 10 | 1 | **10.0%** |
| 11 | 2 | **18.2%** |
| 16 | 2 | **12.5%** |
| 17 | 3 | **17.6%** |
| 22 | 3 | **13.6%** |

One of the inadvertent consequences of the unequal application of the 15% requirement is that developers size projects to avoid having to build an additional affordable unit. In the above example, in the case of a 10 unit project, there is a built-in incentive, albeit unintended, for a developer not to propose to build an 11 or 12 unit project because that would cause an additional affordable unit to be required. The net effect of the current approach is that a 10 unit project is built where the General Plan or zoning may permit a larger number of units, and the ultimate project produces larger lots with more expensive homes than would have been feasible at the designated density.

Proposed Fractional Fee

In order to eliminate the inequities associated with the current rounding features, it is necessary to institute a system that would allow for a project which has an affordable housing obligation of less or more than an affordable unit to meet the project's 15% requirement. To accomplish this, it is proposed that a developer with an affordable housing requirement of less than a one affordable unit or with a fractional amount more than one unit will be required to satisfy their fractional requirement in addition to their whole unit requirement, if any. As shown in the chart below, this results in the equal application of the ordinance for all projects.

| SAMPLE PROJECT SIZE No. of Market Rate Units in Proposed Project | PROPOSED ORDINANCE Affordable Unit Requirement No. Units | Percent of Total |
|---|---|---|
| 5 | .75 | **15%** |
| 7 | 1.05 | **15%** |
| 10 | 1.5 | **15%** |
| 11 | 1.65 | **15%** |
| 16 | 2.4 | **15%** |
| 17 | ***2.55*** | **15%** |
| 22 | **3.3** | **15%** |

The fractional portion of the affordable housing requirement would become the basis for a fee that would be paid into a Measure J Fund'. In the proposed ordinance considered by your Board in February, staff suggested that the methodology used to determine the fractional fee be based on the difference between the sales price of the market units in the project and the affordable housing prices in effect for the type and size of units in the development. At the Board hearing, developers suggested that the fractional fee amount be based on the cost of constructing an additional unit. To this end, your Board directed staff to examine the potential of using the cost of producing the affordable unit as the basis for the fractional fee. What follows is a discussion of the potential options considered by staff

Option 1: Fractional Fee Based Difference Between Sales Price of Market Rate Unit and Measure J Purchase Price:

**As** discussed in the February 5th report, staff discussed the possibility of establishing a fee based on the difference between the average sales price of the market rate units and the Measure J purchase price. In the case of a project with average home prices in the $680,000 range, the fractional fee amount for a full unit would be based on a $465,000 figure. Given the unreasonably high cost of this approach, staff is not recommending this option.

[1] For example, a 7 unit project would have an inclusionary requirement of 1.05 units (7 X 15% = 1.05); the developer would be required to build one affordable unit and pay fees for the remaining 0.05 unit obligation. In the case of a 5 unit project, the inclusionary requirement would be for .75 units (5 X 15% = .75) and the developer would be required to pay fees for the .75 unit obligation. (It is worth noting that the ordinance would not bar a developer from choosing to provide a whole unit in lieu of the fractional fee.)

Option 2: Graduated Fractional Fee Based on Existing In-Lieu Fee Schedule

Alternatively your Board could easily maintain the current in-lieu fee chart as a basis for the fractional fee. This fee chart was adopted by your Board with the understanding that projects which include more expensive homes would be subject to a higher fee. Utilizing this approach, the fractional fee amount for a project which includes average home prices in the $680,000 range would be based on a $256,000 figure.

Option 3: Flat Fractional Fee Based on The Cost of Producing an Affordable Unit:

This approach would provide for a flat fee for all projects, regardless of the market value of the units being developed. In our review of this issue and in discussions with the RDA and private developers, there are a variety of issues that determine a developer's actual costs to produce an affordable unit. Each potential project has a unique set of circumstances effecting project cost, (i.e. land costs, how long the property has been owned by the developer, multi-family vs. single family development, carrying costs, etc.) Given the wide variety of issues effecting costs, it is very difficult to establish a cost analysis that would apply in all cases.

However, if your Board chose to pursue this approach, staff recommends that the actual costs to construct an affordable unit, including land and construction costs and miscellaneous factors, is approximately $350,000. This $350,000 cost also corresponds to the RDA's estimated per unit construction cost for for-sale units. Subtracting the Measure J purchase price of $215,000 from this $350,000 figure would result in a net cost of $135,000 to produce an affordable unit. The $135,000 figure becomes the basis for the fractional fee amount. Because payments will be based on the fractional obligation, developers will only pay a portion of the $135,000 amount, and payments could be distributed over the market rate units. Sample projects and corresponding fractional fee payments are noted below.

**Sample Projects & Flat Fractional Fee Payments**
(Based on $135,000 whole unit fee amount)

| No. Units in Project | Affordable Obligation | Fractional Fee Amount | Amount of Fee Per Each Market Rate Unit |
|---|---|---|---|
| **5** | 5*.15 = **0.75** | $135,000 * .75 = $101,250 | $20,250 (no on-site unit required |
| 7 | 7 * .15 = **1.05** | $135,000 * .05 = $6,750 | $1,125* |
| 11 | 11 * .15 = **1.65** | $135,000 *.65 = $87,750 | $8,775* |

* Does not include the cost to developers to construct affordable unit on-site

It is worth noting that Section 13 of the Affordable Housing Guidelines includes draft language reflecting options 2 and 3 above and your Board should determine what approach should be incorporated into the final Guidelines.

For ease of program administration and to facilitate annual updates in the fee schedule, it is recommended that the fractional fee be incorporated into the Affordable Housing Guidelines and be revised each year, as part of annual revisions to the median income figures and other indices used for our affordable housing programs.

In regard to the proposed fractional fee, on February 5" , at the request of developers, your Board also asked staff to the explore the advantages and disadvantages of including affordable second units in new residential projects. Staff has reviewed the possibility of allowing developers to construct second units as a part of a development to meet the affordable housing requirement for the project. Staff believes that constructing second units as a part of a project does have merits, both in terms of providing mixed types of housing and to more efficiently utilize developable land and this issue warrants further consideration and analysis. To this end, it is recommended that the Housing Advisory Commission consider possible ways to apply the Measure J inclusionary requirements to subdivisions proposed with second units on some or all of the parcels and that HAC's recommendation be forwarded to the Planning Commission for their review. Following review by HAC and the Planning Commission, it is recommended that staff return to your Board on or before September 10,2002 for your consideration of possible policy recommendations.

It is worth noting that elsewhere on today's agenda your Board will be considering proposed changes to the second unit ordinance to encourage second units be developed on agriculturally zoned parcels as well as a report from the RDA on the possibility of developing a pilot program to facilitate the development of second units throughout the County.

**Increase the number of affordable housing units generated through the program by applying the Affordable Housing Ordinance to 2-4 unit projects and increasing the 15% requirement to 20%.**

The January 15,2002 report to your Board discussed several changes designed to increase the number of affordable units generated through the program by increasing the affordability requirement for projects from 15% to 20%, and applying these requirements to all land divisions or residential development of 2 or more units (instead of **5** or more). Your Board requested additional information regarding the effects that these requirements would have on the viability of residential projects.

At the public hearing, comments were made by the development community that extending the ordinance to apply to 2-4 unit projects would create a significant hardship to smaller scale developers and significantly increase the cost of creating new in fill units on smaller sites. The costs of applying the 15% affordability requirement to the smaller projects would result in these 'extra' costs being passed on to the prospective home buyers in the form of increased home prices, especially in the lower price ranges (less than $600,000). In addition, until now, developers could build a four unit project rather than a five or six unit project in order to avoid the inclusionary requirement. Under the new policy adopted by your Board to encourage the maintenance of current General Plan density ranges, it will be less likely that

property would be developed at a density level below the General Plan minimum density level unless there are compelling factors that are approved by the Board in advance. Avoidance of the inclusionary requirement would not satisfy the standard adopted by your Board. In recognition of these issues, and the potentially adverse impacts on smaller scale development, staff recommends not to eliminate the current exemption for projects containing 2-4 units at this time.

Staff also considered the costs and a variety of concerns expressed at previous Board meetings regarding the implications of increasing the basic affordability requirement from 15% to 20%. Again, the added cost of higher affordability requirements would disproportionately burden projects with fewer units. Clearly, however, larger projects could more easily accommodate an increased requirements, though additional analysis is necessary prior to recommending that larger projects be subject to a higher affordability requirement. To this end, it is recommended that staff complete a more detailed analysis of the potential sites in the County that could accommodate a larger number of units and include in the Housing Element suggestions to increase affordable housing requirements for these types of projects.

**Other Measure J Issues:**

The following issues that have also been addressed by the proposed ordinance amendments.

Delete provision which exempts demolished units from the inclusionary requirements: On November 6,2001, your Board directed staff to no longer exempt demolished units from inclusionary requirements . 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 demolished unit. This results in the loss of an existing unit and a reduced affordable housing obligation for the developer, and often results in exemption of the entire project from inclusionary requirements because it is reduced to fewer than five "new" units. In response to your Board's directive to address this issues, the proposed language would define a new dwelling unit as any dwelling that is newly constructed on site, whether or not it is replacing an existing dwelling unit. Under the proposed language, the only way to exempt an existing structure is to maintain it on the site. The intent of this correction is to ensure fair application of the 15% affordability requirement, and to encourage developers to retain the existing housing stock.

Require Approval of Inclusionary Option by Approving Body: As discussed in the November 6th report, the proposed amendments would also change the procedure for approving and amending the Affordable Housing requirement for a particular project. Currently, a developer must designate on the tentative map, or site plan, which unit(s) will be affordable pursuant to Chapter 17.10. Following project approval, the developer is free to choose whichever method s/he prefers to use to fulfill the requirements, and this choice is acknowledged by the Planning Director by signing the Affordable Housing Participation Agreement. Changes to this Agreement also require approval by the Planning Director. The proposed ordinance would require that the developer determine the method of meeting the affordable housing requirement prior to action by the Approving Body and would require that any changes to this choice be

approved by the Approving Body. Because the Approving Body will be considering the affordable housing requirement during the public hearing for the project, it is appropriate that amendments to the project which change the method for providing affordable housing be considered in a similar fashion.

Purchase by First Time Homebuyers: As discussed in the February 5th letter, staff is proposing that the Guidelines include proposed changes to promote the purchase of Measure J units and converted units by first time homebuyers. This approach is consistent with your Board's interest in promoting first time home ownership opportunities.

Delete Obsolete Provision Regarding the Parcel Dedication Option: The section of the ordinance permitting a developer to dedicate a residential parcel(s) within the development to the County for future development of affordable housing by the County is proposed to be deleted (Section 17.10.038). Historically, this section has rarely been utilized by developers because it was financially infeasible and due to current requirements that subdivision applications must include architectural plans for all units to be constructed on all lots, for all intents and purposes, this provision is no longer applicable.

In addition to the proposed amendments to the Affordable Housing ordinance discussed above, on March 19,2002 your Board directed staff to evaluate the process currently used to select eligible Measure J purchasers and to consider establishing selection criteria among eligible purchasers. Given the large number of interested Measure J purchasers and the limited number of new Measure J homes available for initial purchase or re-sale, and the potential to add new units to the program through the proposed Existing Unit Conversion Program, staff believes it is appropriate to review program operations. Planning staff will confer with County Counsel about this issue, and consider issues discussed by your Board such as the prioritization for County residents or strategies involving criteria to minimize traffic impacts and other pertinent issues. Staff will return to your Board on August 27, 2002 with recommendations concerning this matter.

**Discussion and Conclusion**

The proposed amendments to Chapter 17.10, the County's Affordable Housing Ordinance includes measures to ensure an equal application of program requirements to all projects subject to the ordinance through a fractional fee mechanism, and provides for an innovative program to create a greater number of affordable units by eliminating the in-lieu fee option and creating a new Existing Unit Conversion Program. The proposed amendments respond to your Board's interest in addressing affordable housing issues and improving the County's Affordable Housing Program and at the same time provide for program flexibility and respond to concerns raised during public hearings relating to maintaining the existing 15% requirement and maintaining the current threshold whereby the ordinance is only subject to projects containing **5** or more units.

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

1. Approve in concept the proposed ordinance amendments to Chapter 17.10 (Attachment **3** and the proposed amendments to the Affordable Housing Guidelines (Attachment **4);**

2. Direct the Clerk of the Board to place this item on your April 16,2002 agenda for final adoption;

3. Report back to your Board on March 2003 with a program evaluation of the Existing Unit Conversion program;

**4.** Request the Housing Advisory Commission consider possible ways to apply the Measure J inclusionary requirements to subdivisions proposed with second units and request HAC's recommendation be forwarded to the Planning Commission for their review, with a report back to the Board on or before September 10,2002, with possible recommendations about this matter;

5. Direct the Planning Department to review the program operations involved with the selection of eligible Measure J purchasers, and confer with County Counsel about possible strategies to prioritize potential Measure J purchasers, and return to your Board on August 27,2002 with a staff evaluation and possible recommendations concerning the selection of Measure J purchasers; and

6. Direct the Planning Department to develop a detailed analysis of the potential sites in the County that could accommodate a larger number of units and include in the Housing Element suggestions to increase affordable housing requirements for these types of projects.

Sincerely,

Alvin D. James

Planning Director

RECOMMENDED:

Susan A. Mauriello

County Administrative Officer

SM:ES

cc: Housing Advisory Commission
Planning Commission
County Counsel
Redevelopment Agency

**37. CONSIDERED amendments to the Affordable Housing Ordinance relating to In-lieu fees and associated guidelines;**
**continued until March 12, 2002 consideration of amendments to the Affordable Housing Ordinance relating to In-lieu fees and associated guidelines; with an additional direction that Planning return with a report which would include the following: an alternative proposal on the rounding that would tie the fraction to the cost of affordable housing rather than the difference between market rate and affordable housing; the advantages and disadvantages of including affordable second units in these projects; the option for the purchase of existing housing both in terms of the protection of rental units and not just the purchase of for sale units; the advantages and disadvantages of using a simpler ratio of 2 for 1; scaling affordable housing requirements that would allow smaller projects to have a lower burden per unit and the habitability of the units and how to protect that if the units are brought into a conversion program**

**WPACB**

**ATTACHMENT 2**

**AFFORDABLE HOUSING ORDINANCE AMENDMENTS STAFF REPORT**

As directed by your Board on February 5,2002, staff has analyzed the concerns of your Board and of the public related to the proposed changes to the County Affordable Housing Program considered on November 6,2001, January 15 and February 5,2002. The concerns and analyses requested on February 5 were the following:

1. An alternative basis for the fractional unit fees, based on the cost to produce an affordable unit rather than on the formula proposed on February 5 (the difference between the market price and the affordable price);
2. The advantages and disadvantages of including affordable second units in new residential projects to replace fractional unit fees, as proposed by developers;
3. The potential loss of rental housing stock and potential displacement of tenants which might result from the proposed "Existing Unit Conversion" option, and/or possible measures to protect against such losses or displacement;
4. The advantages and disadvantages of using a flat ratio of 2:1 to determine the number of converted units required under the proposed Existing Unit Conversion option;
5. Requiring a smaller percentage of inclusionary units of smaller projects than that required of larger projects (those above a certain threshold of units); and
6. Measures to ensure the habitability and physical quality of existing units accepted for use under the Conversion inclusionary option.

Additionally, this staff report will cover the two items that were deferred on January 15,2002:

7. The proposal to raise the inclusionary housing requirement to 20%.
8. The proposal to apply the inclusionary housing requirements to all land divisions or residential developments of 2 or more units (from the current threshold of 5 or more units).

The above items fall into three general categories based on the overall goals of the proposed changes. These goals, and the associated items from the above list, are the following:

- To eliminate the in-lieu fee option and establish the Existing Unit Conversion Program (Items 3, 4, and 6)
- To ensure equal application of the Affordable Housing Ordinance to all housing projects (Items 1 and 2)
- To increase the number of affordable housing units generated through the program (Items 5, 7, and 8).

This report is organized into three sections according to the three goals explained above.

## I. Eliminate the in lieu fee option and establish the Existing Unit Conversion Program

As proposed by staff and approved in concept by your Board on November 6,2001, the revised Affordable Housing Ordinance would no longer include the option for developers to pay a fee in lieu of providing the required affordable housing in their projects (the "In lieu fee" option). This change was based on recommendations from the Housing Advisory Commission to your Board, following their review of the results of this option, and their perception that utilization of the "in lieu fee" option did not result in the timely production of affordable units which would otherwise have been built within the projects. In order to continue to provide developers with at least several options for fulfilling the inclusionary requirements, and to ensure that every option allowed will provide affordable units in a timely manner, staff developed a proposal for a new

program, the Existing Unit Conversion Program, to replace the current in lieu fee option. This program would be utilized only if the developer preferred it to construction of affordable units within their residential project. Based on the discussion of this proposal during its hearing on February 5, additional clarification of the intent and structure of this program would be helpful at this point. Thus, such clarification is provided below, followed by direct responses to the concerns raised during the February 5 hearing.

Existing Unit Conversion Program Statement

The goal of this proposed option is: 1) to provide developers with an alternative to the construction of required affordable units in new housing developments; and 2) to provide affordable ownership units in a timely manner to the large number of eligible local households who currently need and want them. This new option would replace the current "In-Lieu Fee" option, which the Housing Advisory Commission has recommended to eliminate, due to its perceived failure to produce affordable ownership units in a timely manner.

This option involves the acquisition of existing market-rate housing and its sale to eligible purchasers at an affordable price. The standard Measure J permanent affordability covenant would be placed on properties purchased in this manner as a condition of sale. In this manner the buyer is accepting the affordability covenant in exchange for the developer's subsidy of the purchase, which fulfills the developer's affordable housing requirements. The format of this program is essentially a privately funded version of the First Time Homebuyer Program. The reduction in production time (as compared to public projects funded by in lieu fees) **is** achieved by substituting a major construction project with a simple real estate sale transaction. This time savings is an advantage to both the developers, the County, and to the eligible purchasers waiting for affordable units, many of whom have been waiting for years. **As** proposed, if this option is utilized by a developer, it would provide at least two converted affordable units for every new affordable unit that would have otherwise been built, thereby housing twice as many moderate or low income families as are currently housed by any residential development subject to the inclusionary requirements, and doubling the number of units added to the community's supply of units with long-term affordability restrictions.

This program was proposed for implementation as a pilot program for one year, after which time its results should be reviewed by the Board and program modifications could be prepared. However, if developers are not interested in this option, or if the Board feels it would require too much administrative oversight,' it could simply be dropped from the proposal, leaving developers only the non-profit partnership option to utilize as an alternative to constructing units on site. That option is dependent on the somewhat limited administrative and financial capacity of local non-profit developers to produce affordable units of the same type (moderate income ownership units), quantity, and in the same time frame as the inclusionary units that would otherwise be built within the market-rate developments.

Developers wishing to pursue the conversion option would be required to obtain an option on two existing market-rate dwelling units for every inclusionary unit required of their project. These units would be required to meet minimum physical standards and pass an inspection to guarantee health, safety, and satisfactory condition. Developers would then arrange for the sale of

[1] It is assumed that this option would require substantially less administrative oversight than County-sponsored affordable housing production financed by the funds gathered from the in-lieu fees.

the units to eligible moderate income households for the affordable price (using the eligibility and sale price standards in the Affordable Housing Guidelines, as modified annually). As a condition of sale, purchasing households would be required to execute and record the standard "Affordable Housing Declaration of Restrictions," thereby binding their properties to the affordability requirements for owner-occupied units contained in County Code 17.10 and the Affordable Housing Guidelines.

Each unit sold through this program is thus converted into a permanently affordable unit, located in any neighborhood within the same planning area as the new housing development. This option operates in a similar manner to the First Time Homebuyer Program, in that it makes much of the County's housing stock available for potential conversion to permanent affordability, rather than just a small portion (15%) of the few new homes built each year. The developer would be providing the converted units at a subsidy amount similar to the existing in lieu fee rates, yet would be able to recoup a much greater revenue from the sale of the market rate unit(s) that would have otherwise been sold at the affordable price. In effect, it is a compromise between providing the developers with a way to fulfill their inclusionary requirements with a cash contribution, while still providing a proportional and timely supply of affordable units, in accordance with the minimum 15% affordable housing requirement of Measure J.

Discussion of Concerns Raised Regarding Proposal

***Item 3: The potential loss of rental housing stock or potential displacement of tenants which might result from the proposed "Existing Unit Conversion" option, and/or possible measures to protect against such losses or displacement***

*Context of Proposal*

Since the current spike in local housing prices began in 1999 or so, many of the local rental units which can be owner-occupied, such as condos, townhomes, and single family homes used as rentals, have been sold off by investor-owners and purchased by homebuyers who displace the renting tenants.* This gentrification risk is inherent to all rental housing that can be owner-occupied, and is a significant disadvantage of housing markets where the bulk of rentals are not dedicated rental properties such as multi-family apartment complexes, but rather owner-occupied units that trickle down to the rental market at some point. When housing markets heat up, as in recent years, those former investment properties become attractive options for prospective homebuyers (in effect, trickling back up to owner-occupancy), and are lost from the rental market, further exacerbating the shortage of affordable rental units and resultant price increases, overcrowding and so on.

Sales of currently rented properties to owner-occupants are commonplace in the local market, and occur without any requirements that the purchaser or seller provide relocation benefits to the tenants, and without any minimum physical standards in place to protect the purchasers. Furthermore, if current lending practices are an accurate reflection, most of these transactions occur either at sales prices that constitute a "high-cost burden" to the purchasers (spending well

[2] First Time Home Buyer programs available through local jurisdictions, some State programs, and the federal Mortgage Credit Certificate program, administered by the Housing Authority, also assist low and moderate income home buyers in purchasing existing units, which may be rentals or owner-occupied units at time of purchase. These homebuyers often displace renting tenants, as do unsubsidized homebuyers of resale homes.

over 30% of household income on housing); or at prices that are not affordable to the tenants or to other moderate and lower income households.

The proposal for conversion of existing units, if implemented, would improve upon the existing situation in several ways, as it would provide tenants of converted units a number of protections they don't currently have against risks they do currently face. If units proposed for conversion happen to be used as rentals at time of sale, this proposed program would:

- Guarantee moderate or low income tenants of the unit the right of first refusal to purchase their current residence at the affordable price, if they are eligible;
- Provide any tenants with relocation benefits if they do not purchase the unit for any reason;
- Require that the units meet minimum physical standards to protect the purchasers' investment and the health and safety of their household;
- Subsidize the sales price to make it affordable to the tenant (if eligible) or other moderate income households; and
- Create a permanent affordability covenant that will ensure that the unit will be available to future moderate and lower income homebuyers.

Furthermore, a good portion of the current tenants of any rental units which might be converted through this option are likely to be eligible and interested purchasers of the their units. Nonetheless, a number of measures have been proposed for inclusion in the Affordable Housing Guidelines in order to protect tenants and the portion of the rental housing stock which could potentially be converted.

*Proposed Guidelines to Protect Tenants of Units Proposed for Conversion*

The following proposed amendments to the Affordable Housing Guidelines were designed to prevent or minimize adverse impacts to tenants and rental housing stock, and are included in the proposed Section 12 - Existing Unit Conversion Program:

*(e) The units to be purchased must not be subject to any rent limits, resale price restrictions, or other affordable housing restrictions imposed by any government or non-profit agency or land trust at the time of purchase for use under this program. Conversion of multi-family rental property to condominium ownership will not be approved as part of the project.*

*(f) If the units to be converted are occupied and rented by moderate or lower income households at the time of conversion, the occupying tenants must be given the first right of refusal to purchase the units if they meet the eligibility requirements under these Guidelines, and can obtain necessary financing within 60 days of being notified of the sale by the owner. If tenants cannot be certified as eligible to purchase or cannot obtain necessary financing, relocation benefits must be provided to the tenants by the developer as a condition of project approval. These relocation benefits shall consist of the immediate payment of three months 'fair market value rent for a unit of comparable size, as established by the most current federal Department of Housing and Urban Development schedule of fair market rents, or three months of the tenant's actual rent at the time of relocation, whichever is greater.*

This language should be sufficient to ensure that tenants of any rental units converted under this program have the opportunity to purchase their current residence at an affordable moderate income price if they are eligible, and that they will receive relocation benefits (three months' rent for a comparable unit) if they cannot purchase the unit for any reason. This would provide the tenants of converted units more protection than they currently have, and would provide moderate and low income households renting for-sale housing with a greater opportunity to become homeowners than they have at this time.

If erosion of the existing rental stock is a serious concern, a requirement could be included in the Guidelines that allows only owner-occupied properties to be eligible for this program (owner-occupancy to be verified by a current homeowner's property tax exemption and verification of the current owner being the most recent permanent resident of the property). Such a requirement would somewhat reduce the number of properties available for conversion. This issue could be considered as part of the program evaluation after one year.

It should be noted that conversion of multi-family rental properties to condominium ownership as part of this option is not permitted under the proposed Guideline amendments. Therefore existing multi-family rental properties would not be affected by this proposal.

***Item 4: The advantages and disadvantages of using a flat ratio of 2:1 to determine the number of converted units required under the proposed Existing Unit Conversion option***

*Advantages*

**A** fixed 2: 1 ratio for the substitution of existing units for new affordable units would be simpler to administer and simpler for the public and developers to understand.

*Disadvantages*

Use of a fixed ratio may place a disproportionate burden on lower priced projects, however this ratio is used only when the developer opts to utilize the existing unit conversion option in lieu of constructing affordable units on site. If the developer finds it cost prohibitive to provide existing units at the 2: 1 ratio, they may always build units on site, which is the preferred way to provide affordable housing (integrated housing) under the original stated intent of Measure J; or they may partner with a non-profit housing provider at another site. The proposed guidelines for this program, based on the current Measure J standards for new affordable units, would require existing units to equal at least 75% of the size (square footage) of the market-rate units in order to be accepted into the conversion program (with some allowance for smaller minimum sizes at the discretion of the Planning Director). This standard would, in effect, make the cost burden of utilizing this option somewhat proportional to the revenue potential of the project.

*Staff Recommendation*

Implement the existing unit conversion program with a flat 2: 1 ratio and evaluate its results after one year.

***Item 6: Measures to ensure the habitability and physical quality of existing units accepted for use under the proposed conversion program***

*Minimum Physical Standards in Code and Guidelines*

A number of physical standards are proposed for use with this program. These standards are contained in Sections 6 and 12(c) of the Affordable Housing Guidelines, as proposed for amendment (Attachment 4 of this agenda item) in order to ensure that only safe, well-maintained housing is accepted in lieu of new Measure J units. Some of these standards require minimum size and features equal to those required of new units, while other standards relate to the actual condition of the units, and are proposed specifically to deal with existing units. These standards were developed in consultation with the County Building Official and with Redevelopment Agency rehabilitation staff, and are considered to be sufficient for the purposes of this program. They require inspection of the units by certified home inspectors, and by Redevelopment Agency staff. These physical standards meet or exceed those currently in use for Measure J resale units, the First Time Homebuyer Program, and for the federal Section 8 housing program as administered locally by the Housing Authority.

Just as the current physical standards for Measure J units in the County Code and the Guidelines have been adapted slightly for use with the proposed conversion program, the existing administrative procedure which ensures that new Measure J units are built and sold in accordance with the requirements can also be modified slightly for use in implementing the proposed Existing Unit Conversion Program. The proposed adapted administrative procedure, based on the existing Measure J procedure, is described below.

*Administrative Procedure for Enforcing Quality Standards*

This procedure takes place concurrently with the building permit process for the market-rate units in a residential development. The affordable housing requirements, regardless of which option is used, must be fulfilled in order for the developer to receive final building permit inspection clearance on a portion of the market-rate units in the development. This clearance is necessary for the market-rate units to receive electricity and gas and to close escrow, so it provides sufficient motivation for the developer to comply with the inclusionary requirements in a timely fashion.

1. Developer who has opted to convert units identifies existing units for potential conversion and notifies Planning Department of the properties' location, size, and number of bedrooms for comparison to the minimum requirements in that project's Participation Agreement. If properties meet those standards, Planning staff direct developer to proceed with property inspection as described in the Affordable Housing Guidelines Section 12 above.

2. Upon receiving approval of the units from RDA, developer submits a "Notice of Intent to Sell" to the Planning Department and is notified of the maximum allowable sale price for each unit (an estimated maximum price can be provided much earlier in the process upon inquiry).

**3.** The inclusionary requirements are considered fulfilled when the units have entered escrow with certified eligible buyers at the affordable price, and the County has been provided with the escrow information necessary to send escrow instructions to ensure that the transaction complies with the program guidelines. At that point, housing provides clearance of the

building permit inspections for the developer's remaining market rate units. Planning staff monitor the escrow transactions of the affordable units to ensure that they are completed in compliance with all program requirements.

The above standards and administrative procedures should be sufficient to ensure that only safe and decent housing units are accepted as converted affordable units under this program, that the standards are comparable to those used for new affordable units, and that these standards meet or exceed those used for the First Time Homebuyer Program.

**11. Equal application of the Affordable Housing Ordinance to all housing projects**

***Item I: An alternative basis for the fractional unit fees, based on the cost to produce an affordable unit rather than on the formula proposed on February 5 (the difference between the market price and the affordable price)***

In order to determine a cost estimate, staff made numerous requests for actual recent cost data, particularly land cost data, from the developer offering this suggestion. The developer indicated there were many complex variables affecting actual costs. No written or actual data was provided, however a rough guess regarding single lot costs was provided orally. Based on this input from private developers and from the Redevelopment Agency, the current costs to produce a standard sized three bedroom affordable (ownership) unit are conservatively estimated to be approximately $350,000.

The major factor in unit production cost is the land cost, which is difficult to estimate due to the small number of lots or parcels sold each year in the urbanized areas of the County, and the large range in value due to site characteristics such as views, proximity to the ocean, values of homes in the immediate neighborhood, proximity to commute corridors, and so on. A preliminary study of lot sales in 2000 and 2001, according to Assessor's data, produced an average lot cost of $415,500 for single family lots of 2,500-8,500 square feet within the unincorporated urban service areas. Many of these lots were in the Seascape Uplands subdivision in Aptos, which offers many sites with ocean views and a relatively exclusive atmosphere, therefore these sales may not relate directly to the land cost of sites likely to be purchased for affordable housing development. If entire subdivison purchases (multiple lots purchased by one buyer) are included, this average drops to $333,500, however only two such transactions were found in this data set. However, the relative rarity of lot sales (including whole subdivisions of lots sold in single transactions) elsewhere in the county makes accurate estimation of typical site costs difficult. A $200,000 figure was discussed as an estimate provided by a developer for typical improved lots in the Soquel and Live *Oak* areas. Construction, permitting, utility connection and miscellaneous costs were estimated at roughly $150,000 in total per unit. These two amounts produce a total unit cost of approximately $350,000 at this time. This estimate is within the range of estimated per unit cost in current Redevelopment Agency project budgets for affordable ownership units.

If the subsequent affordable sales price for a three-bedroom unit (currently approximately $215,000) were subtracted from this estimated cost, the net subsidy required would be $135,000. Nonetheless, in order to produce an affordable unit, the entire cost ($350,000 or actual cost) must be available well in advance of receipt of the sale revenue, either in the form of construction financing, grants, or other available funds. While it is arguable that a fee should reflect the entire cost, and not be limited to the net subsidy (cost less gross sale revenue), staff believes that the fee should reflect the net cost to produce an actual unit.

***Item 2: The advantages and disadvantages of including affordable second units in new residential projects to replace fractional unit fees, as proposed by developers***

This idea was proposed by developers as an alternative to the proposed system of fee payment to cover fractional inclusionary unit requirements. It was also suggested that second units could be allowed as an alternative to construction of standard inclusionary units, at the developers option, where several second units would substitute for each inclusionary unit required. It should be noted that, although second units have been widely promoted by architects and designers for at least a decade, only a handful of developments nationwide have actually been built including such units. Most of these were greenfield developments in new suburbs, not subject to the intense scrutiny of existing residents, and only one infill development is known to have provided second units on a handful of lots.[3] These developments appear to have included second units as a design feature offered by the developer, not as a way to fulfill affordability requirements, as proposed on February 5th.

The developer's suggestion to your Board was not a fully developed proposal, and it is unknown at this time whether such a project would be feasible or worthwhile to developers in the local context. It is assumed that if such projects were relatively feasible and in high demand, they would have been more widely built (or at least proposed) by this time, at least in other nearby markets such as the Bay Area. Due to the purely conceptual nature of this proposal, the discussion of its potential advantages and disadvantages that follows is also conceptual in nature.

*Advantages of Building Second Units in New Subdivisions*

The idea to design and build second units as part of new subdivisions has merit from a design standpoint, as it would provide needed housing units that are well integrated into a development and have sufficient infrastructure for future occupants. Some of the advantages of this type of development include:

- Increasing the density of detached single family developments by adding an additional small unit to some or all of the lots, thereby increasing the efficiency of land use.
- Providing market-rate buyers who seek a property for themselves and extended family with additional choices within the market of new homes that serve that need.
- Providing developers with an added value to their product and therefore a correspondingly higher sales price and potentially higher revenue.
- Providing homebuyers with the possibility of subsidizing their mortgage payments with rental income from the additional unit, if they desire to use it as a rental rather than for extended family. This possibility would depend on how the additional price increment (and corresponding portion of the overall mortgage payment) charged for the second unit compares to the possible rental income from the unit, particularly if the second units would be subject to low income rent limits.
- Providing small rental housing units that can meet the needs of the property owner's family members, domestic employees, or potential tenants.
- Adding a greater number of units to the physical housing stock than would otherwise be added by a standard single-family development, and providing the possibility for some of those second units to become available to low income households as affordable rental stock at some time in the future.

[3] Kyle, Selena. 2000. *There Goes the Neighborhood: The Failure and Promise of Second Units as a Housing Source for the Midpeninsula,* Master's Thesis, Stanford Program on Urban Studies, **May** 2000.

For the above reasons, staff recommends that this type of development be encouraged in areas zoned for single-family development.

*Disadvantages of Substituting Second Unitsfor Standard Affordable Housing*

Although there are no anticipated disadvantages to this proposal from a design standpoint, there are a number of foreseeable disadvantages to the proposal to allow provision of second units within new subdivisions to replace the inclusionary housing that would otherwise be required (whether it replaces whole units or only fractional fees). These disadvantages are:

- This proposal would not meet the inclusionary standards that require the affordable units to be comparable to the market rate units (in size, tenure type, number of bedrooms, visual appearance, access).
- There are hundreds of local households currently waiting for the opportunity to purchase a Measure J unit or other home at a similar price. These households are already housed in local rental units of some kind. Their unmet housing needs are for affordable ownership housing, not second units.
- Neither the size of second units nor their current occupancy restrictions would permit these units to serve the moderate income families who are the main clientele for the Measure J ownership units.
- The market is producing second units voluntarily (20-30 legal units per year); while affordable ownership units are produced rarely (0-5 per year) and only when required under Chapter 17.10.
- There is no practical or legal way to force a second unit owner to make their unit available as a rental, either initially or on an ongoing basis.
- It is almost impossible to effectively monitor second units to ensure that they are providing affordable rental housing without seriously infringing on the privacy of the property owner, and any occupants of the second units
- Second units, like all rental units within owner-occupied properties of four or fewer units, are exempt from the federal Fair Housing Act and Fair Housing Regulations (US Code Title **42** §3601 et seq., and 24 CFR 100-125) which prohibits discrimination in the sale, rental, and advertising of housing based on race, color, religion, sex, handicap, familial status, or national origin.

*Staff Recommendation on Proposal to Provide Second Units in New Subdivisions tofulfill Inclusionary Requirements*

In light of the issues mentioned briefly in this analysis, staff recommends the following actions:

Direct the Housing Advisory Commission to consider the proposal and possible alternatives, such as:

a. Allow subdivisions with second units, and require that 15% of the properties be sold as affordable ownership units with an adjusted maximum sale price to allow for the added value of the second units. This alternative recognizes the fact that moderate and lower income families also have the same housing needs as higher income families (extended family to house and care for), and would create truly "inclusionary" developments as originally intended by Measure J; or
b. Rather than providing second units as the affordable units, provide a "dwelling group" of 3-4 attached units designed to appear like the large single family homes in the

development, in lieu of providing 1 or 2 affordable units that meet the current Measure J design standards.

2. Direct staff to solicit feedback from the public, including developers, on building second units in new subdivisions during the upcoming public hearings on the Housing Element Update. Input should be solicited related to: degree of demand for such properties, prices the interested purchasers would be able to pay for such properties, design and location preferences, potential regulatory changes that would be necessary to enable such development, financial feasibility based on the market studies, developer interest, and so on. If this input indicates strong interest in this type of development, direct staff to incorporate the public input into policies regarding such development in the draft Housing Element.

## III. Increase the number of affordable housing units generated through the program (Items 5, 7, and 8).

***Item 5: Require a smaller percentage of inclusionay units of smallerprojects than that required of larger projects (those above a certain threshold of units)***

This idea was offered by developers during the February 5,2002 hearing as an alternative to the proposal to raise the inclusionary requirement to 20%, as approved in concept on November 6, 2001. The suggestion was to apply the 20% requirement only to larger projects, for instance those of 20 or more units, as those are better able to bear the burden of providing affordable units. There was some consensus among developers that larger projects could bear a 20% requirement, but that 15% was the maximum feasible for smaller projects. This suggestion is reasonable in concept, and similar approaches have been used in some jurisdictions.

In the current context of real estate development in this jurisdiction, the use of a 20-unit threshold would affect very few projects, as most of those approved in the last few years have had between 4 and 15 units. However, with the projected continual growth in demand for housing, and with increased acceptance of higher-density infill projects (or alternatively, more housing development in rural areas), more local projects are expected to reach the 20-unit threshold in the future. In order to accurately determine what the financial implications of the inclusionary requirements are and where the feasibility breakpoints are for projects of different sizes, actual financial data (project pro formas and related real estate market data) from recent and current developments should be analyzed in depth, if they are made available by local developers. The very small number of projects developed in any given year, and the rapid increase in land and other costs from year to year, make it difficult to make reliable projections regarding development feasibility into the future. However, this type of analysis is badly needed in order to determine what steps could be undertaken by the County to make housing affordable to most of the public a financially feasible venture for either non-profit, public, or private developers. Without this type of data, any financial impact analysis would be superficial and of no use to policymakers.

*Staff recommendation:*

Request further analysis in the context of the Housing Element, and solicit actual project pro formas and other pertinent information from interested developers for staff analysis upon which to base recommendations regarding local housing policy.

**ATTACHMENT 2**

**AFFORDABLE HOUSING ORDINANCE AMENDMENTS STAFF REPORT**

***Item 7: Theproposal to raise the inclusionay housing requirement to 20%.***

*An* analysis of this proposal can only be very simplistic at this point in time, as a number of changes to the inclusionary requirements are being considered concurrently, and the financial implications of a 20% requirement would be different depending on which of the proposed changes would be implemented with the 20% requirement. For instance, if the current rounding system is eliminated and a fractional fee system implemented, a 20% requirement would have a different effect than if the current rounding methods are continued, or if a fractional fee is used, the fee rate (also undetermined at this time) would be a significant factor in calculating the impact of a 20% requirement. Due to these uncertainties, a preliminary analysis based on several assumptions is provided herein, until such time as the other factors have been determined.

**A** set of theoretical projects ranging in size from 5 to 20 units was considered for a comparison of how many inclusionary units would be required under three possible requirements. The three alternatives considered were:

1. The current 15% requirement and rounding system as contained in Chapter 17.10.
2. **A** 15% requirement with the proposed calculation method and fractional fees.
3. A 20% requirement with the proposed calculation method and fractional fees.

The table on the following page shows how many affordable units would be required of projects with 5-20 units under each of the three alternatives above. As indicated, Alternative 3 would require projects of 10, 15, 16, and 20 units to include one more affordable unit than they would under the existing ordinance. For most of the project sizes, the 20% requirement as proposed would result in new fees rather than an increased number of affordable units built in each project. For a 5 unit project, Alternative 3 would not cause any additional requirements.

Alternative 2 applied to projects of 5, 6, 11-13 and 17-19 units would actually require fewer inclusionary units than required under the current ordinance. In projects of those sizes, a fractional fee would be paid rather than building one affordable unit that would be required currently. In projects of 7-10 and 14-16 units, a fractional fee would be paid in addition to the affordable unit(s) required currently. **A** twenty unit project would have the same inclusionary requirement under this alternative as it currently has.

**Number of Affordable Units Required Under Various Alternatives**

| Units in Project | Alternative 1: Current Requirements | Alternative 2: 15% with Proposed Changes | Alternative 3: 20% with Proposed Changes | Change from Current Requirement under Alternative 2 | Change from Current Requirements under Alternative 3 |
|---|---|---|---|---|---|
| 5 | 1 | 0.75 | 1 | *-0.25* | |
| 6 | 1 | 0.90 | 1.2 | *-0.10* | 0.20 |
| 7 | 1 | 1.05 | 1.4 | 0.05 | 0.40 |
| 8 | 1 | 1.20 | 1.6 | 0.20 | 0.60 |
| 9 | 1 | 1.35 | 1.8 | 0.35 | *0.80* |
| 10 | 1 | 1.50 | 2.0 | *0.50* | 1 |
| 11 | 2 | 1.65 | 2.2 | *-0.35* | *0.20* |
| 12 | 2 | 1.80 | 2.4 | *-0.20* | 0.40 |
| 13 | 2 | 1.95 | 2.6 | *-0.05* | 0.60 |
| 14 | 2 | 2.10 | 2.8 | 0.10 | 0.80 |
| 15 | 2 | 2.25 | 3 | 0.25 | 1 |
| 16 | 2 | 2.40 | 3.2 | 0.40 | 1.20 |
| 17 | 3 | 2.55 | 3.4 | *-0.45* | 0.40 |
| 18 | 3 | 2.70 | 3.6 | *-0.30* | *0.60* |
| 19 | 3 | 2.85 | 3.8 | *-0.15* | *0.80* |
| 20 | 3 | 3 | 4 | | 1 |

Translating the above potential changes in inclusionary unit requirements into actual financial impacts for a development can only be done in a very rudimentary manner until decisions are made regarding the proposed non-rounding system and the fee rate to be charged.

***Item 8: The proposal to apply the inclusionary housing requirements to all land divisions or residential developments of 2 or more units (from the current threshold of 5 or more units).***

Considering that the Board has approved a General Plan policy to maintain the designated residential density ranges, a number of potential 4 unit projects will now be more likely to be proposed as 5 or more unit projects, and therefore subject to the inclusionary requirements. Given that the County is about to embark on the extensive public process of updating the Housing Element, various alternative means to create and finance affordable housing can be developed based on the public input received during the hearings. Therefore staff recommends that the proposal to apply inclusionary requirements to projects of 2-4 units be deferred at this time.

**ATTACHMENT 3**

**ORDINANCE NO. _____**

**ORDINANCE AMENDING CHAPTER 17.10 OF THE SANTA CRUZ COUNTY CODE RELATING TO AFFORDABLE HOUSING**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

Section 17.10.020 of the Santa Cruz County Code is hereby amended to read as follows:

**17.10.020 Definitions.**

For the purpose of this chapter, the following words and phrases shall be defined as set forth in this section.
(a) Administering Agency: The Redevelopment Agency of the County of Santa Cruz, the Santa Cruz County Planning Department or any other agency as determined by the Board of Supervisors, which is involved in t administration of the County's Affordable Housing Program.
(b) Affordable Housing: Housing which is affordable to average or below average income households, as required, regulated and allowed by this Chapter. Affordable housing units are the same as inclusionary units for the purposes of this Ordinance.
(c) Applicant: Any person, firm, partnership, association, joint venture, corporation, entity, or combination o entities seeking County permits and approval.
(d) Assisted Housing: Any project receiving all or a portion of its development funding from any local, State or Federal governmental or non-profit funding source which meets the criteria for affordable housing specified in the ~~Income, Asset and Unit Price~~ Affordable Housing Guidelines.
(e) At One Location: All adjacent land owned or controlled by the applicant, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, other public or private right-of-way, or separated only by other lands owned or controlled by the applicant.
(f) Average (Moderate) Income Households: Households with incomes between 80 and 120 percent of the median household income for the Santa Cruz Primary Metropolitan Statistical Area (PMSA), as determined periodically by the U.S. Department of Housing and Urban Development (HUD). The definition for average income households for the purposes of this ordinance corresponds to the definition of moderate income households for State and Federally assisted housing programs.
(g) Below Average (Lower) Income Households: Households with annual incomes less than 80 percent of median household income for the Santa Cruz PMSA. The definition for below average income households for the purposes of this ordinance corresponds to the definition of low income households used for State and Federally assisted housing programs.
(h) Congregate Senior Housing: Senior housing with individual living units which provides residents with central management, a minimum of two meals per day in a central dining facility, and transportation services. Congregate housing also provides recreational and social activities and

facilities. Maid and linen service, sundries, beautician, banking and other similar services may also be made available where they are appurtenant to the congregate use on the site. Another term used for congregate housing is Life Care Facility, which is a congregate development as described above in conjunction with a nursing and medical facility.

(i) Dwelling Unit: A dwelling designed for occupancy by one family or household.

(j) Eligible Purchaser: A household which is qualified by the administering agency, according to procedures established by the County, as meeting the requirements of this chapter for the purchase of affordable units; or a public body providing affordable housing; or an investor-owner as defined in Subsection (r) of this Section.

**(k)** Eligible Renter: A household qualified by the administering agency, according to procedures established by the County, as meeting the requirements of this Chapter for the rental of affordable units.

(1) Final Inspection: Inspection performed by the administering agency to verify completion of the housing project per approved plans and to allow occupancy of housing units.

(m) Housing Costs: The monthly mortgage, principal and interest, property taxes, association fees, and required homeowner's insurance for ownership units, and the monthly rent for rental units.

(n) HUD: The U.S. Department of Housing and Urban Development.

(o) Inclusionary Housing Units: Housing units which are affordable to average or below average income households as required, regulated, and allowed by this Chapter. Inclusionary housing units are the same as affordable housing units for the purposes of this Chapter.

(p) Investor-Owner: An individual, partnership or corporation which develops or purchases affordable housing units for rental to below average income households.

(q) Market Rate Unit: **A** dwelling unit which is not subject to the rental, sale or resale regulations of this Chapter.

(r) Median Income: The median income for the Santa Cruz PMSA, unless otherwise stipulated, as periodically determined by HUD. The current County median income figure is contained in the County's Income, Asset and Unit Price Guidelines.

(s) New Dwelling Unit: A dwelling unit that is newly constructed on a site, including replacement dwellings.

**(st)** Owner-Builder: An individual or household who proposes to build a unit, with or without the assistance of a contractor, for his/her primary place of residence.

(~~t~~u) Project: A residential development or land subdivision proposal for which County permits and approvals are sought.

(~~u~~v) Resale Controls: Legal restrictions by which the price of affordable units will be controlled by this chapter for a specified period of time.

(~~v~~w) Section 8: The major federal housing program in which eligible very low income and low income households receive financial assistance to rent housing units.

(~~w~~x) Very Low Income Households: Households with annual incomes less than 50 percent of median household income for the Santa Cruz PMSA. The definition of very low income households is used for State and Federally assisted programs and is included in the below average income household category for purposes of this ordinance. (Ord. 3002, 10/28/80; 3329, 11/23/82; 3502, 3/6/84; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96)

## SECTION II

Section 17.10.030 of the Santa Cruz County Code is hereby amended to read as follows:

**17.10.030 Inclusionary housing requirements for residential development projects.**

(a) Projects Subject to Inclusionary Housing Requirements. The following residential development projects consisting of the construction of new dwelling units and/or the creation of new parcels intended for permanent residential occupancy shall be subject to the inclusionary housing requirements of this Chapter:

1. Residential Project At One Location. An application for a residential development at one location, whether to be constructed at one time or in phases, shall be subject to the requirements of this Chapter if it will result in the creation of

(i) five ***(5)*** or more new dwelling units; or
(ii) parcels providing building sites for a total of five (5) or more new dwelling units; or
(iii) a combination of new dwelling units and parcels together providing for a total of five (5) or more new dwelling units.

For purposes of this paragraph, "one location" shall include all adjacent parcels of land owned or controlled by the applicant, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands owned or controlled by the applicant.

2. Concurrent Adjacent Residential Projects. Applications for concurrent adjacent residential developments which together will result in the creation of five (5) or more new dwelling units, parcels providing building sites for a total of five (5) or more new dwelling units, or a combination of new dwelling units and parcels together providing for a total of five (5) or more new dwelling units, developed by applicants on adjacent properties either at one time or in phases shall be subject to the requirements of this Chapter. For purposes of this paragraph: "adjacent properties" shall include all adjacent parcels of land owned or controlled by the applicants, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands owned or controlled by the applicants; and "concurrent" applications shall include all applications which have been submitted and are concurrently being processed for action by the County. If the property ownership and application for one project contain no parties in whole or part, or their spouses, who are also a party to the property ownership and application of the concurrent adjacent development, the concurrent applications may be granted an exception to the affordable housing requirements imposed by this Chapter upon a showing satisfactory to the decision-making body that neither project receives direct financial benefit by virtue of the concurrent adjacent development.

**3.** Sequential Adjacent Residential Projects. Applications by the same owner or applicant for sequential adjacent residential developments which together will result in the creation of five (5) or more new dwelling units, parcels providing building sites for a total of five (5) or more new dwelling units, or a combination of new dwelling units and parcels together providing for a total of five (5) or more new dwelling units, developed on the same or adjacent properties either at one time or in phases shall be subject to the requirements of this Chapter. For purposes of this paragraph: "same owner or applicant"

shall include any person who participates in the development as a full or partial owner or applicant, or a spouse of such person; "adjacent properties" shall include all adjacent parcels of land owned or controlled by the owner and/or applicant, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands owned or controlled by the owner and/or applicant; and "sequential" projects shall include all projects for which applications have been submitted to the County within a period of ten (10) years.

(b) Inclusionary Housing Requirement. The affordable housing obligation for any project identified in Subsection (a) shall be calculated by multiplying the number of new dwelling units or new residential building sites by the affordable housing percentage for the type of project, as specified below. Projects which generate an affordable housing obligation of less than a whole unit or a fractional amount more than a whole unit(s) shall contribute funds equivalent to the fractional amount above or below a whole unit to the Measure J Trust Fund, as specified in Section 17.10.034(b). The project developer may elect to construct additional affordable unit(s) instead of paying the fractional fee. Those projects which generate an affordable housing obligation equivalent to a whole unit or units of affordable housing ~~Those residential development projects identified in Subsection (a)~~ shall ~~provide the following minimum number of~~ construct the affordable dwelling unit(s) ~~constructed~~ within the project pursuant to the requirements of Section 17.10.032, or alternately, shall meet the affordable housing requirement through the options provided in Subsection (c) below:

1.Standard Development. Standard development projects shall include the construction of affordable dwelling units equivalent in number to a minimum of fifteen percent (15%) of the total number of new dwelling units and new undeveloped residential building sites in the project;

2. Bonus Density Development. Eligible d~~D~~evelopment projects qualifying for bonus zoning density pursuant to Section 13.10.391 shall ~~include the~~ designate ~~construction of~~ the affordable dwelling units, ~~including those required for the bonus density, equivalent in number to no less than twenty-five (25% of the total number of all new dwelling units and new undeveloped residential building sites in the project;~~ specified in Section 13.10.391(b).

**3.** Priority Processing Development. Development projects qualifying for priority processing ~~pursuant to~~ shall meet the requirements of County Code Sections 17.10.040 (standard priority processing) ~~or 13.10.393(b) (bonus density priority processing) shall include~~ by the construction of affordable dwelling units equivalent in number to a minimum of twenty-five percent (25%) ~~or thirty-five percent (35%), respectively,~~ of the total number of new dwelling units and new undeveloped residential building sites in the project; or County Code Section 13.10.393(b) (bonus density priority processing) shall include the construction of affordable dwelling units equivalent in number to a minimum of thirty-five percent (35%) of the total number of new dwelling units and new undeveloped residential building sites in the project before the density bonus is applied.

4. Congregate Senior Housing Development. Congregate Senior Housing development projects developed pursuant to County Code Section 13.10.324 shall ~~include the construction of~~ designate affordable congregate care units equivalent in number to a minimum of thirty five percent (35%) of the total number of congregate care units in the project.

Where an applicant proposes to satisfy the affordable housing requirement through participation with a non-profit housing developer for the construction of affordable residential units on a different site, the affordable unit requirement shall be based on the total number of new dwelling units and new undeveloped residential building sites included at both sites. ~~In determining the number of affordable units required for a project, any decimal fraction less than or equal to 0.50 shall be disregarded, and any decimal fraction greater than 0.50 shall be construed as requiring one affordable unit.~~

(c) Alternative Options to Satisfy Inclusionary Housing Requirement. As an alternative to the construction of each affordable dwelling unit within a project as required pursuant to Subsection (b), the affordable housing requirements of this Chapter may be satisfied by one or a combination of the following options:

1. ~~Payment of an in-lieu fee pursuant to Section 17.10.034 in place of constructing a required affordable dwelling unit~~ Participation in the Existing Unit Conversion Program pursuant to Section 17.10.034; or
2. Financial contribution to a non-profit sponsored affordable housing project pursuant to Section 17.10.036 in place of constructing a required affordable dwelling unit on-site~~; or~~ .
~~3. Dedication of a residential parcel for the construction of an affordable dwelling unit for rent or sale pursuant to Section 17.10.038 in place of constructing a required affordable unit.~~

Use of these alternative options requires approval by the Approving Body at the time of the development approval.

(d) Unit Affordability Requirements
1. Term of Restrictions. Affordable ownership and rental units shall be subject to the requirements of this Chapter for the life of the unit.
2. Sales Price. The maximum allowable sales price for all affordable housing units created pursuant to the requirements of this Section shall be limited to be affordable to moderate income households, unless otherwise required to be affordable to lower income or very low income households in order for the project to qualify for bonus zoning density pursuant to Section 13.10.391 and/or public funding programs. The County shall establish maximum allowable affordable unit sales prices pursuant to the pricing guidelines in the Affordable Housing Guidelines adopted by the Board of Supervisors.
3. Rental Price. The maximum allowable rental price for all affordable housing units created pursuant to the requirements of this Section shall be limited to be affordable to lower income households unless otherwise required to be affordable to very low income households in order for the project to qualify for bonus zoning density pursuant to Section 13.10.391 and/or public funding programs. The County shall establish maximum allowable affordable unit rental prices pursuant to the pricing guidelines in the Affordable Housing Guidelines adopted by the Board of Supervisors.
4. Unit Occupancy. The income and assets of owner-occupant households shall not exceed the limits for a moderate income household, and for tenant households shall not exceed the limits for a lower income household, unless more stringent limits are required in order for the project to qualify for bonus zoning density pursuant to Section 13.10.091 and/or public funding programs. The County shall establish maximum allowable household income and asset levels in the Affordable Housing Guidelines adopted by the Board of Supervisors. Sales and rental contracts for affordable units shall not be enforceable, and sale and occupancy of units shall not be allowed until the purchasing and/or occupying household is certified by the County as meeting the established income and asset limits.

(e) Development Permit and Tentative Map Procedures.

1. Development Application. All appropriate maps and other materials submitted with an application for approval of a Residential Development Permit and/or Tentative Map for a project subject to the affordable housing requirements of this chapter shall explicitly identify those residential units and/or residential parcels within the project sufficient to satisfy the project's affordable housing requirements, and shall also indicate the affordable housing options(s) pursuant to Subsections (b) and (c) that the developer will utilize to fulfill the requirements of this Chapter. The identification of affordable units and/or parcels within the project shall be provided to ensure compliance with the requirement of this Chapter regardless of which of the affordable housing options ~~the applicant selects to satisfy the requirements of this Chapter~~ is approved by the Approving Body.

2. Development Conditions. The conditions of approval of a Residential Development Permit and/or Tentative Map shall identify ~~residential units and/or residential parcels within the project adequate to satisfy the project's affordable housing requirements. Such identification of affordable units shall be provided to ensure compliance with the requirement of this Chapter regardless of which of the affordable housing options provided in Subsections (b) and (c) that the applicant intends to eventually pursue.~~ how the development will meet the inclusionary housing requirements of this Chapter, as approved by the Approving Body.

(f) Participation Agreement Procedures. Prior to the recording of the Final Subdivision Map or the issuance of any Building Permits for residential units within the project, whichever event occurs first, an Affordable Housing Program Participation Agreement shall be signed by the Planning Director, or his or her designee, on behalf of the County and by the owners of the property having authorization to encumber the property and by any existing holders of trust deeds on the property. The Participation Agreement shall be binding on the heirs, assigns and successors in interest of the property owner, and shall be recorded in the Official Records of Santa Cruz County. The Participation Agreement shall include, at the minimum, the following provisions:

1. Binding of the Project Site. The Participation Agreement shall contain the affordable housing requirements established for the project pursuant to this Chapter and shall encumber the entire property on which the project is to be developed with the obligation to fulfill such affordable housing requirements.

2. Lien on Designated Parcels. The Participation Agreement shall create an enforceable lien on each of the affordable parcels designated in the conditions of project approval. ~~or alternately on every parcel in a project where the in-lieu fee option is chosen, to allow for collection of an in-lieu fee pursuant to Section 17.10.034 regardless of the option selected to satisfy the affordable housing requirement for the project. This lien is intended to allow for collection of such in-lieu fee(s) if needed to enforce compliance with the requirements of this Chapter and shall be released by the County upon fulfillment of the affordable housing obligations pursuant to this Chapter~~.

**3.** Selection of Affordable Housing Option. The Participation Agreement shall designate the option ~~selected~~ approved by the ~~applicant~~ Approving Body for satisfying the affordable housing requirements of this Chapter. Where allowed by specific reference elsewhere in this Chapter, the project developer

may subsequently change the designated option for satisfying the project's affordable housing obligations ~~with the written approval of the Planning Director~~ through an amendment approved by the Approving Body upon a written finding that all applicable requirements for the option selected shall be met. In approving an amendment, ~~making his or her this finding, the Director~~ the Approving Body may impose reasonable conditions upon the applicant to ensure compliance with the provisions of this Chapter.

**4.** Project Covenants, Conditions and Restrictions. The Participation Agreement shall include a provision prohibiting any amendments to a project's Covenants, Conditions and Restrictions that would increase the proportion of the homeowners association assessment payable by any affordable housing unit, and shall create a right of judicial enforcement of this requirement by the County and/or the owner of any affected affordable unit exclusively in favor of the owner of each affordable unit in the development.

5. Enforcement. The Participation Agreement shall include a provision providing for the payment by the owner to the County of a reasonable rental value of an affordable unit from the date of any unauthorized occupation, and for the recovery by the County of reasonable attorney fees and costs required to pursue legal action to enforce the Agreement. (Ord. 4509, 8/25/98)

## SECTION III

Section 17.10.032 of the Santa Cruz County Code is hereby amended to read as follows:

**17.10.032 Development of on-site affordable dwelling units.**

(a) Affordable Unit Standards. Affordable dwelling units may be constructed within a residential project with reduced size and interior amenities compared to the market rate units provided that the affordable units comply with all development standards enumerated in the Affordable Housing Guidelines as well as the following development standards:

1. Unit location. The affordable dwelling units shall be distributed throughout the development project. This distribution requirement may only be waived by the decision-making body upon a finding that such distribution is infeasible for one or more of the following reasons:
(i) Significant topographic or other constraints exist rendering such distribution infeasible;
(ii) Substantially improved site design will result from such waiver;
(iii) Substantially improved building design and an approved unit amenity level will result from such waiver; or
(iv) Significant economic hardship that does not apply to other projects in the County will result from such distribution.

2. Parcel Size. The parcels on which the affordable units are located shall be no smaller than the smallest parcel on which market rate units in the project are to be located.

3. Bedroom Count. The average bedroom count in the affordable units shall not be less than the average bedroom count in the market rate units in the project.

4. Exterior Design. The exterior design of the affordable units shall be consistent with the market rate units in the development based on exterior design details, materials and number of stories, with no significant identifiable differences between the units visible from the street. In addition, the size of affordable units shall be reasonably consistent with the rest of the project, with an affordable unit size not less than 75% of the average size of market rate units, unless a smaller unit size is allowed by the decision-making body at the time of project approval and with the written findings that a smaller size will provide adequate and decent affordable housing, the affordable units will provide housing units compatible with the remainder of the development, and that a larger unit size would impose a financial hardship on the project developer. In no case shall an affordable unit size be less than the minimum specified by the Affordable Housing Guidelines.

(b) Timing of Completion. Affordable units shall be made available for occupancy either prior to or concurrently with the date that the market rate units in a project are made available for occupancy, and in the same ratio as the affordable unit requirement which is applicable to the project. For example, for a project with a twenty-five percent (25%) affordable housing requirement, at least one affordable unit shall receive final Building Permit inspection clearances concurrently with or prior to the final clearance of every third market rate unit constructed in the project until all of the affordable housing units required in the project have been constructed. For a project with a fifteen (15%) affordable housing requirement, at least one affordable unit shall receive final Building Permit inspection clearances concurrently with or prior to the final clearance of every sixth market rate unit constructed in the project until all of the affordable housing units required in the project have been constructed. In no case shall the last market rate unit in the project receive final Building Permit inspection clearances until the last affordable unit in the project has received final Building Permit clearance.

(c) Recording of Declaration of Restrictions. Prior to the ~~issuance of a Building Permit~~ close of escrow for the sale of an affordable dwelling unit, the property owner having authority to encumber the property and any existing holders of trust deeds on the property shall sign an Affordable Housing Program Declaration of Restrictions which subjects the affordable unit to the requirements of this Chapter and the County's Affordable Housing Guidelines, both as amended from time to time, including the specific ownership and occupancy restrictions established for the units pursuant to Section 17.10.030(d). The Declaration of Restrictions shall be permanently binding on the heirs, assigns and successors in interest of the property owner, and shall be recorded in the Official Records of Santa Cruz County. (Ord. 4509, 8/25/98)

**SECTION IV**

Section 17.10.034 of the Santa Cruz County Code is hereby amended to read as follows:

**17.10.034 ~~Affordable housing in-lieu fee~~ Existing Unit Conversion Program and Measure J Trust Fund.**

~~(a) Fee Authorization. An in-lieu fee may be paid for each affordable unit required pursuant to Section 17.10.030(b) in place of constructing the affordable housing within the project. If the in-lieu fee option is designated in the recorded Participation Agreement for the project, the Participation Agreement shall create a lien on each dwelling unit or parcel in that portion of the development generating the affordable housing requirement in order to provide for payment of the in-lieu fee pursuant to this~~

Section. If the in-lieu fee option is not designated in the Participation Agreement, the project developer may subsequently exercise this option by submitting a request to the Planning Director prior to issuance of Building Permits for any portion of the project for which the affordable housing obligation will be met through payment of the in-lieu fee. The Planning Director may then approve this option pursuant to Section 17.10.030(f)(4) and upon liens being recorded on each unit to provide for payment of the in-lieu fee pursuant to this section.

- In-Lieu Calculation. The fee is keyed to the average price of the ultimate market rate units or lots developed and is structured to provide developers with an alternative way to meet their affordable housing obligation. The amount of an affordable housing in-lieu fee shall be determined based on the following Table of In-Lieu Fees and the average sales price of the market rate dwelling units and/or parcels in a project sold to bona fide purchasers for value:

| Average Home Price | | Average Lot Price | | |
|---|---|---|---|---|
| From | To Less Than | From | To Less Than | In Lieu Fee |
| | $420,000 | | $168,000 | $160,000 |
| $420,000 | $440,000 | $168,000 | $176,000 | $168,000 |
| $440,000 | $460,000 | $176,000 | $184,000 | $176,000 |
| $460,000 | $480,000 | $184,000 | $192,000 | $184,000 |
| $480,000 | $500,000 | $192,000 | $200,000 | $192,000 |
| $500,000 | $520,000 | $200,000 | $208,000 | $200,000 |
| $520,000 | $540,000 | $208,000 | $216,000 | $208,000 |
| $540,000 | $560,000 | $216,000 | $224,000 | $216,000 |
| $560,000 | $580,000 | $224,000 | $232,000 | $224,000 |
| $580,000 | $600,000 | $232,000 | $240,000 | $230,400 |
| $600,000 | $640,000 | $240,000 | $256,000 | $236,800 |
| $640,000 | $680,000 | $256,000 | $272,000 | $246,400 |
| $680,000 | $720,000 | $272,000 | $288,000 | $256,000 |
| $720,000 | $760,000 | $288,000 | $304,000 | $264,000 |
| $760,000 | $800,000 | $304,000 | $320,000 | $270,400 |
| $800,000 | $880,000 | $320,000 | $352,000 | $276,800 |
| $880,000 | $960,000 | $352,000 | $384,000 | $286,400 |
| $960,000 | $1,040,000 | $384,000 | $416,000 | $296,000 |
| $1,040,000 | $1,120,000 | $416,000 | $448,000 | $304,000 |
| $1,120,000 | $1,200,000 | $448,000 | $480,000 | $312,000 |
| $1,200,000 | $1,320,000 | $480,000 | $528,000 | $318,400 |
| $1,320,000 | $1,440,000 | $528,000 | $576,000 | $324,800 |
| $1,440,000 | $1,600,000 | $576,000 | $640,000 | $331,200 |
| $1,600,000 | $1,800,000 | $640,000 | $720,000 | $339,200 |
| $1,800,000 | $2,000,000 | $720,000 | $800,000 | $345,600 |
| $2,000,000 | | $800,000 | | $352,000 |

~~(c) Fee Payment Process. A proportionate part of the in-lieu fee shall be paid out of the sales escrow for the sale to a bona fide purchaser for value of each dwelling unit or parcel in the project for which the fee requirement was established. For example, for a five unit project with a fifteen (15) percent affordable housing requirement resulting in an obligation to provide one affordable unit, a partial in-lieu fee shall be paid out of the sales escrow for each of the units sold in the amount of one-fifth of the in-lieu fee based on the sales price of each unit. All in-lieu fee payments shall be non-refundable once they have been received by the County.~~

~~(d) Release of Project Encumbrances. Concurrent with the partial payment of an in-lieu fee from the sale of each unit in a project, the County shall record a release of the affordable housing encumbrances imposed on that unit through the recorded Participation Agreement.~~

~~(e) In-Lieu Fee Trust Fund. All affordable housing in-lieu fees and accrued interest received pursuant to this Chapter shall be deposited into a separate trust fund maintained by the County. The trust funds shall be expended at the discretion of the County Board of Supervisors for the purposes of developing or preserving affordable housing units in the County.~~

~~(f) Annual Adjustment of In-Lieu Fee. At the time of the annual review of the Affordable Housing Guidelines, the in-lieu fee shall be reviewed. The review shall utilize the latest real estate data regarding the sales prices of lots and homes in Santa Cruz County. If determined to be necessary by the Board of Supervisors, the Table of In-Lieu Fees shall be amended by ordinance.~~

(a) Existing Unit Conversion Program. As an alternative to constructing an affordable unit pursuant to Section 17.10.032, a developer of a project with an obligation for a whole unit or units of affordable housing may participate in the Existing Unit Conversion Program. This program allows developers to satisfy their inclusionary housing requirement through the purchase and sale of existing housing units as affordable units pursuant to the following requirements and the applicable sections of the Affordable Housing Guidelines:

(1) The use of this option must be approved by the Approving Body as a part of the original development permit.

**(2)** Developers must convert at least two existing units for each inclusionary unit that would otherwise be required to be built.

(3) The units shall be located in the same Planning Area as the market rate development.

**(4)**Recording of Declaration of Restrictions. The execution and recording of the standard Affordable Housing Declaration of Restrictions shall be required of the purchasing household as a condition of sale. The purchasers of the converted units having authority to encumber the property and any existing holders of trust deeds on the property shall sign an Affordable Housing Program Declaration of Restrictions which subjects the affordable unit to the requirements of this Chapter and the County's Affordable Housing Guidelines, both as amended from time to time, including the specific ownership and occupancy restrictions established for the units pursuant to Section 17.10.030(d). The Declaration of Restrictions shall be permanently binding on the heirs, assigns and successors in interest of the property owner, and shall be recorded in the Official Records of Santa Cruz County.

(5) Timing of Completion. Converted units shall be made available for occupancy either prior to or concurrently with the date that the market rate units in a project are made available for occupancy, and

in the same ratio as the affordable unit requirement which is applicable to the project. For example, for a project with a fifteen percent (15%) affordable housing requirement, at least two converted units shall be transferred to eligible purchasers concurrently with or prior to the final clearance of every sixth market rate unit constructed in the project until all of the converted units required by the project have been sold. For a project with twenty percent (20%) affordable housing requirement, at least two converted units shall be transferred to eligible purchasers concurrently with or prior to the final clearance of every fourth market rate unit constructed in the project until all of the converted units required by the project have been constructed. In no case shall the last market rate unit in the project receive final Building Permit inspection clearances until the last converted unit in the project has been sold.

(b) Measure J Trust Fund. **A** trust fund shall be established and shall be known as the Measure J Trust Fund. The trust funds shall be expended at the discretion of the County Board of Supervisors for the purposes of developing or preserving affordable housing units, or for other activities which increase the affordable housing stock in the County. All fractional amounts of the affordable housing obligation and accrued interest received pursuant to this Chapter shall be deposited into a separate trust fund, known as the Measure J Trust Fund, to be maintained by the County. The amount of the contribution to this fund from applicable development shall be the fractional amount of the inclusionary housing unit obligation as determined by Section 17.10.030(b) and shall be based on the Affordable Unit Fractional Fee Rate, as amended annually by the Board of Supervisors in the Affordable Housing Guidelines.

(1) Fee Payment Process. A proportionate part of the fractional unit fee shall be paid out of the sales escrow for the sale to a bona fide purchaser for value of each market rate dwelling unit or parcel in the project for which the fee requirement was established. For example, for a five unit project with **a** fifteen percent affordable housing requirement resulting in an obligation to provide 0.75 affordable units, a partial fee shall be paid out of the sales escrow for each of the units sold in the amount of one-fifth of the fractional fee based on the applicable fee rate shown in Section 13 of the then current Affordable Housing Guidelines. **All** fractional fee payments shall be non-refundable once they have been received by the County.

(2) Release of Project Encumbrances. Concurrent with the partial payment of a fractional fee from the sale of each unit in a project, the County shall record a release of the affordable housing encumbrances imposed on that unit through the recorded Participation Agreement.

(3) Annual Adjustment of Fee Schedule. At the time of the annual update of the income and rent indices in the Affordable Housing Guidelines, the Affordable Unit Fractional Fee Schedule shall be reviewed and may be adjusted by the administering agency.

(Ord. 4509, 8/25/98; Ord. 4599 § 1, 9/26/2000)

## SECTION V

Section 17.10.038 of the Santa Cruz County Code is hereby deleted:

~~17.10.038 Dedication of residential parcels.~~

~~(a) Dedication of Affordable Parcels. A legal, developable parcel within a project may be dedicated to the County for the subsequent on-site construction of affordable housing for each affordable unit required pursuant to Section 17.10.030 in place of other options for satisfying the affordable housing requirement of this Chapter. If this option is designated in the project's recorded Participation Agreement, the parcels shall be irrevocably offered for dedication to the County with the recording of the Subdivision Final Map. If this option is not selected in the recorded Participation Agreement, the dedication of parcels may be subsequently approved by the Planning Director pursuant to Section 17.10.030(f)(4) at the request of the developer and with the concurrent dedication of the subject parcels to the County and bonding for improvement and maintenance pursuant to paragraph (c) below. At any time prior to the County's acceptance of the dedicated affordable parcel(s), the developer may substitute the payment of an affordable housing in-lieu fee for one or more of the dedicated parcels upon the full payment of the applicable in-lieu fee pursuant to Section 17.10.034. If the County accepts the in-lieu fee in place of accepting the parcel dedication, the County shall release the offer of dedication.~~

~~(b) Affordable Parcel Standards. The location and size of parcels to be dedicated for affordable housing purposes shall meet the standards specified in Subsection 17.10.032(a)(1) and (2) above.~~

~~(c) Affordable Parcel Improvement. Parcels dedicated for affordable housing purposes shall be provided with full off-site and frontage improvement, utility connections, and site grading and drainage improvements adequate to accommodate the future construction of affordable housing on the site. The project developer shall protect and maintain the dedicated parcel and associated improvements in a safe and usable condition until the property is accepted by the County. The project developer shall provide bonding adequate to guarantee the improvement and maintenance of the dedicated parcels until accepted by the County, or alternatively to guarantee payment of applicable affordable housing in-lieu fees pursuant to Section 17.10.034 if the County determines that the parcels are not suitably improved and maintained for use as affordable housing sites. The project developer shall also agree to defend, indemnify and hold the County harmless from claims of liability to third parties until the dedicated parcel is accepted by the County.~~

~~(Ord. 4509, 8/25/98)~~

**SECTION VI**

This ordinance shall take effect on the 31st day after the date of final passage.

PASSED AND ADOPTED this ____day of _____,2002, by the Board of Supervisors of the County of Santa Cruz by the following vote:

**AYES:**
NOES:
ABSENT:
ABSTAIN:

_____
Chairperson of the Board of Supervisors

ATTESTED: _____
Clerk of the Board

APPROVED AS TO FORM: _____
County Counsel

DISTRIBUTION: County Counsel
Planning CAO

# SANTA CRUZ COUNTY
# AFFORDABLE HOUSING GUIDELINES



**2002 Edition**

These Santa Cruz County Affordable Housing Guidelines are adopted by Resolution of the Santa Cruz County Board of Supervisors pursuant to County Code Chapter 17.10, Affordable Housing Requirements. These Guidelines constitute and were formerly entitled the Santa Cruz County Affordable Housing Program Income, Asset and Unit Price Guidelines from their inception as referenced in the Santa Cruz County Code, including but not limited to Chapter 17.10 and in all documents executed pursuant thereto. These Guidelines are annually revised, updated and adopted by the County to accomplish the objectives of the County's Affordable Housing Program, and establish regulations in addition to all other applicable State and County laws and regulations governing the sale or rental of residential properties. These Guidelines provide supplemental regulations and administrative guidelines for the County's Affordable Housing Program and implement the intent and specific provisions of Chapter 17.10 by providing income and asset limits for participating households, sales and rental prices for affordable units, and development and marketing standards for affordable units. Second units authorized and occupied pursuant to County Code Section 13.10.681 are also subject to portions of these Guidelines.

## 1. HOUSEHOLD INCOME LIMITS

To establish the eligibility of individuals participating in the County's Affordable Housing Program, limits are set on the amount of income households occupying the units can earn. These limits are based on median household income estimates for Santa Cruz County established by the Federal Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD). The estimated area median income for Santa Cruz County in 2002 is $69,000 (based on a four-person household).

Four household income categories are established for the administration of affordable housing programs. "Very low income" households are defined as those with incomes equal to or less than 50% of median household income. "Lower income" households are defined as those with incomes greater than 50% and up to 80% of median household income. The upper income limit for low income households is adjusted by HUD in high-cost and high-income areas such as Santa Cruz County, so that it may not equal exactly 80% of median income every year. "Median income" households are defined as those with incomes equal to 100% of median household income. "Moderate income" households are defined as those with incomes greater than 80% and up to 120% of median household income. HUD and HCD establish household income ranges by household size for each of these four income categories, pursuant to Title 25, §6932 of the California Code of Regulations.

Table One defines the maximum annual household income limits for each income category, by household size, for Santa Cruz County affordable housing programs. The applicable income limits for larger household sizes may be obtained from the County Planning Department.

**Table One — Maximum Annual Household Income Limits for 2002**
(Based on Santa Cruz County 2002 Area Median Income (AMI) for Household Size)

| Income Category (Percent of AMI) | Number of Persons in Household | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Very Low (50%) | $24,150 | $27,600 | $31,050 | $34,500 | $37,250 | $40,000 | $42,800 | $45,550 |
| Lower (80%) | $38,350 | $43,850 | $49,300 | $54,800 | $59,200 | $63,550 | $67,950 | $72,350 |
| Median (100%) | $48,300 | $55,200 | $62,100 | $69,000 | $74,500 | $80,050 | $85,550 | $91,100 |
| Moderate (120%) | $57,950 | $66,250 | $74,500 | $82,800 | $89,400 | $96,050 | $102,650 | $109,300 |

Household size is defined to include all occupants of the affordable unit consisting of the principa occupant(s)

appearing on the property lease or title, foster children, and other persons related by blood, marriage, operation of law, or other stable family relationship who reside in the unit.

At the time a household first occupies an affordable unit, the household's income shall not exceed the following annual income limits:

(a) Rental Units:

1. The annual income of a household renting an affordable unit, other than those designated for "very low income," shall not exceed the maximum limit for "lower income" households;

2. The annual income of a household renting an affordable unit designated for "very low income" shall not exceed the maximum limit for "very low income" households.

(b) Owner-Occupied Units:

1. The annual income of a household purchasing a designated "moderate income" affordable unit for owner-occupancy shall not exceed the maximum limit for "moderate income" households;

2. The annual income of a household purchasing a designated "lower income" affordable unit for owner-occupancy shall not exceed the maximum limit for "lower income" households;

3. The annual income of a household purchasing a designated "very low income" affordable unit for owner-occupancy shall not exceed the maximum limit for "very low income" households;

Occupying households shall be certified as meeting the above income limitations by the administering agency prior to a tenant occupying an affordable rental unit or prior to a purchaser taking title to an affordable unit intended to be owner-occupied. Purchasers of affordable units to be utilized as investor-owned affordable rental units are not subject to income limitations.

Where affordable housing units are developed with State or federal housing program assistance, the income limitations of the State or federal housing program shall supersede the income limitations of these Guidelines where they are more stringent.

## 2. HOUSEHOLD INCOME DEFINITION

For households renting an affordable unit, household income is defined as monetary benefits before deductions or exemptions which are anticipated to be received during the 12 months following occupancy of the unit by the occupying household. For households purchasing an affordable unit for owner-occupancy, household income is defined as monetary benefits before deductions or exemptions which are anticipated to be received during the 12 months following occupancy of the unit by the occupying household as well as by all persons who share in the ownership of the unit. Occupying household is defined to include all occupants of the affordable unit consisting of the principal occupant(s) appearing on the property lease or title, foster children, and other persons related by blood, marriage, operation of law, or other stable family relationship who reside in the unit.

**Income includes, but is not limited to:**

(a) all wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services, before payroll deductions;

(b) the net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets);

(c) interest and dividends (including income from assets excluded below);

(d) the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including any lump sum payment for the delayed start of a periodic payment;

(e) payments in lieu of earnings, such as unemployment and disability compensation and severance pay;

(f) the maximum amount of public assistance available to the above persons other than the amount of any assistance specifically designated for shelter and utilities;

(g) periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(h) all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; and

(i) any earned income tax credit to the extent that it exceeds income tax liability;

**The following are specifically excluded from the definition of income:**

(a) casual, sporadic or irregular gifts;

(b) amounts which are specifically for or in reimbursement of medical expenses;

(c) lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal losses;

(d) amounts *of* educational scholarships paid directly to students or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books, and equipment. Any amounts of such scholarships or payments to veterans not used for the above purposes are to be included in income;

(e) special pay to a serviceman head of a family away from home and exposed to hostile fire;

(f) relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(g) foster child care payments;

(h) the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1977;

(i) payments to volunteers under the Domestic Volunteer Service Act of 1973;

(j) payments received under the Alaska Native Claims Settlement Act;

(k) income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes;

(l) payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;

(m) payments received from the Job Training Partnership Act;

(n) income derived from the disposition of funds of the Grand River band of Ottawa Indians; and

(c) the first $2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims.

### 3. HOUSEHOLD ASSET LIMITS AND FIRST TIME HOME BUYER ELIGIBILITY

**A:** the time a household first occupies an affordable unit, the household ~~renting the affordable unit or purchasing a affordable unit intended for owner-occupancy~~ shall not exceed the following asset limits:

(a) The total assets of the household renting the affordable unit or purchasing an affordable unit intended for owner-occupancy must be less than the maximum allowable annual income for that household; or

(b) If household assets of the household renting the affordable unit or purchasing an affordable unit intended for owner-occupancy exceed the maximum allowable annual household income, eight and one-half percent of the total assets of the household (or the actual income from these assets if this is a greater amount) shall be included in the household's annual income, and this combined amount must be less than the maximum allowable annual income for that household.

For households consisting of at least one senior citizen 62 years of age or older, the first $60,000 of assets shall be excluded from calculation under steps (a) and/or (b) above.

(c) Households purchasing owner-occupant units must be certified by the administering agency as a first time home buyer, in accordance with the definition of a first time homebuyer used by the Redevelopment Agency for the "Redevelopment Agency First Time Home Buyer Program," as described below:

> "Eligible buyers cannot have owned residential property within the last three years (with exceptions for displaced homemakers, recently divorced individuals and owners of manufactured homes in mobile home parks)."

Occupying households shall be certified as meeting the above asset limitations by the administering agency prior to a tenant occupying an affordable rental unit or prior to a purchaser taking title to an affordable unit intended to be owner-occupied. Purchasers of affordable units to be utilized as investor-owned affordable rental units are not subject to asset limitations.

Where affordable housing units are developed with State or federal housing program assistance, the asset limitations of the State or federal housing program shall supersede the asset limitations of these Guidelines where they are more stringent.

### 4. ASSET DEFINITION

**Assets are defined as:**

(a) Cash savings, including but not limited to bank accounts, credit union accounts, certificates of deposit, and money market funds;

(b) Marketable securities, stocks, bonds and other forms of capital investment;

(c) Inheritance and lump sum insurance payments, already received;

(d) Settlements for personal or property damage already received;

(e) Equity in real estate, except as stated below;

(f) Other personal property which is readily convertible into cash;

**The following are not considered assets:**

(a) Ordinary household effects including furniture, fixtures, and personal property;

(b) Automobiles used for personal use;

(c) Equity in the parcel or lot on which an owner-builder unit is to be built;

(d) Cash, securities, stocks, bonds and other forms of capital held in a tax deferred retirement plan recognized by the Federal Internal Revenue Service.

## 5. RENTAL PRICES

The maximum allowable rental prices for most affordable units (Measure J Rental Units and other affordable rental units) shall be set at a level affordable to lower and very low income households as provided in Table Two. Except as otherwise provided in this section, the maximum allowable rental price for an affordable unit shall be cetermined based on 1) a housing allowance of 30% of gross income for a household size of one person more than the number of bedroom in the affordable unit, and 2) a household income of 60% of median, except for those units which are designated for "very low income" occupancy in which case a household income of 50% of median shall be used.

The maximum allowable rental price for Second Unit rentals (those units built under Section 13.10.631 of the County Code) is the higher of either the "Lower Income Rental Unit" amount or the "Section 8 Fair Market Rent" amount. The current Section 8 rent limit is shown in the far right column of Table Two, however this limit is adjusted annually by HUD and may be changed after the publication of these guidelines. The most current Fair Market Rent limits are always listed at the Santa Cruz County Housing Authority website (www.hacosantacruz.org).

**Table Two — Maximum Allowable Monthly Rental Prices**

| Unit Size | Lower Income Rental Units | Very Low Income Rental Units | Section 8 Fair Market Rent (Second Units only) |
|---|---|---|---|
| Studio | $725 | $604 | $739 |
| 1 Bedroom | $828 | $690 | $880 |
| 2 Bedroom | $932 | $776 | $1,175 |
| 3 Bedroom | $1,035 | $863 | $1,634 |
| 4 Bedroom | $1,118 | **$931** | $1,914 |

Where affordable housing units are developed with State or federal housing program assistance, the rental price requirements of the State or federal housing program shall supersede the price limitations of these Guidelines where they are more stringent.

All maximum allowable rental prices include payment for all utilities by the landlord. If tenants pay for one or more utility services, the maximum allowable rental price shall be reduced by an amount equal to the utility allowances established for the HUD Section 8 Rental Assistance Program.

The maximum allowable rental prices for affordable units and maximum income limits shall be revised annually by the Planning Department following the annual publication of HUD/HCD area median income estimates. For rental units initially occupied before August 26, 1986, rent prices shall not be increased by more than 10 percent annually.

For affordable units in congregate senior housing projects providing services beyond basic shelter, the Board of

Supervisors shall, at the time of project approval, provide for payments beyond the allowable rental levels to account for the additional cost of providing such additional services. Unless the Board of Supervisors decides otherwise with respect to a particular congregate senior project, charges allowed for congregate care services in addition to the basic rent charge may not exceed the limits provided in Table Three, which are based on 35% of total household income for a single person, or 45% of total household income for a couple, at an income level of 60% of median.

**Table Three — Maximum Congregate Care Service Charges**

| Household Size | Maximum Monthly Service Charge |
|---|---|
| 1 | $845 |
| 2 | $1,242 |

**6. UNIT STANDARDS**

Standard quality units must be finished to allow occupancy and shall have:

(a) The minimum sizes as specified by Table Four:

**Table Four — Minimum Affordable Unit Size**

| Number of Bedrooms | Senior Congregate Units | All Other Units |
|---|---|---|
| Studio | 400 square feet | 400 square feet |
| 1 | 550 square feet | 550 square feet |
| 2 | 700 square feet | 850 square feet |
| 3 | Not Applicable | 1050 square feet |
| 4 | Not Applicable | 1250 square feet |

(b) Complete interior and exterior painting or other finished wall coverings, with five-eighths inch minimum exterior siding.

(c) Standard quality finished floor coverings.

(d) Built-in appliances if the kitchen woodwork calls for it.

(e) Washer and dryer hookups or a facility centrally located within the project.

(f) Paved parking area and sidewalk leading from parking to the unit entrance.

(g) Rain gutters and down spouts.

(h) Built in kitchen cabinets.

(i) For units with three or more bedrooms, 1-1/2 bathrooms shall be required.

The Planning Director may allow minor variations from these standards if the unit is otherwise of superior design or amenity level.

The size of the household renting or purchasing an affordable unit shall not exceed that allowed by the State

Uniform Housing Code, or other applicable State laws based on the unit size and number of bedrooms in the unit.

## 7. MAXIMUM SALES PRICE FOR NEW AFFORDABLE UNITS

Affordable units shall be sold, on their first sale, for a price that is no more than the maximum allowable sales price set according to the formula established in this Section. The maximum allowable sales price shall be determined at the time of filing of the original "Notice of Intent to Sell" for the affordable unit by the developer.

The maximum allowable sales prices for affordable units shall be set at a level affordable to moderate, lower and very low income households based on 1) a housing allowance of 30% of the gross income of a household having one person more than the number of bedrooms in the affordable unit, and 2) a gross household income as indicated below for the designated type of affordable unit.

**Formula to Determine the Maximum Allowable Sales Price of a New Affordable Unit:**

(a) Determine the annual income for a household based on whether the unit is designated for occupancy by a moderate, lower or very low income household:

1. Determine the median household income for a household size of one person larger than the number of bedrooms in the affordable unit from Table One;

2. Multiply the median household income from Table One by:

100% for an affordable unit designated for a moderate income household occupancy; or

70% for an affordable unit designated for a lower income household occupancy; or

50% for an affordable unit designated for a very low income household occupancy.

(b) Determine the monthly household allowance available for a mortgage payment:

1. Multiply annual income from step (a) by 0.30 to obtain an annual housing allowance of 30% of income;

2. Divide the housing allowance by 12 to obtain a monthly housing allowance;

3. Deduct 20% of the monthly housing allowance for the monthly costs of property taxes, insurance and utilities, and deduct 70% of the monthly homeowner's association fees to obtain a net allowance available for mortgage payments.

(c) Determine the maximum mortgage that can be financed:

1. Determine the prevailing interest rate for a 30-year fully amortized fixed-rate home mortgage (rate to be determined by the administering agency);

2. Determine the maximum home mortgage that can be financed at the prevailing interest rate based on a mortgage payment as determined in Step (b).

(d) Determine a maximum allowable unit sales price assuming a mortgage of 90% of sales price by dividing the maximum mortgage amount determined in step (c) by 0.9.

## B. MAXIMUM ALLOWABLE RESALE PRICE OF AFFORDABLE UNITS

(a) Affordable units shall be **sold,** at the time of resale, for a price that is no more than the maximum allowable sales price established by either of the following two methods that generates the greater resale price:

1. The maximum unit price as determined in Section 7 above at the time of receipt by the administering agency of an owner's Notice of Intent to Sell; or

2. The maximum unit price that represents the sum of the seller's purchase price, plus the seller's non-recurring purchase closing costs, plus the increased value of the unit created by improvements that the seller has made to the unit as determined in Section 9 below.

(b) Where an owner has made improvements to an existing affordable housing unit which results in an increase in the number of bedrooms, as evidenced by a valid Building Permit issued and receiving final inspection by the County, the maximum allowable resale price of the unit shall be based on a total bedroom count which included the additional bedroom(s) and on the method in Section 8(a) above which produces the higher resale price limit.

(c) Where the administering agency determines that the owner through neglect, abuse or lack of adequate maintenance has created damage to an affordable unit which jeopardizes the integrity of the unit and/or the viability of maintaining the unit as part of the County's Affordable Housing Program, the agency may require that repairs be made to the unit at the owner's expense and paid for either prior to sale or out of the proceeds of escrow as follows:

**1.** Upon resale, an inspection of the premises may be made by the administering agency. Damage done to the premises, beyond normal wear and tear, shall be identified by the inspector, and the cost to repair the damage estimated. The owner shall then have the option, exercisable prior to the close of escrow, of either repairing the identified damage or having the cost to repair the damage deducted from the proceeds of the sale and held in escrow to be used to pay for the repairs.

2. The owner may also be required to obtain and pay for a structural pest control report and to pay for any necessary corrective repairs. The owner shall not be obligated to perform preventative work beyond the repair of damage, but the buyer shall have the option to perform such work at his or her expense.

**9. ADJUSTMENTS TO RESALE PRICE**

The maximum resale price of an affordable unit as determined in Section 8(a)(2) above may include the increase in unit value created by improvements made to the property by the seller based on the following criteria:

(a) The improvements shall constitute substantial structural or permanent fixed improvements which cannot be removed without substantial damage to the premises or substantial or total loss of value of said improvements.

(b) The improvements shall not increase the resale price by more than ten percent. No improvements shall be deemed substantial unless the aggregate, actual, initial costs of the improvements to the seller exceed one percent of the purchase price paid by the seller for the premises except as provided below.

(c) The seller's portion of the cost of improvements to the common areas of a condominium made by a mandatory assessment by the homeowners association shall be considered the same as an improvement made directly by the owner. The one percent minimum expenditure requirement shall not apply to such assessments.

(d) The replacement of appliances, fixtures and equipment which were originally sold as part of the unit shall be deemed substantial improvements if the replacement is required by the non-operative or deteriorated nature of the original appliance, fixture, or equipment. The replacement must be of comparative value. The one percent minimum expenditure requirement shall not apply to such replacements.

(e) No adjustment shall be made for the value of any improvements unless the owner shall present to the County valid written documentation of paid receipts from vendors for the cost of said improvements and all necessary

permits and inspections for the improvements have been obtained.

(f) The amount by which the sales price shall be adjusted shall be the estimated market value of the improvements when considered as additions or fixtures to the premises (i.e., the amount by which said improvements enhance the market value of the premises) at the time of sale, The administering agency shall have an estimate made by a qualified individual of its choice to establish the market value. A qualified individual shall be one who has, as a minimum, experience in residential construction. The owner may also have an appraisal made by an appraiser, of owner's choice and subject to approval of the administering agency, to establish the market value. If agreement cannot be reached, the average of the two estimates shall be termed the market price.

## 10. MARKETING OF AFFORDABLE UNITS LAST SOLD PRIOR TO APRIL 5,1984

For affordable units which were last sold on or before April 5, 1984, and which have a recorded Declaration of Restrictions that requires that the unit be sold within a limited period of time after being placed on the market or the affordability restrictions will be released, the owner shall provide a bona fide marketing program when the unit is offered for the sale. A bona fide marketing program shall be defined to' be the equivalent of the complete marketing program and full services available through a reputable real estate brokerage firm for comparable residential property, including placement on the Multiple Listing Service. This marketing effort may be provided by the owner, by a real estate brokerage or other representative selected by the owner, or by the administering agency or its designee for the County's Affordable Housing Program. In every case, this marketing program shall t e fully specified and documented by the owner, and approved by the administering agency prior to the acceptance of a Notice of Intent to Sell for the unit. As an alternative to providing the above bona fide marketing program, the owner may execute and submit to the administering agency a notarized written waiver of the recorded Declaration of Restrictions' time limit for the sale of the unit.

## 11. FEES

Upon the resale or refinance of an affordable unit, the owner shall be charged a fee by the administrative agency for the preparation of new Declarations of Restrictions and Requests for Notice of Default as may be required, and for the monitoring and processing of the transactions. In addition, the administering agency may charge each prospective purchaser and renter of an affordable unit a fee for the determination of eligibility. For units marketed by the administering agency, a fee as a percent of the unit sales price shall be charged to the seller. Fee amounts for these and other fees necessary to implement the County's Affordable Housing Program shall be established by the County's Unified Fee Schedule, which is adopted by resolution of the Board of Supervisors.

## 12. EXISTING UNIT CONVERSION PROGRAM GUIDELINES

A developer of a new housing development may opt to participate in the Existing Unit Conversion Program in lieu of constructing inclusionary units if the following conditions are met:

a) The use of this option is approved by the Approving Body as part of the original development permit.

b) Two existing units must be converted to affordable unit status in lieu of constructing each affordable unit required of the project.

c) The units to be converted must meet the minimum physical standards for all inclusionaw units as described above in Section 6: Unit Standards, as well as the following additional standards for converted units:

1. Bedroom Count. The average bedroom count of the converted units shall not be less than the average bedroom count in the market rate units in the proiect. Alternatives may be considered on a case by case basis, as outlined in subsection (g) below.

2. Size. The size of converted units shall not be less than 75% of the average size of the market rate units. In no case shall an affordable unit size be less than the minimum specified by the Affordable Housing Guidelines.

The Planning Director may grant exceptions to the standards of subsections (c)1 and 2 where developers propose to provide a greater number of units or enhanced affordability, if it is infeasible to provide comparably sized units. For example, a developer building a project of 4 bedroom homes cannot locate existing 4 bedroom units to convert, so the developer proposes to substitute two 2-bedroom units (or a 3-bedroom unit and a l-bedroom unit) for each 4-bedroom affordable unit required.

3. Physical Quality

i. Units must meet current HUD Section 8 rent subsidy Program Housing Quality Standards (HQS) to ensure that the units and their sites are decent, safe and sanitary.

ii. Units must have been built and permitted under the 1973 or later building and related codes. Or, units must have been substantially rehabilitated, as reasonably determined by a County Redevelopment Agency (RDA) rehabilitation specialist, to meet the 1973 or later building and related codes.

iii. Developer must deliver to the RDA a Wood Destroying Pests and Organisms Inspection Report on the unit with a followup SECTION I ITEM inspection and clearance.

iv. As reasonably determined by the RDA rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 10-years:

- Roof coverings and roofing accessories, including but not limited to gutters and downspouts, metal flashings, jacks and caps
- Heating system
- Exterior doors
- Windows
- Floor coverings
- Kitchen and bathroom counter tops
- Tub and/or shower enclosures including glass doors

v. As reasonably determined by a RDA rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 5-years:

- Exterior painted or stained surfaces
- Water heaters
- Built-in kitchen appliances

Developer must deliver to the RDA a housing inspection report, prepared by a certified housing inspector, that details the condition of the all building and site components including but not limited to: the roof and structural components; foundation and exterior paved surfaces, electrical, mechanical, heating/ventilation, and plumbing systems; windows, doors, and chimneys; paint and other moisture sealants; floor coverings; and any existing fencing, porches, railings, etc. This report must identify any hazards, health and safety code violations, or major deferred maintenance issues that may be found, or certify that no such problems were found.

The RDA rehabilitation specialist will evaluate the inspection report, personally inspect the unit and produce and deliver to the developer a list of deficiencies (if any) needing repair, renovation, alteration or reconstruction. After correcting all deficiencies, the developer shall notify the RDA rehabilitation specialist who will do a final inspection and approve the unit for inclusion in County Affordable Housing Program. The developer shall then submit a "Notice of Intent to Sell" to the administering agency for further sale processing.

(d) The units to be converted must be located within the same Planning Area as the proposed project.

(e) The units to be purchased must not be subject to any rent limits, resale price restrictions, or other affordable housing restrictions imposed by any government or non-profit agency or land trust at the time of purchase for use under this program. Conversion of multi-family rental property to condominium ownership will not be approved as part of the project.

(f) If the units to be converted are occupied and rented by moderate or lower income households at the time of conversion, the occupying tenants must be given the first right of refusal to purchase the units if they meet the eligibility requirements under these Guidelines, and can obtain necessary financing within 60 days of being notified of the sale by the owner. If tenants cannot be certified as eligible to purchase or cannot obtain necessary financing, relocation benefits must be provided to the tenants by the developer as a condition of project approval. These relocation benefits shall consist of the immediate payment of three months' fair market value rent for a unit of comparable size, as established by the most current federal Department of Housing and Urban Development schedule of fair market rents, or three months of the tenant's actual rent at the time of relocation, whichever is greater.

(g) Alternative Options

The Approving Body may approve, on a case-by-case basis, the use of any other alternatives to satisfy the requirements of the Existing Unit Conversion program if the alternative proposed is deemed to be a preferable contribution to the affordable housing stock, by providing a greater number of rental units and/or an equal number of units at a greater level of affordability. These alternatives may include, but are not limited to, a scenario like the following: A developer proposes to purchase a multi-family rental property and donate it to a local non-profit housing provider for rental to very low income households.

## AFFORDABLE UNIT FRACTIONAL FEE RATE

*A. ALTERNATIVE 1: FLAT FEE*

The affordable unit fee for fractional inclusionary unit requirements shall be paid at the following rate per whole unit: **$135,000** per 1.0 inclusionary unit. This fee rate is based on an estimated average net subsidy required to produce a typical three bedroom moderate income owner-occupant unit. The fee amount shall be calculated by multiplying the fractional inclusionary requirement by the rate per unit ($135,000). For example:

8 unit project x 15% = 1.2 inclusionary units required
Provide 1 affordable unit; pay fractional fee for 0.2 units
0.2 x $135,000 = $27,000 fee due from development ($3,857 per market rate unit)

This rate shall be adjusted annually, as part of the annual update of the income and rent indices within these Guidelines, to reflect current estimated average net subsidy per unit as determined by the administering agency.

Fractional unit fees shall be paid to the County in accordance with the procedure described in County Code 17.10.034(b).

**OR:**

*B. ALTERNATIVE 2: GRADUATED FEE BASED ON AVERAGE SALE PRICE*

The affordable unit fee for fractional inclusionary unit requirements shall be paid at the rate shown on the attached Affordable Unit Fractional Fee Schedule corresponding to the average sale price of the market rate units in the development, per each whole (1.0) inclusionary unit required.

To determine the total fee due for a given development, multiply the fractional inclusionary requirement by the rate in the Schedule below that corresponds to the average sale price of the market rate units in the development. For example:

8 unit project with average sale price of $700,000:
8 x 15% = 1.2 inclusionary units required
Provide 1 affordable unit; pay fractional fee for 0.2 units
0.2 x $256,000 = $51,200 fee due from development ($7,314 per market rate unit)

Fractional unit fees shall be paid to the County in accordance with the procedure described in County Code 17.10.034(b).

## Affordable Unit Fractional Fee Schedule

| Average Home Price | | Average Lot Price | | In Lieu Fee |
|---|---|---|---|---|
| From | To Less Than | From | To Less Than | |
| | $420,000 | | $168,000 | $160,000 |
| $420,000 | $440,000 | $168,000 | $176,000 | $168,000 |
| $440,000 | $460,000 | $176,000 | $184,000 | $176,000 |
| $460,000 | $480,000 | $184,000 | $192,000 | $184,000 |
| $480,000 | $500,000 | $192,000 | $200,000 | $192,000 |
| $500,000 | $520,000 | $200,000 | $208,000 | $200,000 |
| $520,000 | $540,000 | $208,000 | $216,000 | $208,000 |
| $540,000 | $560,000 | $216,000 | $224,000 | $216,000 |
| $560,000 | $580,000 | $224,000 | $232,000 | $224,000 |
| $580,000 | $600,000 | $232,000 | $240,000 | $230,400 |
| $600,000 | $640,000 | $240,000 | $256,000 | $236,800 |
| $640,000 | $680,000 | $256,000 | $272,000 | $246,400 |
| $680,000 | $720,000 | $272,000 | $288,000 | $256,000 |
| $720,000 | $760,000 | $288,000 | $304,000 | $264,000 |
| $760,000 | $800,000 | $304,000 | $320,000 | $270,400 |
| $800,000 | $880,000 | $320,000 | $352,000 | $276,800 |
| $880,000 | $960,000 | $352,000 | $384,000 | $286,400 |
| $960,000 | $1,040,000 | $384,000 | $416,000 | $296,000 |
| $1,040,000 | $1,120,000 | $416,000 | $448,000 | $304,000 |
| $1,120,000 | $1,200,000 | $448,000 | $480,000 | $312,000 |
| $1,200,000 | $1,320,000 | $480,000 | $528,000 | $318,400 |
| $1,320,000 | $1,440,000 | $528,000 | $576,000 | $324,800 |
| $1,440,000 | $1,600,000 | $576,000 | $640,000 | $331,200 |
| $1,600,000 | $1,800,000 | $640,000 | $720,000 | $339,200 |
| $1,800,000 | $2,000,000 | $720,000 | $800,000 | $345,600 |
| $2,000,000 | | $800,000 | | $352,000 |

This rate shall be adjusted annually, as part of the annual update of the income and rent indices within these Guidelines by the administering agency.

Tri-County
Apartment
Association
1927 - 2002

Celebrating 75 Years

*Serving the rental housing industry in San Mateo, Santa Clara & Santa Cruz counties*

March 12,2002

Chairperson Janet Beautz and Supervisors
County of Santa Cruz
Board of Supervisors
701 Ocean St.
Santa Cruz, CA 95060

**RE: Affordable Housing Ordinance/Inclusionary Zoning**

Dear Chairperson Beautz and Supervisors:

Thank you for the opportunity to comment on the draft Affordable Housing Ordinance for Santa Cruz County prepared by Alvin James in the Planning Department.

For reference, the Tri-County Apartment Association is the non-profit trade association serving the rental housing industry in Santa Cruz, San Mateo and Santa Clara Counties. Our members own and manage rental housing and some develop rental housing throughout Santa Cruz County and the West Coast.

TCAA is concerned that an over reaching inclusionary zoning ordinance could have detrimental impacts on the construction of much needed multi-family housing in Santa Cruz County.

Recently the City of Watsonville revised their inclusionary housing ordinance because it deterred the construction of housing. Watsonville adopted their ordinance in 1990 at a level of 25%. In ten years, only nine inclusionary units were built. Because of this devastating effect on the construction of housing, Watsonville decided to revise their number down, in order to start building much needed rental housing in the city.

Additionally, the City of Santa Cruz just approved multi-family developments on Shaffer Road and Cathcart Street, which came in with a voluntary affordability rate of 40%. Although these are great projects, the financing (tax exempt bond financing) this developer was able to arrange from Fannie Mae and Freddie Mac should be classified as extremely rare. This level of affordability was directly tied to government financing and is not typical of privately funded market rate developments, which face much more challenging financing options.

For your information, the City of San Jose recently completed a study on inclusionary zoning. This study, done by Bay Area Economics (BAE) clearly calls attention to the dangers of inclusionary zoning on the development of multi-family housing:

> Generally speaking, market rate rental projects at urban densities with structured parking garages, such as those built in downtown San Jose, tend to face challenging feasibility conditions in today's economic climate, even without inclusionary policies. These types

> of projects are very sensitive to land costs, construction costs, and other facts affecting profit. (P. 15, draft report by BAE)

In a best case scenario, the inclusionary zoning process will make rental housing more expensive because the costs of producing a below market unit will require a greater return on investment from the other rental units. While inclusionary zoning may benefit a few who qualify for the below market rate units, it will squeeze out the middle class resident, who cannot afford high priced market rate rental units.

In a worst case scenario for inclusionary zoning, the high cost of land and labor will preclude any development of multi-family housing altogether. The projects will simply not "pencil-out."

For the benefit of the Board of Supervisors and the public we believe it would be beneficial for the County to confer with several multi-family rental housing developers to review the impact of an inclusionary zoning policy on multi-family housing developments now under construction. Such analysis would go a long way in addressing our serious reservations as whether it is in the County's long term interest to revise their inclusionary zoning ordinance.

While this is a laudable pursuit, if you do not confer with stakeholders, an ordinance may be enacted which may actually deter the construction of multi-family housing because such projects will be economically unfeasible.

In summary, the Tri-County Apartment Association is glad to be a part of this most important discussion on the future of housing policies in the County of Santa Cruz. Careful thought and meaningful dialogue will be necessary to ensure that policies that may be adopted will have only positive effects on housing construction in Santa Cruz County. We look forward to working with the County on this issue in the coming weeks and months ahead.

Sincerely,

Kathryn M. Thibodeaux
Chief Executive Officer

CC: Director of Planning
County Administrative Officer
Redevelopment Agency

KT:JMD

March 8, 2002
Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060
Re: Affordable Housing Ordinance Amendments

Members of the Board:

Following are the comments from the Planning Advisoy Group regarding the proposed changes to the Affordable Housing Ordinance(Chapter 17.10). As professionals who deal with housing development issues on a daily basis we clearly recognize that the lack of affordable housing is a critical issue for the health of our community. The desire by the Board of Supervisors to increase the supply of affordable housing is commendable. However we believe that for the most part the proposed changes to Chapter 17.10 will not increase the production of affordable housing. In many cases the proposed changes will result in an increase in the size of lots, houses and the price of housing. Below are our specific recommendations regarding the proposed changes to the Affordable Housing Ordinance:

1) Consider changes to Chapter **17.10** after the adoption of the new Housing Element. The Housing Element review process will establish the County's overall strategy for the provision of affordable housing. It is ill timed to hastily consider detailed revisions to the Ordinance just as a broader discussion and review of the overall County's housing needs and the strategy to meet those needs **is** getting underway.

**2)** The County will be more effective in developing significant numbers of affordable housing units when positive incentives for the creation of affordable housing are established. Several suggestions for positive incentives are discussed below. These incentives must be thoroughly explored in the context of the Housing Element and General Plan review.

a. The designation of property for high density housing and a commitment to approve projects at high densities is paramount. In most cases high density housing is significantly more affordable than low density housing. This of course is dependent on many factors such as location, amenity levels, etc. However attractive 2-3 bedroom townhouses built at one unit per 3,000-4,000 square foot densities can be found throughout the County priced hundreds of thousands of dollars below the $500-$600,000 average price of three bedroom single family detached homes on 6,000 square foot parcels.

The additional density will result in a significant increase in the number of affordable units based on the existing 15% requirement.

b. Provide real density bonuses and other incentives for the provision of affordable housing at a ratio greater than 15%.

c. Provide fee reductions/credits for the provision of affordable housing at ratios greater than 15%

d. Encourage the development of accessory second dwelling units. Reduce fees for these units. Allow accessory second units as part of a proposed development, at a ratio sufficient to meet the required number of bedrooms based on a 15% obligation. This would be particularly effective in large lot and rural subdivisions. If the development was obligated to provide 1 – 3 bedroom affordable unit, 3 – ▮ bedroom accessory second dwelling units could be provided.

e. Encourage development of high density housing, apartments/condos above commercial uses in commercial zoned areas. Communities throughout the Country are having success providing this type of mixed use development. Not only does it increase more affordable housing opportunities, it can provide increased vitality to the commercial uses.

f. Decrease processing times for housing development applications, particularly those that include a ratio of affordable housing above 15%.

g. Allow creative site designs and more flexibility in road and site standards when considering infill development. There are numerous examples of small infill projects have been developed at low densities because of the inflexibility of the site and access standards. The reestablishment of the P.U.D. Ordinance may encourage this approach.

Most of these suggestions are not new. Language exists now in the current General Plan that supposedly provides for many of these strategies. However in most cases there has been little implementation of these policies. It is our belief that the current housing crisis has created an opportunity for both the housing industry and County government to work together to realize these strategies.

### 3) Do not Increase the affordable housing requirement from 15% to 20%

The city of Watsonville recently reduced it's affordable housing requirement from 25% to 15%. Very few affordable units were produced at the 25% requirement. The City came to recognize that a 25% requirement was too great a disincentive to the development of housing projects.

State law requires a density bonus and other incentives for projects that provide a 20% affordable component. The State did not choose 25% or 30% but 20% because it was recognized that this amount of affordable housing presents economic burdens that must be balanced by increased density and other cost saving measures.

Prior to enacting such an increase, a thorough study of the economic impacts must be made. It is not as simple as saying developers or land owners can simply make less money. At some point when the fees and "taxes" become too great, land owners will not sell and developers will not develop. Relying on government and nonprofit housing developers as the sole provider of new housing has been proven far too often an unsuccessful policy.

**4)Do not expand the inclusionary percentage requirement to projects of two or more units**

As proposed the fee for smaller projects is so high that few if any of these projects will be built. Additionally it will stimulate the construction of even larger, more expensive homes on larger lots which will in tern push **up** the price of the older homes in the surrounding area. Following is **an** example of the application of this ordinance to a 3 lot MLD with one existing house and 2 proposed new homes with an average sales price of $575,000.

| | |
|---|---|
| $575,000 | Av price of **2** new homes |
| - 225,000 | Measure J unit price |
| $350,000 | |
| x..4 | .20 x 2new units |
| $140,000 | contribution to Measure J Fund |

The proposed "contribution" of $140,000 will eliminate any incentive to construct the 2nd new unit. If only 1 new unit is proposed the required contribution would be $70,000. In either case the fee is excessively high and will essentially eliminate small infill housing projects that are providing a substantial amount of the move up housing for members of our community.

**5) Do not delete the exemption for demolished units**

The requirement that an existing house should be replaced with an affordable unit and counted in the inclusionary requirement is unnecessarily punitive. Rather, if existing units would be allowed to be converted to affordable units and flexibility in lot design and street width would be considered to accommodate existing housing, few units would be demolished. Developers will work hard to retain the existing units if they are not an impediment to the development of the property. It makes good economic sense in many cases to do so. We are fearful that the costs replace the existing units with affordable units and the increase in the inclusionary requirement may result in many small projects becoming economically infeasible.

In many cases existing housing units are not occupied by low income families. In some cases the cost to repair and remodel an existing unit exceeds the cost to rebuild. In these cases it is inappropriate to require replacement housing. A requirement to replace existing housing should be well thought out and carefully crafted to avoid creating such an impediment to the redevelopment of property that much needed housing ends up not being developed.

**6) Eliminate rounding of the inclusionary unit obligation**

This appears to be a positive step forward in many respects. The inclusionary requirement would be more consistently applied at a 15% ratio. Currently the practice of rounding results in an inclusionary requirement well in excess of 15%. A 5 unit project that provides one inclusionary unit is actually providing a 20% ratio. This is undoubtedly why there has been virtually no 5 or 11 unit projects built in the County. A 20% affordable requirement is too great.

The calculation of the fee should be more carefully examined. Rather than calculating the fee based on the difference in price between the market rate house and Measure J house, the fee should be based on the average cost to construct a Measure J unit. This may be difficult to establish prior to the more thorough research that will be performed during the housing element update.

**7) Allow the conversion of existing market rate housing to affordable units, either on site or offsite, to meet the Measure J requirements.**

This is clearly a step forward that provides an incentive to use the existing housing stock in an efficient manner. It recognizes that many existing units are being remodeled and are not affordable. Their conversion will ensure permanent affordability. However the proposed conversion ratios seems unreasonably high. In several instances the ratio requires the conversion of 4 and 5 market rate houses for every required Measure J unit.

The conversion of one market rate house for every house that is required is appropriate. However if the County is concerned that this option would become too attractive with only a one for one requirement, consider including the construction of additional accessory units within the project or the payment of a reasonable additional fee.

Units should be allowed to be converted outside of the project planning area. The Redevelopment Agency spends its housing funds outside the boundary of its jurisdiction. This is due to the lack of available land and the desire to leverage the funds. The developer of a rural 7 lot subdivision with 5 acre parcels and ocean views in Bonny Doon or Corralitos should be allowed to convert houses outside of the planning area for the same reasons. It is a primarily a question of the availability of suitable convertible properties

**8) Do not eliminate the in-lieu fee**

The in-lieu fee is appropriate for rural or large lot, high end subdivisions. Perhaps the amount of the fee should be investigated and the use of the fee limited to projects with low densities and very high sales prices. The amount of the fee would be significant and would allow the leveraging of this money into projects that are in a more urban area where social services, transportation and schools are more readily available. If additional options for providing affordable housing that are less punitive than those currently proposed are provided, the fee will be a less attractive option. These options are discussed above and include the conversion of existing units to permanent affordability, and an option to provide affordable accessory rental units of 640-1200 s.f. at a ratio equivalent to the number of bedrooms that otherwise would have been required. These would be positive incentives for the construction of affordable housing units.

The proposed changes are very significant for land owners and developers of small infill projects. The rush to provide a quick fix to the affordable housing issue that may actually be counterproductive must be avoided. We encourage you to have these proposals reviewed by other development professionals and economists and as part of the Housing Element update to more thoroughly evaluate the impacts on the production of both market rate and affordable housing.

Thank you for considering our comments.

John Swift
Rick Beale
Charlene Attack
Leo Murray

Dan Lester
Steve Graves
Michael Bethke

April 1,2002

To Santa Cruz County Supervisors
From Betty Sakai, Representing the Owner-Managers Rental Directory of Santa Cruz
www.AHouseInSantaCruz.com

Available & Affordable Housing in Santa Cruz County
Re: Board Meeting, April 9, 9am, 701 Ocean Avenue, 5th Floor
831-454-2323; www.co.santa-cruz.ca.us

The U.S.Vacation Rentals Internet Advertising for Santa Cruz Owner-Managed Rentals presents only a small percentage of the 448 to 504 short-term rentals that exist in the county. The Directory specializes in only clean and well-maintained rental properties that owners manage themselves. Each owner determines the desired occupancy and maintains their home to compliment their neighborhood. Guests who have stayed are invited to evaluate their rental experience. Each owner is required to satisfy any complaint reasonably and quickly as this reflects upon everyone in the Directory.

Most would agree that available and affordable housing is important. On behalf of many who have invested so much into buying a home, we respectfully ask the Board of Supervisors not to tie owner's hands to provide for the county's long-term housing needs by restricting rentals to long-term. The spirit of Santa Cruz has always been open and accepting of individual differences, of personal rights. The strength of the people of Santa Cruz has historically been individual ingenuity and creativity.

Other counties have similar problems providing low-cost housing. Programs such as those run by Santa Clara County may offer ideas. Should the Board hire a housing authority consultant such as Suzanne McLean of Santa Cruz? Ask experts such as Sue Hoge of the Santa Cruz County Housing Authority for referrals. In Santa Clara County, questions can be asked of the Housing Community Development Resource Agency through the Planning Department (408) 441-0261. Other housing related departments can be located through Santa Clara County at the Board of Supervisor's Office at (408) 299-2323. With the greater income received from property taxes, county governments should be able to find ways to subsidize low-cost housing programs for both Section 8 renters and low-income first-time buyers using federal and local public funds.

Market forces much larger than any one person determine the price of real estate and the resulting high rental rates. So why blame an owner? Like tenants, owners are victims of high costs too. A person who risks much of their life's savings to buy a home that has no CC&R deed restrictions preventing short-term rentals, feels a right to rent short-term if that is what is best for them. That owner must pay on-going monthly mortgage and expenses. If government removes the owner's freedom to rent short-term [how often, how long, partial or full-time, professionally managed or self managed], that person is at risk of receiving less income than they have been receiving. A government that removes a citizen's freedom to choose, that cares about some of the people but not all of the

people equally, should pay to the owner the difference between what they have been earning on short-term rents versus what they will earn from long-term rents, and also pay for issues revolving around furnishings, jobs lost, maintenance and repair, and loss of personal usage.

People need to be free to decide how they want to use their home, if they want to rent, and how their home might help them survive the hard times when their primary income drops or they loose a job. The emergence of internet advertising has given power to the people, more than ever before in our history. Embrace change. Do not fear it. Do not chastise your neighbor for doing what is best for them. In a neighborhood, good short-term rentals are no different than good long-term rentals.

If occupancy and the number of cars parking in an area are a concern, based upon my family's experience renting for many years long-term at 1600 West Cliff Drive, I can attest to the fact that month-to-month tenants load up occupancy and bring more cars to park in the neighborhood than short-term rental guests. Long-term rental agreements have cost my family thousands of dollars in wear and damages, not to mention the stress and unsightly messes caused.

Owner-managers who choose to rent long-term understand they are giving up control of their home to a tenant for the length of the tenancy. Sometimes this works out well but often it does not. Over-usage and less than adequate on-going maintenance are recurrent tenant issues. Owners are very often victimized by having to pay to repair and renovate after a long-term tenant leaves. Regardless, owners should have the right to decide. What all owners have in common is the need t,ocontrol what is theirs, to make their own decisions, to "control their own destiny" so to speak.

Owner-managers who list on www.AHouseInSantaCruz.com do their best to control occupancy, usage, presentation, and maintenance. They follow through with each guest. They enjoy hosting people. Guests travel to Santa Cruz County from as far away as Australia and Europe and they spend their money here. Owners employ local people and use local services. Owners support the local economy.

Directory Owners are a respectful, law-biding people. They comply with paying the 10% Transient Occupancy Tax. If businesses licenses are required of all owners who rent in Santa Cruz County, Directory Owners will comply as notified. Santa Cruz County is a wonderful place where people find ways to get along. We trust our leadership to lead us in fair and balanced ways.

If I can be of any further assistance to the Board, please do not hesitate to ask.

Respectfully submitted, Betty Sakai

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