



County of Santa Cruz

HOUSING ADVISORY COMMISSION

701 OCEAN STREET - 4TH FLOOR, SANTA CRUZ, CA 95060
(831)454-2580 FAX: (831)454-2131 TDD: (831)454-2123

November 30,2005

To: Housing Advisory Commission
From: Carolyn Watanabe, Housing Project Manager
Subject: Housing Element Update

The last update was presented to the Commission at the October 5, 2005 meeting. HCD's review letter of the County's Housing Element was included. The major issue HCD had was with the "Affordable Housing Combining District." The County had not formulated a response.

Attached is the County's November 18,2005 response to the HCD letter. Julianne Ward will attend the meeting to discuss the letter.

HAC



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
TOM BURNS, PLANNING DIRECTOR

November 8, 2005

Cathy Creswell, Deputy Director
Department of Housing and Community Development
Division of Housing Policy Development
1800 Third Street, Suite 430
P.O. Box 952053
Sacramento, CA 94252-2053

SUBJECT: Response to HCD Housing Review Letter

Dear **Ms.** Creswell,

The purpose of this letter is to respond to your letter of September 20, 2005 that reviewed our submittal of our Housing Element, adopted in June 2005. It was unfortunate that we were unable to arrange for a discussion of your agency's initial concerns before the letter was finalized because I believe that we could have answered your questions in that forum to your satisfaction, thereby dramatically reducing the scope of your remaining concerns. Even then, we recognize that this most recent letter from HCD indicates that we are very close to resolving the remaining issues and receiving certification of the Housing Element.

As you may recall, we had a meeting with you and your staff two years ago and discussed the concept of conditional compliance as an approach to the County gaining certification while our programmatic strategy is implemented. It's unfortunate that HCD seems to be steering away from this approach.

The purpose of this letter is to attempt to bridge the gap in interactions between our staffs. In doing so, I am hopeful that we can resolve a number of outstanding issues outside of the context of additional amendments to the Housing Element. In other words, we believe that this letter should satisfy you with regard to a number of issues raised in your letter, and are hopeful that, as a result, these issues can be addressed without a further round of Housing Element amendments. Our discussion is organized around the two main themes of your September 20 letter – the details of the Affordable Housing Combining District (AHCD) and the practical application of the concept of "by-right" development.

Affordable Housing Combining District

Your letter of September 20, 2005 identifies the need for more information regarding the Affordable Housing Combining District (AHCD). We believe that an adequate level of

information is provided given that the Housing Element is general by nature and that this program will require subsequent specific ordinances to implement the AHCD program. Our intention was to provide more specific information in conjunction with the creation of the Combining District and designation of the sites. Nevertheless, the specific qualifications sought in the September letter were discussed with your staff.

As such, we would like to take this opportunity to address these questions again in a more formal manner.

- **AHCD Incentives:** Your letter requests more information on development incentives for the AHCD sites. The County has a strong track record of working with developers of affordable housing projects to facilitate the best design possible through providing incentives, such as reductions in site and parking standards, height increases, priority processing etc. (You have previously received letters to that effect from several developers.) Projects proposed on AHCD sites would qualify for these types of incentives. The County is reluctant to provide an all-inclusive list of incentives as such incentives are generally tailored to meet the needs of a particular project. As each project is unique, one project may require different incentives than another. Therefore we do not believe that it would be beneficial to limit the incentives that can be provided through the creation of a comprehensive list. Rather, the County has provided a list of the types of incentives that can be offered, but this list of incentives is by no means limited to those listed. We believe that this type of approach will be beneficial for developers of these sites.
- **Practicality of 40% affordable requirement** We continue to believe that the 40% affordability requirement will not be a barrier to development in this community where the median condominium price tops \$500,000. Developers are already required to provide inclusionary housing as part of any project; this requirement will only increase the percentage required. Because of our market conditions, developers will still be able to receive significant financial returns through developing under this program, even with the 40% affordability requirement, because the number of units they can construct will far exceed that allowed by the underlying zoning.
- **AHCD Timelines:** The County is actively working to develop and implement an AHCD ordinance and designate sites, and plans to meet the timelines listed in the Housing Element, if not achieve the goals prior to the dates listed. Unfortunately, by not providing the conditional certification, as was discussed in the past with HCD staff, we find ourselves in the awkward position of shifting a portion of that effort back to the Housing Element itself rather than Housing Element implementation.

- AHCD Uses *By Right*: See discussion below regarding by-right.

- Redevelopment Agency Funding Requirements: The Redevelopment Agency has historically worked with a variety of developers (non-profit and for-profit) to facilitate development of affordable housing projects -- from conceptual design and site acquisition through project completion and occupancy. The \$15 million earmarked to facilitate development of affordable housing projects on AHCD sites will provide financial assistance throughout the development process and will be tailored to the needs of the particular project. It is anticipated that the entire \$15 million will be available for assisting these projects. This commitment was made by the Agency Board of Directors this past June. Other RDA funds will be utilized to fund other RDA projects. We are confident that there are adequate financial resources to meet the commitment to the AHCD program as well as other project and program needs. While we have discussed this in the past with your staff, let us put into perspective the magnitude of this financial commitment. Even though we would not expect to provide financial subsidy to all 440 possible units that could be developed under this unique program, if we did, the result would be an average subsidy of \$35,000 per unit. We can demonstrate that we have a strong track record of creating such projects on the ground, even at considerably lower densities than are required by this program, with that level of subsidy. Several of these projects were shown to your staff as part of a tour of AHCD candidate sites and affordable housing developments.

- Development Standards on AHCD Sites: The development standards for AHCD sites will be similar to the base development standards required for high density housing in the multi-family districts (as shown in Appendix H for RM1.5-RM4.9). However, as noted above, further modifications to development standards will be allowed to facilitate the best design possible for each site. The County will offer modified development standards as appropriate for each development. Again, the County has an impressive track record with regard to balancing site standards with project needs. In fact, as your staff noted after a visit to local projects, we have been able to do this and create high quality designs.

As you are aware, the County is committed to moving forward on these sites to facilitate development of affordable housing. We are already evaluating these sites more closely and discussing options with housing developers in anticipation of future development. We believe that this program shows a strong commitment by the County, particularly with the substantial funding commitment that has been made by the Redevelopment Agency. Unfortunately, the most recent letter from HCD has raised concerns on our part as to whether HCD will ever find this program adequate to allow us to achieve the conditional compliance we discussed some time ago.

"BY RIGHT" Development

The concept of "by-right" is a relatively new concept with regard to multi-family development projects. Because the term is not clearly defined, we explored the scope

of its meaning with you and your staff when the creation of an Affordable Housing Combining District was first discussed. At that time, it was conveyed that "by-right" meant that the density of the development had to be allowed "by-right", in that the development density was locked in for the specific sites necessary to bridge the shortfall. However, such projects would still be subject to CEQA review, design review, and could, if the issues were appropriately limited, even allow for a public hearing. While that concept has not been an easy sell to our Board of Supervisors, they did agree to that approach in the June 2005 Housing Element. Unfortunately, since that initial discussion, your staffs definition of "by-right" has changed significantly.

Our current understanding from your staff is that you believe "by-right" requires that the entire development must be allowed as a ministerial process, such that there is no discretionary review process, no public hearing, no public input, and no CEQA review. This is in direct contravention to what we were originally led to believe the "by-right" requirement entailed.

Aside from the practical problems that this newest definition of "by-right" presents (requiring on-site technical issues to be addressed during the rezoning process, requiring substantial financial outlays by the County and attempting technical review of sites without the authority to enter the properties), we find ourselves disadvantaged by the evolving thinking of the part of HCD on this issue. In good faith, we developed a program based on discussions with your staff, only to be told that you no longer stand behind your earlier understanding of what is meant by "by-right."

At this point the County has adopted a Housing Element that reflects a reasonable concept of "by-right", which would be incorporated into implementing regulations as we proceed with this program. Under our initial discussion of the concept of conditional compliance, HCD would be in a position to monitor the progress of our implementation efforts, and decertify the County's Housing Element if you felt that we were not implementing the Element in a timely and appropriate manner. From the issues raised by your September letter, it seems that you are trying to work out all of these issues in advance of certifying the Housing Element - an approach which completely undermines the purpose of the conditional certification process we initially discussed.

Conclusion

We recognize that HCD has historically had concerns with the County's track record with regard to the Housing Element process. However, almost two years ago we sat down and discussed how we could create a win-win approach for moving in a positive direction on our critical housing issues -- through the conditional compliance approach. We believe that the County has held up its end of that discussion, with the Board of Supervisors making significant programmatic and financial commitments to ensure compliance with our Fair Share goals. It is now time for HCD to meet its end of that plan, through conditionally certifying our Housing Element. That process allows HCD the ability to rescind certification if the County does not proceed in good faith in meeting the commitments contained in the Housing Element. Our June 2005 Housing Element

Letter to Cathy Creswell
Affordable Housing Combining District
November 16, 2005
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combined with the explanations previously provided to your staff (and reiterated in this letter) provide you adequate basis for conditionally certifying our Housing Element.

Please contact me should you wish to discuss these items further. **As** always, we would be available to come to Sacramento to discuss these issues in more detail at your convenience. Otherwise, I look forward to receiving a response to this letter in the near future.

Sincerely,



Tom Burns
Planning Director

cc.
Board of Supervisors
County Counsel
Housing Advisory Commission
Planning Commission



County of Santa Cruz

HOUSING ADVISORY COMMISSION

701 OCEAN STREET - 4TH FLOOR, SANTA CRUZ, CA 95060
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December 7, 2005

To: Housing Advisory Commission
From: Carolyn Watanabe, Housing Project Manager
Subject: Second Unit Program (Commissioner Schiffrin)

At the last HAC meeting, the Commissioners voted to continue the discussion of the proposed change in the Affordable Housing Guidelines to add the following language to Paragraph 4(b), Household Assets Limits: "In addition, for the Second Unit Program, the equity in the property occupied by the senior household shall not be counted in the asset calculations."

Attached are copies of the Affordable Housing Guidelines and the County Code Regulations on Second Units.

MEMO

DATE: August 31, 2005

TO: HOUSING ADVISORY COMMISSION MEMBERS

FROM: COMMISSIONER ANDY SCHIFFRIN

SUBJECT: SECOND UNIT PROGRAM IMPACT ON SENIORS

The County's Second Unit Program allows for second units to be developed on residentially zoned parcels, subject to 1) development standards; 2) occupancy restrictions and 3) maximum rent levels.

The program's occupancy restrictions and maximum rent levels apply to either the main house or the second unit.

1. Occupancy Restrictions - At least one of the following applies:

1. **Lower income** households that meet the income and asset limits established in the Affordable Housing Guidelines, OR
2. **Senior** households (with **one** member aged **62 years** or older) that meet the income and assets established in the Affordable Housing Guidelines OR
3. Persons sharing residency with the property owner and who are related by blood, marriage, or operation of law, or have evidence of a stable family relationship **with** the property owner.

In all cases, the owner must live in either the main house or second unit.

2. Rent Restrictions - Following are the maximum rent levels under the second unit program:

Max. Rent Levels for Second Units	
Studio	\$876
One Bedroom	\$1,033
Two Bedroom	\$1,347
Three Bedroom	\$1,939
Four Bedroom	\$1,998

3. Statement of Concern:

In implementing this ordinance, a question has arisen about a situation where the property owner is a senior household, and the owner intends to live in the second unit, and rent out the main house. According to the ordinance requirements, if the senior homeowner **does** not qualify as **low or moderate** income, then the main house would have to be rented out to either a low income household, a moderate income senior or family member. This requirement limits the appeal of the program for "empty nester" who are not considered low or moderate income due to the asset value of their home -- seniors who no longer need a larger house and do not want to relocate (which is especially difficult in this housing market) but may not readily take advantage of the program because of the restrictions of the program.

4. Recommendation:

I think it might be helpful for the Housing Advisory Commission to discuss this problem and consider whether any amendments to the program may be justified.

Santa Cruz County Affordable Housing Guidelines

2005 Edition

Revised April 12, 2005

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 for affordable units, eligibility requirements for purchasing or renting affordable units and development and marketing standards for affordable units.

Second units, authorized and occupied pursuant to County Code Section 13.10.681 ("Second Units"), are also subject to the maximum allowable rents set forth in Section 6 (b) of these Guidelines.

1. ELIGIBILITY REQUIREMENTS

(a) Residency

In order to be eligible to purchase or rent any affordable unit subject to these Guidelines, the applicant must currently reside within Santa Cruz County (including its incorporated cities); or the applicant must be employed within Santa Cruz County (local employment must be their primary employment and source of income). Applicants for affordable units must provide the administering agency with documentation that they have resided and/or been employed within the County for at least 60 days prior to their application for an affordable unit.

(b) Minimum Household Size for Larger Units

In order to be eligible to purchase or rent an affordable unit with more than one bedroom, the applicant's household must be of a size equal to at least one more than the number of bedrooms in the unit. For instance, in order to be eligible to purchase a three-bedroom unit, a household must be made up of at least four members. Please see Table One for further clarification. Applicants must provide the administering agency with documentation to verify the household size claimed. Applications by smaller-sized households for larger units will be considered depending on individual circumstances affecting the number of persons per bedroom (i.e., single-parent households, multi-generational households, ages and gender of minors, disabled individuals, special needs groups, etc.).

Table One: Minimum Household Size

Number of Bedrooms in Unit	Minimum Household Size
Studio/One	1 or 2
Two	2 or 3
Three	4
Four	5
Five	6

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- "Lower Income" households are defined as those with incomes greater than 50% and up to 80% of median household income. HUD adjusts the upper income limit for lower income households 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; and
- "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 Two 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 administering agency.

Table Two: Maximum Annual Household Income Limits for 2005

Income Category (Percent median)	Number of Persons in Household							
	1	2	3	4	5	6	7	8
Very Low (50%)	\$27,500	\$31,400	\$35,350	\$39,250	\$42,400	\$45,550	\$48,650	\$51,800
Lower (80%)	\$43,950	\$50,250	\$56,500	\$62,800	\$67,800	\$72,850	\$77,850	\$82,900
Median (100%)	\$52,700	\$60,250	\$67,750	\$75,300	\$81,300	\$87,350	\$93,350	\$99,400
Moderate (120%)	\$63,250	\$72,300	\$81,300	\$90,350	\$97,600	\$104,800	\$112,050	\$119,250

Household size 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.

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: and
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: and
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.

3. HOUSEHOLD INCOME DEFINITION

For households renting an affordable unit, household income is defined as monetary benefits before deductions or exemptions that 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 that 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 **We**, 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;

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- (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 that 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 childcare 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
- (o) The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims.

4. HOUSEHOLD ASSET LIMITS

At the time a household first occupies an affordable unit, the household 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.

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.

5. 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: and
- (f) Other personal property that 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; and
- (d) Cash, securities, stocks, bonds and other forms of capital held in a tax deferred retirement plan recognized by the Federal Internal Revenue Service.

Unit Size	Lower Income Rents	Very Low Income Rents
Studio	\$791	\$659
1 Bedroom	\$904	\$753
2 Bedroom	\$1,016	\$847
3 Bedroom	\$1,130	\$941
4 Bedroom	\$1,220	\$1,016

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

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.

The maximum allowable rents for affordable units and maximum household income limits shall be revised annually by the administering agency following the annual publication of HUD/HCD area median income estimates. For affordable rental units initially occupied before August 26, 1986, rents 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 rent 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 Four, 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 Four: Maximum Congregate Care Service Charges

Household Size	Maximum Monthly <i>Service Charge</i>
1	\$922
2	\$1,356

Studio	\$876
1 Bedroom	\$1,033
2 Bedroom	\$1,347
3 Bedroom	\$1,939
4 Bedroom	\$1,998

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

Maximum allowable rents for Second Units and maximum household income limits shall be revised annually by the administering agency following the annual publication of HUD/HCD area median income estimates.

3. Second Units built with financial assistance from the Redevelopment Agency (Second Unit Loans)

Should a property owner receive a Second Unit Loan from the Redevelopment Agency to reimburse ~~costs~~ for County fees and other ~~costs~~ to construct or maintain a Second Unit, maximum allowable rents are set exclusively at the Lower Income Rent levels listed in Table ~~Six~~ below.

Unit Size	Lower Income Rents
Studio	\$791
1 Bedroom	\$904
2 Bedroom	\$1,016
3 Bedroom	\$1,130
4 Bedroom	\$1,220

Number of Bedrooms	Senior Congregate Units	All other units
Studio	400 square feet	400 square feet
1 Bedroom	550 square feet	550 square feet
2 Bedroom	700 square feet	850 square feet
3 Bedroom	Not Applicable	1050 square feet
4 Bedroom	Not Applicable	1250 square feet

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

The County of Santa Cruz Planning Department Director ("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.

8. **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 Income, Lower Income or Very Low Income household:
1. Determine the Median Income for a household size of one person larger than the number of bedrooms in the affordable unit from Table Two;
 2. Multiply the Median Income by household size from Table Two 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.

9. **MAXIMUM ALLOWABLE RESALE PRICE OF AFFORDABLE UNITS**

Santa Cruz County Affordable Housing Guidelines

Z008 Edition

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- (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 8 above at the time of receipt by the administering agency of an owner's Notice of Intent to Sell, plus the increased value of the unit created by improvements that the seller has made to the unit as determined in Section 10 below; 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 10 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.

10. ADJUSTMENTS TO RESALE PRICE

The maximum resale price of an affordable unit as determined in Section 9(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:

- (b) The improvements shall constitute substantial structural or permanent fixed improvements that 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; 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:

- (c) 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:
- (d) 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; and
- (e) 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 (Le., 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.

11. 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 be 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.

12. 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.

13. EXISTING UNIT CONVERSION PROGRAM GUIDELINES

Santa Cruz County Affordable Housing Guidelines

2005 Edition

Revised April 12, 2005

[This section applies only to developers of affordable housing units in effect since May 24, 2002, with additional amendments to the fee schedule effective August 28, 2002.]

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 Approving Body approves the use of this option 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; and
- (c) The units to be converted must meet the minimum physical standards for all inclusionary units as described above in Section 7: 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 project. 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 1-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 of Santa Cruz Redevelopment Agency ("Agency") rehabilitation specialist, to meet the 1973 or later building and related codes.
 - iii. Developer must deliver to the Agency a Wood Destroying Pests and Organisms Inspection Report on the unit with a follow-up SECTION 1 ITEM inspection and clearance.
 - iv. As reasonably determined by the Agency 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 the Agency 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 Agency 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 Agency 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 Agency 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

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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.

14. AFFORDABLE UNIT FEE SCHEDULE

(a) Fee Schedule for Standard Projects

Average Sale Price of Market-rate Units in Project (or appraised value if greater)	In-Lieu Fee (% of average sale price)
Up to and including \$600,000	40%
More than \$600,000 but less than \$1,000,000	45%
\$1,000,000 or more	50%

Projects with fractional unit requirements shall pay an amount equal to the applicable in-lieu fee amount for a whole unit, multiplied by the fractional requirement. For projects utilizing the in-lieu fee alternative to providing actual affordable units, the minimum in-lieu fee shall be no less than \$200,000 per whole affordable unit required of the project.

This rate shall be reviewed and may be adjusted as necessary during the update of the County's Unified Fee Schedule.

1. Fee Calculation: The following examples are provided to illustrate how to use the fee schedule.

Example 1: Project paying fractional fees

Project 1 is a ten-unit project with a standard inclusionary requirement of 1.5 affordable units (15% x 10 units = 1.5 affordable units required). The project will include nine market rate units with an average sale price of \$500,000, one affordable unit, and pay a fractional fee for 0.5 units. The fractional fee amount due from this project is calculated as follows:

Average Sale Price of Market Rate Units	\$500,000
x In-Lieu Fee Rate in Schedule	x 40%
<u>x Fractional unit requirement</u>	<u>x 0.5</u>
Fractional fee due from project	\$100,000

Example 2. Project utilizing In-lieu fee option

Project 2 is a seven-unit project with a standard inclusionary requirement of 1.05 affordable units (15% x 7 units = 1.05 affordable units required). The project has been approved to pay fees rather than provide an affordable unit. The average sale price of the units is \$700,000. The in-lieu fee due from this project is calculated as follows:

Average Sale Price of Market Rate Units	\$700,000
x In-Lieu Fee Rate in Schedule	x 45%
<u>x Inclusionary units required</u>	<u>x 1.05</u>
In-lieu fee due from project	\$330,750

2. Payment procedure. Fractional unit fees shall be paid to the County in accordance with the procedure described in 17.10.037(b)(1). Whole unit in-lieu fees shall be paid in accordance with County Code 17.10.034(c).

(b) Inclusionary Housing In-lieu Fee for Small Residential Projects

The Inclusionary Housing In-lieu Fee for Small Residential Projects as defined in Section 17.10.031(a) of the County Code shall be paid at a rate of \$10,000 per new residential unit or parcel that is subject to the requirements of Section 17.10.031. Payment shall be made in accordance with the requirements of Section 17.10.031. This rate shall be reviewed and may be adjusted as necessary during the update of the County's Unified Fee Schedule.

Title 13 PLANNING AND ZONING REGULATIONS

Chapter 13.10 ZONING REGULATIONS

13.10.681 Second units.

(a) Purpose. The purpose of this section is to provide for and regulate second units in order to provide needed housing for County residents and to further the housing goals of the Housing Element of the County General Plan.

(b) Application Processing. As indicated below, second units shall be processed in accordance with the requirements of Government Code Section 65852.2 and, for those second units located within the coastal zone, the requirements of the California Coastal Act. No public hearing shall be required for the development of a second unit within a residential zone district or on land designated residential in the General Plan or, outside the Coastal Zone, within the Agriculture zone district, unless the second unit is a part of a larger project that requires a public hearing or if a variance is requested. All applications for

second units in the Commercial Agricultural zone district outside the Coastal Zone shall be subject to review by the Agricultural Policy Advisory Commission.

Second units are subject to the following processes:

(1) Outside the Coastal Zone: Building permit issuance.

(2) Inside the Coastal Zone (Non-appealable area): Issuance of a combined Coastal Development and Building Permit, subject to the following noticing requirements:

(A) Within ten (10) calendar days of accepting an application for a non-appealable coastal development permit, the County shall provide notice, by first class mail, of pending development approval. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred (100) feet (not including roads) of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission. The notice shall contain the following information:

- (i) A statement that the development is within the coastal zone;
- (ii) The date of filing of the application and the name of the applicant;
- (iii) The number assigned to the application;
- (iv) A description of development and its proposed location;

(v) The general procedure of the local government concerning the submission of public comments either in writing or orally prior to the local decision;

(vi) A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the local decision.

(3) Inside the Coastal Zone (Appealable area): Issuance of a combined Coastal Development and Building Permit, subject to the following noticing requirements:

(A) Within ten (10) calendar days of accepting an application for an appealable coastal development permit, the local government shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred (100) feet (not including roads) of the perimeter of the parcel on which the development is proposed and to the Coastal Commission. The notice shall contain the following information:

- (i) Statement that the development is within the coastal zone;
- (ii) The date of filing of the application and the name of the applicant;
- (iii) The number assigned to the application;

- (iv) A description of the development and its proposed location;
- (v) A brief description of the general procedure concerning the conduct of local actions,
- (vi) The system for Coastal Commission appeals

(6) Notice After Final Local Decision. Within seven calendar days of approval of the Coastal Development and Building Permit, the County shall notify by first class mail the Coastal Commission and any persons who specifically requested notice of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission, 13.10.681

(C) The County shall include notice on the Coastal Development and Building Permit that indicates that the permits will not become effective until the end of the Coastal Commission appeal period or until the Coastal Commission has completed action on an appeal of the County's approval of the permit.

(c) Requirements. Before a permit for a second unit can be granted, the following requirements shall be met:

(1) Location. The second unit shall be located on a residentially-zoned parcel or on a parcel designated for residential use in the General Plan which contains no more than one existing detached, single-family dwelling, where one detached single-family dwelling shall be constructed concurrently with the proposed second unit. A second unit may be located on agriculturally-zoned land outside the Coastal Zone or on a parcel designated for agricultural use in the General Plan outside the Coastal Zone;

(2) Parcel Size. The size of the parcel, if located within the Urban Services Line, is no smaller than that required by the minimum lot size standards of the respective zoning district. The size of the parcel, if located outside the Urban Services Line, is at least one acre in area, unless the parcel is served by public sewer. Parcels outside of the Urban Services Line (USL), with public sewer service shall meet the requirements of subsection (d)(2) of this section;

(3) Development Standards. All development standards for the applicable agricultural or residential zone district shall be satisfied; and the development shall be consistent with all County policies and ordinances;

(4) Design. The design of the second unit is consistent with the design and development standards and guidelines set forth in subsection (d) of this section; and

(5) Utility Requirements. All requirements of utility services providers shall be met, and the sewage disposal system and water supply for the parcel shall comply with all applicable requirements of County Code Chapter 7.38, 7.71 and 7.73; and

(6) In the Coastal Zone, the findings for development permits set forth in Section 18.10.230(a), and the Coastal Development Permit findings of Section 13.20.110 must be made.

(d) Design and Development Standards. The following design and development standards shall be applied to every second unit and shall be conditions for any approval under this section:

(1) Location of Second Unit. The second unit may be either attached to the main dwelling or may be detached from it. Inside the Urban Services Line, no second unit shall be located more than one hundred (100) feet from the main dwelling or be accessed by a separate driveway or right-of-way. Outside the Coastal Zone, on land designated Agriculture by the General Plan, the second unit shall be located within one hundred (100) feet of the main dwelling on the property unless another location is approved by the Agricultural Policy Advisory Commission that will meet the on-site and off-site buffering requirements and will meet the goal of preserving agricultural land.

(2) Size of Second Unit. The total, gross floor area as defined in Section 13.10.700(f) of the habitable portion of a second unit shall not exceed the following standards, based on parcel size:

Maximum **Gross** Floor Area Within the **Urban** Services Line (USL)

Type of Sewer Service	Parcel Size

	<10,000 sq. ft. (1)	10,000 sq. ft. or larger (1)
With public sewer	640 sq. ft.	640 sq. ft.
Without public sewer	Not allowed	640 sq. ft. max. (must meet requirements of County Code Chapter 7.38)
(1) The size of the parcel must be no smaller than that required by the minimum lot size standards of the zoning district.		

Maximum **Gross** Floor Area Outside of the Urban Services Line (USL)

Type of Sewer Service	Parcel Size			
	< 10,000 sq. ft.	10,000 sq. ft. to <1 acre	1 acre or larger to < 2.5 acres	2.5 acres or larger
With Public Sewer	640 sq. ft.	800 sq. ft.	800 sq. ft.	1,200 sq. ft.
Without Public Sewer	not allowed	not allowed	800 sq. ft.	1,200 sq. ft.

(3) Lot Coverage. No second unit shall be allowed which would, when combined with existing lot coverage and gross floor area, exceed the allowable lot coverage or the allowable Floor Area Ratio for the parcel.

(4) Site Standards. All site standards of the zoning district in which the second unit is proposed shall be met. Within the Urban Services Line, second units exceeding seventeen (17) feet in height or one story may be constructed if a Level V Development Permit is obtained, pursuant to Chapter 18.10 of this code. Outside the Coastal Zone, on land zoned or designated agricultural, all setbacks of the agricultural zone districts shall be met and all second units must meet the buffering requirements of County Code Section 16.50.095(f), as determined by the Agricultural Policy Advisory Commission, if applicable.

(5) Parking. Offstreet parking shall be provided to meet the requirements of Section 13.10.550 for the main dwelling and one additional non-tandem space for each bedroom in the second unit.

(6) Design. The design, materials and color of the second unit shall be compatible with that of the main dwelling.

(7) Other Accessory Uses. Not more than one second unit shall be constructed on any one parcel. A second unit and any other accessory residential structure (including but not limited to



Homeowner's Property Tax Exemption on the parcel, in either the main dwelling or the second unit. If the property owner resides in the second unit, either the property owner or the residents of the primary single family dwelling must meet the income or familial requirements of subsection (e)(1) of this section.

(3) Occupancy Status. Prior to final inspection approval of the unit, the property owner shall submit a statement to the administering agency, as defined in Subsection 17.10.020(a), indicating whether the second unit will be rented, occupied by family members, or left vacant. Whenever a change in occupancy occurs, the owner shall notify the administering agency, by registered or certified mail, that the occupancy has changed, and indicating the new status of the unit.

(4) Rent Levels. If rent is charged, the rent level for the second unit, or the for the main unit, if the property owner resides in the second unit, shall not exceed that established by the Section 8 Program of the Department of Housing and Urban Development (HUD) or its successor, or the rent level allowed for affordable rental units pursuant to Chapter 17.10 of the County Code, whichever is higher.

(5) Certification Requirements. No person, including family members of the owner, shall rent or permanently occupy a second unit unless he/she has first obtained certification of his/her eligibility from the administering agency. The property owner must refer persons who wish to rent or permanently occupy the unit to the administering agency for certification, prior to occupancy. The administering agency may also charge a fee to the applicant for the certification process.

(6) Status Report. The owner shall report the occupancy status of the second unit, when requested by the administering agency, at least once every three years. This report shall include the status of the unit, the name of the current occupant(s) and the monthly rent charged, if applicable.

(7) Deed Restriction. Prior to the issuance of a building permit, the property owner shall provide to the Planning Department proof of recordation of a Declaration of Restrictions containing reference to the deed under which the property was acquired by the present owner and stating the following:

(A) The unit may be occupied or rented only under the conditions of the development permit and

in accordance with this section and any amendments thereto.

(B) The declaration is binding upon all successors in interest; and

(C) The Declaration shall include a provision for the recovery by the County of reasonable attorney fees and costs in bringing legal action to enforce the Declaration together with recovery of any rents collected during any occupancy not authorized by the terms of the agreement or, in the alternative, for the recovery of the reasonable value of the unauthorized occupancy.

(f) Permit Allocations. Each second unit shall be exempt from the Residential Permit Allocation System of Chapter 12.02 of this Code. However, due to public service deficiencies of roadway design and drainage within the Live Oak planning area, no more than five second units shall be approved within the Live Oak planning area in any calendar year.

(g) Annual Review of Impacts. As part of the County's annual review of the General Plan and County growth management system, the County shall include a section analyzing the impacts of the second unit ordinance. The annual analysis shall include the number of second units constructed and the impacts such construction has created in each planning area, with particular attention to the cumulative impacts within the Coastal Zone. The cumulative impact issue areas to be covered include, but are not limited to traffic, water supply (including the City of Santa Cruz water supply from Laguna, Majors, and Reggiardo Creeks, and the Davenport water supply from Mill and San Vicente Creeks), public views, and environmentally sensitive habitat areas. The preliminary report shall be sent to the Executive Director of the Coastal Commission for review and comment fourteen (14) days prior to submittal to the Board of Supervisors, on an annual basis.

If the Executive Director determines that specific enumerated cumulative impacts are quantifiably threatening to specific coastal resources that are under the authority of the Coastal Commission, the Executive Director shall inform the County in writing. Within sixty (60) days of receipt of the Executive Director's written notice of a threat to coastal resources the County shall cease accepting applications for coastal development permits under this section in the planning area(s) in which the threat of coastal resources *has* been identified, pending review and approval by the Coastal Commission of the County's proposed method(s) of protecting the threatened resource. (Ord. 3500, 3/6/84; Ord. 4324A, 8/9/94; 4457-A, 11/4/97; 4495, 3/24/98; Ord. 4727 §§ 1-3, 6/24/03; Ord. 4751 §§ 1-3, 11/25/03; Ord. 4779, 12/14/04)

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MEMORANDUM

Date: November 30, 2005

To: Housing Advisory Commission (HAC)

From: Erik Schapiro 

Re: Inclusionary Housing Program - Sale and Resale of Measure J Units

Last year, in response to a Santa Cruz County Board of Supervisors direction that staff consider making changes to the sale and resale process, HAC held *two* meetings to discuss this topic (in December 2004 and January 2005). Those discussions helped staff to formulate a recommendation that was made to the Board in January of last year. (Attachment 1). The January report to the Board included a recommendation for staff to: 1) continue the existing procedure whereby owners select interested purchasers; 2) develop initiatives to increase public awareness of the program; and 3) report back in March 2006 about the status of these efforts. This report provides HAC with an opportunity to discuss this issue prior to staff finalizing its March report.

BACKGROUND

As one of the earliest Inclusionary Housing Programs in the State, Santa Cruz County's program is entering its 27th year. There are currently over 400 Measure J units scattered throughout the County as a result of the program. Over the years, staff has discussed with your Commission possible changes to the sale and resale process for Measure J units and other home ownership units.

Currently, the initial sale or resale of Measure J units is primarily a private transaction between the buyer and the seller. The County's role in Measure J transactions includes:

- 1) Certifying the income of potential purchasers;
- 2) Assuring that the unit is purchased by a first time home buyer;
- 3) Verifying that the household consists of an appropriate number of residents;
- 4). Verifying that the purchaser complies with the Board's requirement that he/she must either have resided within the County or have been employed within the County for the 60 days prior to the eligibility certification; and
- 5) Handling escrow instructions to ensure that all program requirements have **been** fulfilled.

While the number of Measure J units that are sold in any given year varies based on a variety of factors (interest rates, unit availability, etc.), on average, approximately 10-20 units per year are either sold initially by the project developer to an eligible purchaser or re-sold from one eligible purchaser to another.

Because existing Measure J owners and initial developers currently select the new buyer, questions have been raised about how buyers are selected, and the extent to which interested members of the public have

an opportunity to purchase a Measure J unit, although there has been no documented evidence that untoward transactions have occurred'.

Given the limited number of Measure J units and the demand in the community for affordable housing, staff has explored alternative strategies to maximize opportunities for the public at large to obtain a Measure J unit.

QUESTIONS ABOUT THE BUYER SELECTION PROCESS

Last year, the discussions with HAC and the Board revolved around key questions concerning how a new buyer is selected. The County's existing method provides for the initial developer to select the initial buyer, and that buyer selects the new buyer upon resale of their home. The underlying principle, which has characterized the County's program from the onset of the Measure J program, was based on the assumption that market forces were responsible for creating the new units in the first place, and Measure J owners selected new buyers, which was a basic prerogative of homeownership. The County's involvement has always been limited to furthering the two public policy goals of the Measure J Program: 1) all buyers must meet income eligibility requirements, and 2) all units must remain affordable through the recordation and enforcement of the affordability covenants. As evidenced by the over **400** Measure J Units with income eligible owners, these goals have been achieved, and until the last few years, there was little focus on the method for selecting new buyers, so long as the new buyer met the County's income eligibility requirement.

As the price differential between Measure J and market rate units has become more pronounced, there has been increasing interest in considering an alternative buyer selection process. An alternative program approach discussed with HAC and the Board last year would be for the County to select the new buyers. As discussed in last year's Board report, this new role for the County would require significant programmatic changes that would result in the County interjecting itself into what is now a private real estate transaction introducing program complications. While this approach might provide more access to the limited number of available Measure J units, these changes would raise a host of questions and potentially problematic issues, including the necessity for the County to acquire Measure J units if transactions could not be concluded within prescribed time periods. These issues were more fully described in the January 25, 2005 Board report.

After extensive discussion and review the options presented in last year's Board report, both your commission and the Board directed the staff to continue the existing procedure whereby existing owners select interested purchasers. In addition, the Board directed staff to conduct an outreach effort to better publicize the availability of Measure J units, collect names of interested purchasers and to monitor program effectiveness. Staff was further instructed to give Measure J owners the choice about whether they wanted the County to publicize the availability of their unit or whether they preferred to market the unit without County involvement.

'Questions have been raised about making sure that transactions between buyers and sellers are fair and that purchasers are not taken advantage of by sellers who operate in a "seller's market". To address this issue, staff has developed an affidavit that must be signed by both the buyer and seller attesting to the fact that the transaction has occurred in accordance with program requirements. While an affidavit in and of itself is not a complete safeguard, the affidavit is signed under penalty of perjury and designed to provide for an added focus on the fact that the specific transaction details have been handled properly.

OVERVIEW OF OUTREACH EFFORTS AND 2005 PROGRAM ACTIVITY

Over the past year, the staff held ~~two~~ well-publicized public meetings about the Measure J program. One meeting was held at the Simpkins Swim Center in Live Oak and the other in the community room in the new Corralitos Creek Town Homes development in Freedom. Staff has **also** established an on-line interested purchasers form (See Attachment) on the Planning Department's web site, developed an interested purchasers waiting list, and distributed program information in both English and Spanish (See Attachment).

During the 2005 calendar year, there were 19 units sold, including 5 newly built units. In only one case did the seller choose to post the unit on the County's web site, and in that case the buyer was located through another source. In our evaluation of the new buyers, most were made aware of their unit either through a direct contact with the developer (in the case of newly built units), word of mouth or were acquainted with the Seller. In addition, over the past two years the program has operated smoothly; there have been no reported complaints from Measure J owners or members of the public about the sale and resale process.

The program activity the past year confirms staff's earlier belief that, given the demand for Measure J units, if owners are given the choice about whether to select their own buyer or have the County select the buyer, owners are much more likely to choose to select their own buyer. As a result, County outreach **efforts** to identify interested purchasers are of limited effectiveness if owners retain the right to select their own buyer.

Meanwhile, County staff has continued to explore whether it is advisable for your Board to initiate program revisions at this time. As part of that process, staff has researched best practices in other jurisdictions.

RESEARCH ON BEST PRACTICES

In 2003, a comprehensive evaluation of Inclusionary Housing Programs in California was conducted by the California Coalition for Rural Housing (CCRH) and the Non Profit Housing Association of Northern California (NPH). This study was the first and most comprehensive study of its kind done on Inclusionary Housing Programs in California. The 40 page report entitled "Inclusionary Housing in California: 30 Years of Innovation" included a comprehensive survey of the 107 jurisdictions in California that have Inclusionary Housing Programs, and identified key issues and problem areas. This report was instrumental in helping identify best practices for jurisdictions throughout the State²

One of the most notable findings in that report was the large number of jurisdictions who have repeatedly amended their Inclusionary Housing Programs to: correct flawed program design; address emerging issues; and replicate the successes of other jurisdictions. In reviewing this report, it is clear that Santa Cruz County's program includes many of the best practices features such as affordability restrictions in perpetuity, options for developers that are at the discretion of the Board (e.g. in-lieu fees, non-profit partnerships, etc.), and monitoring efforts. As a result, we have an effective program that serves many residents in Santa Cruz County.

² It is worth noting that the Santa Cruz County Board of Supervisors 1988 decision to acquire parcels for affordable housing was particularly visionary – statewide thousands of affordable units produced through inclusionary programs that did not include in-lieu fees. Other jurisdictions have had to market rental units at market rates which provided the initial unit with a windfall.

While this report provided the most comprehensive overview of Inclusionary Housing Program requirements in California, it did not directly focus on how different jurisdictions handle the sale and resale process. County staff has discussed this issue with NPH staff and NPH has confirmed that this is a critical issue for many jurisdictions. To this end, the NPH has initiated a Local Government Working Group to identify best practices for handling the sale and resale process and it is recommended that Planning staff participate in this effort.

Based on our discussions with these jurisdictions as well as the NPH, staff believes that communities are still in the experimental stage of exploring alternative approaches for the sale and resale process. By involving representatives from a number of jurisdictions, NPH's Local Government Working Group could help identify the most viable and sensible program options for the sale and resale of Measure J units.

DISCUSSION/RECOMMENDATION

In 1978, the Measure J Program was established to provide for long-term affordable housing in the community and over the intervening 27 years, the program has successfully created a 400-unit inventory of affordable housing. The Measure J inventory is a key public resource that must be managed prudently.

Given the scarcity of affordable housing opportunities in the community, the question of how the sale and resale process works is a legitimate question, and staff believes that it is an important public policy goal to ensure that Measure J units are allocated in the most fair and equitable way possible. In an ideal world, every income eligible County resident should have equal access to the few Measure J units that are sold. Developing and maintaining a system to ensure equal allocation, however, involves operational considerations, requires administrative resources and wholesale program changes should not be made precipitously. To this end, staff believes that any program change should be based on proven, effective strategies. For the first time, there are efforts underway to identify the best practices method of handling the sale and resale process through NPH Local Government Working Group. Therefore, staff believes that it is premature to initiate a program change at this time and believes that our future program direction can benefit from this best practices discussion.

It is therefore recommended that HAC accept and file this report

cc: Planning Director



County of Santa Cruz

HOUSING ADVISORY COMMISSION

701 OCEAN STREET - 4TH FLOOR, SANTA CRUZ, CA 95060
(831)454-2580 FAX: (831) 454-2131 TDD: (831)454-2123

December 7, 2005

To: Housing Advisory Commission

From: Carolyn Watanabe, Housing Project Manager

Subject: Discussion of HAC Goals and Responsibilities (Commissioner Carney)

Attached for this discussion are copies of the **HAC Work** Program for 2005 .



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HOUSING ADVISORY COMMISSION 2005 WORK PROGRAM

I. Role of the Housing Advisory Commission

The duties of the Housing Advisory Commission are listed in Section 2.94.050 of the Santa Cruz County Codes. These duties specifically include:

1. Assessing the housing needs of Santa Cruz County residents and making recommendations on public programs designed to meet those needs;
2. Advising the Board of Supervisors on housing policy;
3. Advising the Board of Supervisors and Planning Commission on matters related to the Housing Element of the General Plan; and
4. Conducting public hearing on housing problems and potential solutions to them

II. Meeting Dates, Time and Location

The Housing Advisory Commission meets at the Aptos-La Selva Fire Protection District's first floor conference room located at 6934 Soquel Drive, Aptos. Meetings are held from 4:00 p.m. to 5:30 p.m. on the first Wednesday of each month, or the second Wednesday in case of a holiday. The scheduled meeting dates for 2005 are as follows:

January 5, 2005	May 4, 2005	September 7, 2005
February 2, 2005	June 1, 2005	October 5, 2005
March 2, 2005	July - Summer recess	November 2, 2005
April 6, 2005	August - Summer recess	December 7, 2005

The Commission may elect to cancel the July and/or August meetings for a summer hiatus. If so, notice will be given in the prior months Agenda.

III. Planned Activities for 2005

The Housing Advisory Commission plans to focus on the following areas of activity:

1. Providing Input to and Oversight of County Housing Policies, and Monitoring Housing Programs, Projects and Activities;
2. Keeping Abreast of Housing Legislation and Receiving Information Affecting Housing In the County;

3. Facilitating Required Public Participation Related to Funding Applications for Housing Programs and Policies, As Appropriate
4. Implementation of Housing Element and its programs

The Commission's planned activities within each of these categories are summarized below:

1. Housing Programs, Projects and Activities

- The Commission strives to be informed of planned and proposed housing projects in the County, including market-rate and affordable housing developments.
- The Commission plans to provide input on the sale and resale process for Measure J units.
- The Commission also plans to explore ways to encourage the construction of more multifamily housing (i.e., attached dwellings such as townhomes, apartments, four-plexes, etc.) to meet local needs.
- The Commission plans to consider expanding financial options to seniors, first time home buyer and home ownership programs.
- Other housing issues identified by the Commission throughout the year.

2. Housing Legislation and Information

- The Commission intends to stay abreast of new state and local housing legislation that may affect the provision of affordable housing in the County or otherwise affect local housing supply, demand and/or the development process.
- The Commission will seek information related to the creation of adequate housing for agricultural workers and their families, and for other groups with special housing needs.
- In order to remain well informed, the Commission plans to invite speakers from various housing organizations, public agencies, etc. to make presentations on current housing topics of interest. In addition, the Commission plans to continue to communicate regularly with other housing groups such as the Continuum of Care Coordinating Group.

3. Public Participation

- The Commission will continue to serve as a forum for public discussion of any housing issues, to conduct public hearings on proposed County housing legislation and plans, as required by law, and to hear public comments related to local housing issues, needs and developments.

IV. Approval

The Housing Advisory Commission approved and adopted this 2005 Work Program on January 5, 2005.

Michael Guth, Chairperson