

MEMORANDUM

Date: December 22, 2004

To: Housing Advisory Commission

From: Erik Schapira 

Re: Sale and Re-sale of Measure J units

At the December 8th meeting, Commission members continued the Measure J item to the January 5, 2005 meeting. HAC also requested a copy of the Measure J "Declaration of Restrictions" (Exhibit 1) which is recorded on each newly created Measure J unit and when an existing Measure J unit is sold and written materials concerning the Measure J sale and resale process. **HAC** requested staff provide information identifying the key issues and include a preliminary recommendation concerning the sale and resale of Measure J units.

This memo provides for an overview of the issues associated with the sale and re-sale process and discusses two general program options.

Program Overview

- ✓ Measure J affordable housing program began in the late **1970's**
- ✓ Currently there are over 380 ownership units scattered throughout the County and we have a compliance rate of over 95%.
- ✓ The initial sale or resale of Measure J units is a private transaction between the buyer and the seller.
- ✓ The County's role in Measure J transactions is determined by the ordinance and program guidelines, and includes:
 - 1) Certifying the income of potential purchasers;
 - 2) For ownership units, assuring that a first time homebuyer purchases the unit;
 - 3) 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;
 - 4) Verifying that the household consists of an appropriate number of residents; and,
 - 5) Handling escrow instructions to ensure that all program requirements have been fulfilled.
- ✓ 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 (or 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'.

- ✓ Measure J sellers eager to sell their unit quickly have had difficulty locating a Measure J eligible purchaser and have expressed interest in a program which helps them more easily identify a buyer for their unit.
- ✓ Given the limited number of Measure J units and the demand in the community for affordable housing, it is important that the resale process be broadly publicized to maximize the opportunities for the public at large to obtain a Measure J units while at the same time making sure that the process facilitates the sale of the unit in a timely manner.
- ✓ Over the years, staff has discussed with the Board of Supervisors the need to make Measure J units more available to the general population without increasing County liability associated with Measure J transactions.

Program Options:

The attached chart has been prepared to facilitate HAC's discussion about this matter. **As** you can see, this chart addresses two general approaches to the sale and resale process:

1. The County controls who the unit is **sold** to; and
2. The County creates a list of interested buyers to help facilitate the transaction; County does not assume ultimate responsibility for the transaction

At the last HAC meeting, it was suggested that staff also inform HAC about our preliminary **recommendation** about this matter. To this end, based on a preliminary analysis of the program options, staff believes that the second option will result in increased public access to the program, minimize the need for additional staffing resources and protect the County from increased liability **concerns** associated with Option 1. This approach would also involve monitoring the program over the course of the year to determine the number of Measure J purchasers who attended a County-sponsored workshop and whether actual purchasers **come** from the list of attendees. Based on the results of a one-year program evaluation it may be worthwhile to explore instituting a two-tiered system, whereby elements of Option 1 could be applied to 1) newly created Measure J units; 2) new Measure J owners who purchase an existing Measure J home; and 3) consider the possibility of providing incentives to existing Measure J owners to voluntarily participate in Option 1.

I recognize that this is a complex program and I look forward to a spirited discussion about this matter at the next HAC meeting.

cc: Tom Bums, Planning Director

¹ Currently, both the buyer and **seller** must sign an affidavit attesting to the fact that the transaction has occurred in accordance with program requirements.

Sale and Re-sale of Measure J Units			
General Approaches	Operational Considerations	PROS	CONS
<p>OPTION 1</p> <p>County controls who the unit is sold to</p>	<ul style="list-style-type: none"> ▶ Staff conducts outreach efforts/workshops and web-based publicity to inform public about the program and units on the market ▶ County would establish a pool of eligible purchasers who are interested in purchasing a Measure J unit. ■ County would develop, and implement, a system to equitably select an eligible purchaser and oversee the transaction 	<ul style="list-style-type: none"> ■ Allows for public at large to have equal access to Measure J units ■ Ensures that all transactions are "transparent" ▶ Reduces potential for "under the table" transactions 	<ul style="list-style-type: none"> ■ Requires County involvement in transactions ■ Measure J owners currently have recorded agreements which specify the transaction process, and there would be legal problems if the County involvement in the transaction materially effects the Measure J buyer (by delaying transaction) ▶ In order to avoid any materially adverse impact on existing owners, County may be required to purchase units (at the Measure J price) ▶ County assumes liability for transaction problem/delays ■ Significant increase in staff resources
<p>OPTION 2</p> <p>County creates a list of interested buyers to help facilitate the transaction; County does not assume ultimate responsibility for the transaction</p>	<ul style="list-style-type: none"> ■ Staff conducts outreach efforts/workshops and web-based publicity to inform public about the program and units on the market ■ Staff collects names of interested buyers and provides <ol style="list-style-type: none"> 1. sellers with list of names of interested buyers; and/or 2. interested purchasers with names of Measure J sellers (w/ sellers permission) ▶ Staff monitors how many purchasers originate from list of interested purchasers. 	<ul style="list-style-type: none"> ▶ Transaction remains a private transaction - no County liability ■ Maximizes public awareness of program ■ Increases public access to Measure J units ▶ Can most likely be accommodated within existing staffing resources 	<ul style="list-style-type: none"> ■ Seller makes final decision and could sell home to acquaintance - purchaser <u>not required</u> to be on the County's list of interested buyers

RECORDING REQUESTED **BY**
AND WHEN RECORDED MAIL TO:
Planning Department of the
County of Santa Cruz
Measure J Housing Program
701 Ocean Street, Room 510
Santa Cruz, CA 95060

SPACE ABOVE THIS LINE FOR RECORDER'S USE

This document is recorded at the _____ test and for the benefit of the _____ City of Santa Cruz
and is exempt from the payment of a recording fee pursuant to _____ Health Code § 03.

**DECLARATION OF RESTRICTIONS
OWNER-OCCUPIED DWELLING
COUNTY OF SANTA CRUZ AFFORDABLE HOUSING PROGRAM**

WHEREAS,, hereinafter referred to as "PURCHASER," desires to purchase with the intent to occupy the affordable ownership unit developed in accordance with Chapter 17.10 of the Santa Cruz County Code and described **as:**

Situs:

APN:

NOW, THEREFORE, in consideration of the affordable housing requirements of Santa Cruz County Code Chapter 17.10, PURCHASER hereby agrees as follows:

1. PURCHASER agrees to be bound by the provisions of this Declaration of Restrictions for the life of the unit.
2. PURCHASER agrees to occupy the unit as PURCHASERs principal place of residence as evidenced by qualifying for and obtaining a Homeowners' Property Tax Exemption. If PURCHASER ceases to occupy the unit as PURCHASERs principal place of residency, PURCHASER agrees to either offer the unit for sale to another qualified buyer, allow the County of Santa Cruz or its designee to resell the unit, or convert the unit to an investor-owner rental unit through recording of an amended Declaration of Restrictions and payment of then current park dedication fees.
3. PURCHASER agrees to comply with all applicable provisions of the then current County Code Chapter 17.10 and the Affordable Housing Guidelines as amended from time to time, including but not limited to the resale price guidelines and procedures.
4. If and when PURCHASER desires to sell the unit, PURCHASER agrees to sell to an eligible buyer as qualified under the County's Affordable Housing Guidelines. If PURCHASER is issued a Notice of Default and the default is not cured within a 30-day period from the issuance of the notice, PURCHASER agrees to sell the unit to the County of Santa Cruz or an eligible buyer designated by the County.
5. PURCHASER agrees that prior to the subsequent sale of the unit, the buyer shall be certified by the County of Santa Cruz or its designee as being qualified to purchase the unit pursuant to the then current County Code Chapter 17.10 and the Affordable Housing Guidelines. The unit shall only be sold to an owner-occupant household, unless conversion of the unit to an investor-owned rental unit has been approved by the County.
6. PURCHASER agrees that upon the resale or refinance of the unit, a fee as then established

by the County Board of Supervisors shall be paid to the County of Santa Cruz, or its designated 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.

7. PURCHASER agrees to pay County all court costs and attorney's fees in the event legal action is undertaken to enforce this agreement. Such attorney's fees shall be determined based on the average hourly rate of attorneys in Santa Cruz County engaged in private practice and on the time spent by the County's legal staff.

8. Any violation of this Declaration of Restrictions by any person, firm, or **corporation**, whether a principal agent, employee or otherwise, is a misdemeanor pursuant to Santa Cruz County Code Chapter **17.10**, as well as being subject to the full range of penalties and enforcement actions available to the County.

9. This Declaration of Restrictions shall be binding on all of PURCHASER's transferees, assigns, heirs or other successors in interest, both voluntary and involuntary; no changes to these restrictions shall be allowed without written authorization from the County of Santa Cruz.

10. PURCHASER agrees to have recorded a Request for a Notice of Default for any lien which affects this property, including all deeds of trust which PURCHASER shall subsequently enter into. All such Request for a Notice of Default shall name "Planning Department of the County of Santa Cruz, Measure J Housing Program, **701** Ocean Street, Room **510**, Santa Cruz, CA **95060**" as the recipient of any Notice of Default.

Date: _____ Purchaser: _____

Date: _____ Purchaser: _____

STATE OF CALIFORNIA)
) **ss.**
COUNTY OF SANTA CRUZ)

On _____, 20____ before me, _____

Notary Public, personally appeared

_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the persons(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____
Notary Public in and for said County and State

MEMORANDUM

Date: December 22, 2004
To: Housing Advisory Commission
From: Carolyn Watanabe, Housing Project Manager
Re: 2005 Work Program for the Housing Advisory Commission

The Housing Advisory Commission was asked to discuss the 2005 Work Program at the December 8, 2004 meeting. This item was continued to the January 5, 2005 meeting. Attached is a rough draft of the 2005 Work Program to provide a starting point for discussion.

The goals of the Commission are established in the County Code and shall remain as adopted. Within that framework, the Commission may determine general or specific objectives it may wish to achieve for 2005.



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

HOUSING ADVISORY COMMISSION 2005 WORK PROGRAM

DRAFT

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 month's 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

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 procedures 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.
- 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 _____, 2005.

Michael Guth, Chairperson