



Housing Advisory  
Commission 0000239

# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

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**TOM BURNS, PLANNING DIRECTOR**

March 10, 2006

**AGENDA DATE: March 28, 2006**

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

### **SUBJECT Marketing of Measure J Units**

Members of the Board:

Last year, the Board of Supervisors directed staff to consider changes to the Measure J Program sale and resale process. The January 2005 report to the Board included a recommendation to continue the existing resale procedure with owners selecting interested purchasers; increasing public awareness of the Program, and report back in March about the status of these efforts.

### **Sale and Resale Issue**

Currently, the initial sale or resale of Measure J units is a transaction between the buyer and the seller. The County's role in Measure J transactions includes making sure the potential purchaser is eligible and determining the sales price of the MJ unit. The number of Measure J units sold in a year varies, but on average 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.

Although concerns have been expressed about how buyers are selected and the extent to which interested members of the public have an opportunity to purchase a Measure J unit, we have found no documented evidence that fraudulent transactions have occurred.

### Income Profile of Measure J Buyer

During the past year, staff has conducted an analysis of the entire Measure J inventory to better understand the income levels of Measure J buyers when the buyer originally purchased their Measure J home. This analysis was done to determine whom the program serves and alternative strategies for the public to obtain a Measure J unit were explored. As

Questions have been raised about making sure that transactions between buyers and sellers are fair and that purchasers are not taken advantage of 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 eligibility of the purchaser in accordance with the program. 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.

shown in the Table below, low and very low-income households constituted more than 35% of Measure J homeowners.

Based on this analysis, though income eligibility requirements allow for Measure J homeowners be moderate income, the program continues to provide ownership opportunities for a wider range of income groups.

Measure J Buyer Profiles			
- 383 Owner-Occupied Units -			
	Income Range	Measure J Buyers No.	%
Very Low Income	> 50%	37	9.7%
Low Income	50%-80%	110	28.7%
Median Income	80%-100%	130	33.9%
Moderate	100%-120%	106	27.7%
		383	100%

### Questions About the Buyer Selection Process

Last year the Board had key questions concerning new buyer selection. Now the developer selects the initial buyer, and that buyer selects the new buyer upon resale – emulating open housing market transactions and retaining the prerogatives of homeownership for Measure J owners.

As the difference in price between Measure J and market rate units becomes more pronounced thus creating a higher demand for Measure J units, questions about alternative buyer selection processes have emerged. One such alternative would be for the County (instead of the seller) to select the new buyers. This approach could provide more access by the public to available Measure J units. However, intricate involvement by the County could introduce program complications in the transaction details. It would also be necessary for the County to purchase Measure J units each time a transaction is not concluded within prescribed time periods. These issues were more fully described in the January 25, 2005 Board report.

For the above reasons, your Board directed the staff to continue the existing procedure. Also the Board directed staff to conduct an outreach effort to better publicize the availability of Measure J units and to increase awareness in the community about the program.

With regard to re-sales, as requested by the Board and the Housing Advisory Commission, owners have been given the option about whether they preferred to market the unit without County involvement or if they wanted the County to publicize the availability of their unit. Staff has also established an on-line interested purchasers form, which is available in English and Spanish on the Planning Department's web site, distributed program information in both English and Spanish and developed a list of potentially interested purchasers of Measure J units. To date, there are 35 names on the interested purchasers list. Staff has collected names of interested purchasers on a database and furnishes these names to sellers. As part of this process staff required interested purchasers to familiarize themselves with the

program requirements through informational materials and by attendance at a staff-sponsored public meeting on the Measure J program.

### Overview of Outreach Efforts and 2005 Program Activity

During the year staff held two well-publicized public meetings about the Measure J program - one at the Simpkins Swim Center in Live Oak and the other in the new Corralitos Creek Town Homes development in Freedom.

During the **2005** calendar year, there were **19** units sold. An analysis of the **2005** transactions indicated the following:

- ♦ **12** units were sold to homeowners and seven units to investor-owners.
- ♦ Only two of the Sellers chose to list their units on the County web site; and both of these sellers sold to investor owners.
- ♦ Among the **12** sales to homeowners, only two of the buyers had previously contacted to County; in ten of these cases, the new buyer either was acquainted with the seller, hearing of the Measure home through word of mouth, a realtor or a newspaper ad, or were made aware of the unit through other means. No buyers were selected from the County's interested purchasers list.
- ♦ Based on an analysis of the **12** sales to homeowners, the average income of a Measure J buyer in **2005** was **78%** of the County median income. which is consistent with the overall profile of Measure J homeowners

Activity the past year confirms that 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. Thus, County outreach efforts to identify interested purchasers are of limited effectiveness if owners retain the right to select their own buyer. However, staff continues explore the advisability of your Board initiating program revisions that would involve the County in Measure J transactions and in that regard staff continues to research the best practices of other jurisdictions running similar programs.

### Research on Best Practices

In **2003**, the California Coalition for Rural Housing (CCRH) and the Non Profit Housing Association of Northern California (NPH) conducted a comprehensive evaluation of Inclusionary Housing Programs in California - one of the first and most comprehensive studies ever done on Inclusionary Housing Programs in California. The 40 page report entitled "Inclusionary Housing in California: **30** Years of Innovation" surveyed **107** California jurisdictions with Inclusionary Housing Programs. This report was instrumental in helping identify best practices for jurisdictions throughout the State.

The report found that a large number of jurisdictions repeatedly amended their Inclusionary Housing Programs. Most program changes have been initiated to address emerging issues,

correct flaws in the original program design or to replicate the successes of other jurisdictions.<sup>2</sup>

In light of 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. Your Board's 1988 decision to require permanent affordability for Measure J units was particularly prescient – according to the NPH report, statewide thousands of affordable units produced through inclusionary programs that did not include long term affordability restrictions have reverted to market rate housing, and provided the original purchaser with windfall gains.

While the Non-Profit Housing Association of Northern California (NPH) 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 they have 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 planning and is holding a series of meetings over the next year with a goal toward presenting best practices recommendations by the end of 2006. Planning staff attended the first meetings in January and February.

Based on our discussions with other 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. Staff recommends continuing to participate in this effort and returning to your Board with specific recommendations once best practices have been identified.

#### Housing Advisory Commission (HAC) Recommendation

The Housing Advisory Commission devoted its December meeting to reviewing the options for the sale and resale of Measure J units. After extensive discussion about the program options, including whether the County should take a more active role in the sale and resale process, HAC recommended that the Board adopt the proposed staff recommendation described above.

<sup>2</sup> The Board of Supervisors have made numerous changes to the Affordable Housing Program during the 27 year program history, including the following more notable amendments:

- Expanding the duration of the affordable restrictions from ten years (at program inception) to 30 years (in 1980) to the current requirement that units remain affordable in perpetuity (1988);
- Deleting the provision in the original ordinance that allowed for homes to be removed from the program due to marketing considerations (1982;)
- Establishing County residency requirement, first time homebuyer status, and household size requirements (2001); and
- Establishing the County right to purchase a unit to avert a foreclosure.

### Discussion / Recommendation

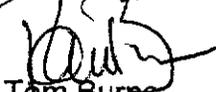
In 1978, the Measure J Program was established to provide for long-term affordable housing in the community and over the intervening 27 years, the program has successfully created a 400-unit inventory of affordable housing that serves the affordable housing needs of a wide range of income groups. The 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 without unduly interfering with the market transaction, however, involves operational considerations, requires administrative resources and most importantly, should be based on a well-tested implementation plan. Staff has learned through direct programmatic experience that 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 your Board take the following action:

1. Accept and file this report; and
2. Direct Planning staff to continue to participate in the Local Government Working Group effort to identify best practices for the sale and re-sale of Measure J units and return to the Board, as appropriate, with recommendations for program improvements.

Sincerely,

  
 Tom Burns  
 Planning Director

RECOMMENDED:

  
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 SUSAN A. MAURIELLO  
 County Administrative Officer

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cc: Housing Advisory Commission

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