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REPORT NO. 02-225

ATTENTION: Land Use and Housing Committee
Agenda of October 9, 2002

SUBJECT: Implementation of the North City Future Urbanizing Area Framework
Plan Affordable Housing Policy

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

BACKGROUND

To facilitate development of affordable home ownership within the North City Future Urbanizing Area (NCFUA), the City of San Diego Planning Director and the Executive Director of the City's Housing Authority have expressed a willingness to consider more flexible proposals that comply with applicable State and City of San Diego Density Bonus Laws and the inclusionary housing requirements in effect for the North City Future Urbanizing Area. The NCFUA Framework Plan states that:

This requirement [inclusionary housing] can be fulfilled by: 1) a set aside of no less than 20 percent of the units for occupancy by, and at rates affordable to, families earning no more than 65 percent of the median income, adjusted for family size, or 2) a dedication of developable land of equivalent value. The affordable units must remain affordable for the life of the unit and should be phased proportionate to development of the market-rate units.

To date 1,271 affordable housing units have been approved within the North City Future Urbanizing Area in conjunction with market rate units. Of those, 258 units are either occupied or currently under construction. While larger developments satisfy their affordable requirement by constructing on-site, some smaller developments utilize surplus units approved at common sites to satisfy their requirement.

DISCUSSION

The process for providing affordable units in the NCFUA can be broken into two components. The first component is the discretionary review process. The discretionary review component begins with project submittal and ends with discretionary approval by a decision maker. This is when the number of required affordable units is determined, the affordable housing program is developed, and the project design, siting, and bedroom mix are prescribed. The second component is the implementation process. The implementation process begins after the project

has received approval. It is when the affordable housing agreement is negotiated and executed, which include the timing of construction of affordable units, the decision to build on-site or utilize surplus units at a common site and, in some instances, the decision to pursue rental versus for-sale affordable housing.

To date all but one of the affordable housing projects approved in the NCFUA are proposed to be developed as rental units. These rental units are made affordable to families earning no more than 60% of the Area Median Income (AMI) consistent with State Density Bonus Law for low income rental housing and at a rent affordable at no more than 30 per cent of 60 per cent of area median income, per Government Code Section 65915.

The current lack of for-sale affordable housing within the NCFUA is attributable to a combination of factors. These factors include:

- The economic infeasibility of developing a for-sale unit at 65 per cent of the AMI;
- The ability to maintain the specified level of affordability for the life of the unit (55 years);
- The ability to secure lenders for each individual for-sale unit; and
- The need for the Housing Authority to maintain the first priority lien on units, ahead of the mortgage lender.

In an effort to address for-sale affordable housing in the NCFUA, two methodologies can be applied consistent with the NCFUA Inclusionary Housing policies. Additionally, in order to move forward with any for-sale affordable housing, an affordable for-sale program to address financing and continued affordability needs to be developed.

Averaging Methodology

As previously stated the Implementing Principles of the Inclusionary Housing Requirements of the NCFUA Framework Plan state that affordable housing is to be provided at rates affordable to families earning no more than 65 per cent of the AMI. Of the 258 affordable units built or under construction all are rental units. Both the Planning Department and the Housing Authority believe that it would be beneficial to have a mix of rental and for sale opportunities. However, developers have indicated that it is infeasible to provide for-sale opportunities at 65 per cent AMI due to the high cost of land acquisition and infrastructure in the NCFUA.

The Planning Department and the Housing Commission have determined that the NCFUA requirement for 65% AMI allows an average affordability level between rental and for-sale products within the same discretionary project. This methodology allows rental units offered below 65 per cent AMI to be averaged with for-sale units offered above 65 per cent (but not to exceed 80 per cent) provided that the average affordability level does not exceed 65 per cent AMI. This methodology has been reviewed by the City Attorney's Office and the Counsel for the Housing Commission and each has determined it to be consistent with State and Municipal Density Bonus Laws and the City's Inclusionary Housing Requirements in effect for the NCFUA.

To date, the Planning Department and the Housing Commission have worked together on one project that proposes to utilize averaging in order to develop a for-sale affordable housing product. That project is Santaluz, which is located in Black Mountain Ranch (Subarea I of the NCFUA). The Santaluz project was approved in November 1995 and is still designated as Future Urbanizing Area (the remainder of Black Mountain Ranch phase shifted to Planned

Urbanizing Area in 1998). Santaluz is comprised of 1,121 dwelling units consisting of 942 market rate units and 179 affordable housing units. The 179 affordable units were approved to be located on two sites; the northern site adjacent to the North Village will contain 119 units and the southern site adjacent to the South Village will contain 60 affordable housing units. Santaluz will provide an additional 10 affordable units at the southern site for a total of 70 by converting, and relocating, 10 market rate units from a low density residential area to 10 affordable units in the South Village.

The Santaluz proposal would develop the 70 affordable housing units (includes the additional 10 units) in the South Village as for-sale housing at 75 per cent AMI, and restrict the 119 affordable rental units in the North Village to 60 per cent AMI. Both would be income restricted for the required 55 years. The average affordability of the housing units would be 65 per cent AMI, thereby complying with the requirements of the NCFUA Framework Plan and the Black Mountain Ranch Subarea Plan.

The elements of the averaging proposal for the Santaluz project are:

The average of the rental and for-sale units is 65 per cent AMI;

All rental units are restricted at or below 60 per cent of area median income and are affordable at those rates;

The affordable housing sites are owned by the same entity;

The affordable housing sites are part of one approved development application;

All of the affordable units are used to satisfy the requirements of a single owner; and

The project includes 10 additional affordable units (5 per cent more than required).

The Planning Department and the Housing Commission have determined that in order to comply with State and Municipal Density Bonus Law, and the City's Inclusionary Housing Requirements for the NCFUA the above points, with the exception of the last two bullet points (additional affordable units and satisfying the requirements of a single owner), are required in any future application of averaging affordable for-sale and rental units.

Western Pacific Housing has submitted to the Housing Commission a proposal to use the averaging methodology. The proposal would average the 112 affordable units approved in September 1999 at the D.R. Horton Torrey Del Mar site with the 135 affordable units approved in August 2002 at the Torrey Highlands Village site (Western Pacific Housing became a division of D.R. Horton in 2001). The Torrey Del Mar development is expected to be occupied by the end of this year. It provides 112 affordable rental units at an average affordability of 49.5 per cent. Western Pacific Housing proposes that the 112 Torrey Del Mar units be averaged with the 135 units in the Torrey Highlands Village in order to make those units affordable for-sale housing at 77.8 per cent AMI.

The current Western Pacific Housing proposal is not consistent with the elements of averaging methodology previously utilized to provide affordable for-sale housing in the NCFUA. All of the units in the Santaluz proposal were under a single ownership. Western Pacific Housing proposes to average two projects that are owned by two different companies. The Torrey Del Mar project is not currently owned by Western Pacific Housing or D.R. Horton; the development was purchased by Carmel Valley Housing Associates, L.P. in December of 2001. The Santaluz project is one development project subject to one development permit approval. The Western Pacific Housing proposal would seek to tie together two separate development permits that received approvals nearly three years apart from one another. Additionally, the proposal would

provide no added affordable housing benefit since the Torrey Del Mar project is already ensured at 49.5 per cent AMI and averaging with the Torrey Highlands Village would only serve to make those units less affordable. Although the current proposal is not consistent, City and Housing Commission staff have informed Western Pacific Housing that a proposal to average the 135 units at the Torrey Highlands Village to provide affordable for-sale housing could be realized using the averaging methodology.

Alternative Methodology

An alternative methodology that could also be used to provide for-sale affordable housing in the NCFUA is based on providing a for-sale product, that while not for sale at an average of 65 per cent AMI, is still affordable to families earning no more than 65 per cent of the AMI. This methodology has been identified because small scale affordable housing developments have been unable to provide for-sale affordable housing with an average affordability of 65 per cent. This alternative methodology would require that the affordable housing developments with an average AMI exceeding 65 per cent include features that provide direct financial benefits, or savings, to the occupants such that the housing units are still affordable to families earning no more than 65 per cent of the AMI. Examples of financial benefits or savings would be reduced monthly energy costs that result from incorporation of photovoltaic and solar energy systems, financial benefits derived from mortgage deductions, and low cost or no cost on-site child care facilities. These types of direct financial benefits to occupants could result in housing at an AMI higher than 65 per cent but still affordable to a family earning no more than 65 per cent of the AMI.

A proposal similar to the alternative methodology discussed above has been submitted to the City and the Housing Commission. City and Housing Commission staff have been working on the proposal for a considerable amount of time. It is designed to allow smaller affordable housing developments, which are unable to achieve an average affordability of 65 per cent, to provide a for-sale development project that would be determined to be “equivalent” to 65 per cent based on specific criteria. The proposed criteria would require that specific project components, that are not usually provided in affordable housing, be included in the project. Such improvements would include solar and photovoltaic energy, private yards, private garages, two bedroom and larger units (no studios or one-bedroom units), and larger living units. The criteria would establish a maximum average AMI for the project that would exceed the required 65 per cent (maximum of 72 per cent AMI) but would assure that an average AMI of 65 per cent is met for the entire subarea.

This proposal would result in an attractive affordable housing development in that it would provide larger units, specific project benefits, and make a number of housing units available for sale to families earning no more than 60 per cent of the AMI. However, it has not yet been demonstrated that the proposal provides the financial benefits or savings sufficient to make it affordable to families earning no more than 65 per cent of the AMI, consistent with the current NCFUA Inclusionary Housing policies. If that were to be accomplished, both the City and Housing Commission staff would be able to move forward with the proposal.

Affordable For-Sale Program

The Housing Commission has been working to develop the documents necessary to assure

success and continued affordability (55 years) of a for-sale affordable housing program. To ensure the 55 year affordability, developers are required to execute documents, including, but not limited to: a Declaration of Affordable Restrictions; a Deed of Trust; and an option and first right of refusal. In order to make the for-sale program viable, Counsel for the Housing Commission has negotiated arrangements that would allow loans on affordable for-sale housing units without the normally required subordination of the Declaration of Affordable Restrictions. This means that if a homeowner were to default, the Housing Commission would be first in line and have the opportunity to cure any default within 90 days. This would allow the Housing Commission to continue the affordability and make the unit available to another qualified buyer.

This type of program has never been done before. Housing Commission Counsel and the lenders are working to finalize documents.

CONCLUSION

In conclusion, the Planning Department and the Housing Commission have been investigating ways in which to implement the Inclusionary Housing Principles of the NCFUA Framework Plan in order to achieve a balance of affordable rental and for-sale housing in the NCFUA. Two methodologies have been brought forward. The first would utilize a strict averaging of affordable rental and for-sale units to

attain an average AMI of 65 per cent. The second would provide a means for providing an affordable for-sale development that, while not meeting the strict average of 65 per cent AMI, provides financial benefits or savings to the occupants that make the units affordable to families earning no more than 65% of the AMI.

Respectfully submitted,

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