



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Community Services  
**Department No.:** 057  
**For Agenda Of:** December 11, 2012  
**Placement:** Departmental  
**Estimated Tme:** 15 Minutes  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Herman Parker, Community Services Director (805) 568-2467  
Director(s)  
Contact Info: Dinah Lockhart, HCD Deputy Director (805) 568-3520

**SUBJECT:** *Second Amendment to Agreement to Provide Affordable Housing – Stonegate* [TM 14,481, 98-DP-019], Orcutt area, Fourth Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: P&D

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- A. Approve and authorize the Chair of the Board of Supervisors to execute three (3) original *Second Amendment to Agreement to Provide Affordable Housing – Stonegate*, [TM 14,481, 98-DP-019] (“Second Amendment”) by and between the County of Santa Barbara and Stonegate Orcutt Venture, LLC (Attachment A), which amends two existing agreements: (1) the Agreement to Provide Affordable Housing; and (2) the First Amendment to the Agreement to Provide Affordable Housing;
- B. Direct the Community Services Department staff to record the executed Second Amendment; and
- C. After considering the previously adopted Environmental Impact Report (95-EIR-01) (Attachment E) prepared for the Orcutt Community Plan and the Addendum (95-EIR-01) (Attachment F) prepared for the Stonegate Ranch Project, determine that no subsequent Environmental Impact Report or Negative Declaration shall be prepared for this project pursuant to CEQA Guidelines Section 15162.

**Summary Text:**

The recommended Board action requests that the Board of Supervisors approve and execute the attached *Second Amendment to Agreement to Provide Affordable Housing* for the Stonegate residential

development project in Orcutt. The Agreement to Provide Affordable Housing was executed on October 10, 2006 (Attachment C), and a First Amendment to Agreement to Provide Affordable Housing, was executed on October 4, 2011 (Attachment D), between the County and Stonegate Orcutt Venture, LLC, (“Developer”). The Second Amendment amends the Agreement to Provide Affordable Housing and the First Amendment by: (1) substituting Lot 5, which is a 3 bedroom unit, in place of Lot 1, which is a 4 bedroom unit, as one of the ten (10) residential lots designated as a Restricted Unit; and (2) changing the timing of when the required affordable units (“Restricted Units”) must be built. The Second Amendment requires that the Developer must construct Restricted Units at the Stonegate project in the following manner:

1. Two (2) Restricted Units must be constructed concurrently with the construction of two (2) market rate units on the Subject Property. No building permits shall be issued for any additional market rate units until the County Planning and Development Department has issued Certificates of Occupancy for the two (2) Restricted Units.
2. Prior to completion of the two (2) Restricted Units and two (2) Market Rate Units, the Developer must commence marketing of the Restricted Units to eligible home buyers.
3. The above schedule in Subsections 1.1 and 1.2 shall continue to apply, so that for every two (2) market rate units constructed, two (2) Restricted Units must be constructed and marketed concurrently, until the County Planning and Development Department has issued Certificates of Occupancy for all ten (10) Restricted Units. Building permits may then be issued for the three (3) remaining market rate units.

**Background:**

The County Planning Commission approved the Stonegate Project on May 14, 2003. The project is a forty-four (44) unit development located in Orcutt. The Agreement to Provide required the Developer to construct fifteen (15) affordable housing units, affordable to low income families. Five (5) of the fifteen (15) units required to be provided by the Developer in the Conditions of Approval were transferred to a different development, Harp Springs [TM, 14,478] (“Harp Springs”). The developer of the Harp Springs project satisfied the inclusionary housing requirement for the project through payment of in-lieu fees that was allowed in the conditions of approval for Harp Springs. This payment reduced Stonegate’s required affordable housing units from fifteen (15) affordable units to ten (10) affordable units. To date, the Stonegate Developer has completed construction of twenty-one (21) market rate units, and twenty-three (23) units remain to be constructed, ten (10) of which must be affordable units.

The Stonegate project conditions and Agreement to Provide did not set forth a schedule of when the Restricted Units were to be constructed and sold in relation to the construction and sale of the market rate units. In early September of 2011, HCD staff learned that the escrow company closed escrow on seven (7) units that were designated as Restricted Units, but neither the Developer nor the escrow company informed the purchasers of the affordability restrictions, notified the County that Restricted Units were being sold, or recorded a Restrictive Covenant with the affordability restrictions on the units. Because of these omissions, these units are not Restricted Units.

As a result, the Board of Supervisors approved and executed the First Amendment to the Agreement to Provide on October 4, 2011, which identified ten (10) replacement Restricted Units on the Stonegate

Project and also set forth a schedule of when the Restricted Units were to be constructed (Attachment D). The First Amendment required two (2) Restricted Units to be completed before the Developer could commence construction of two (2) market rate units. The Developer has informed HCD that since the date of execution of the First Amendment to the Agreement to Provide, changes to market conditions have deteriorated, making this schedule economically infeasible for the Developer.

The Developer has requested a Second Amendment to the Agreement to Provide, which would amend the existing schedule for construction of the ten (10) required Restricted Units (Attachment B). Approval of this Second Amendment to the Agreement to Provide Affordable Housing would ensure that the ten (10) Restricted Units are built concurrently with the market rate units. The Developer has requested substituting Lot 5 in place of Lot 1 as one of the residential units used for a Restricted Unit, since Lot 1 is on a larger lot. HCD recommends agreeing to this change since there are no requirements stated in the project conditions of approval, the Housing Element, the Inclusionary Housing Program, or any other applicable specific plan, which specifies on what lots the Restricted Units must be built. The Developer identified the lots upon which the Restricted Units were to be built in both the initial Agreement to Provide Affordable Housing and the First Amendment to the Agreement to Provide Affordable Housing.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

Narrative: The Housing and Community Development Division will expend funds for advertisements to market the affordable homes; to screen potential buyers through the Certification Process; to monitor the affordable homes in this project, and to enforce the “Shared Equity Appreciation Restrictive Covenant.” Application Fees offset a portion of the expenses; the remainder will be paid from Santa Maria HMA In-Lieu Fees in the Affordable Housing Trust Fund. The affordable units will remain affordable for a period of thirty (30) years.

**Special Instructions:**

- Clerk of the Board to forward two original executed Second Amendment to Agreement to Provide Affordable Housing – Stonegate [TM 14,481, 98-DP-019] to Margo Wagner, Housing and Community Development Division to forward to the County Clerk Recorder for recordation, and
- Clerk of the Board to forward a copy of the Minute Order to Margo Wagner

**Attachments:**

Attachment A – Second Amendment to Agreement to Provide Affordable Housing – Stonegate  
Attachment B – Request from Developer to substitute Lot 1 with Lot 5  
Attachment C – Agreement to Provide Affordable Housing  
Attachment D – First Amendment to Agreement to Provide Affordable Housing  
Attachment E – Link to Environmental Impact Report (95-EIR-01) for the Orcutt Community Plan  
Attachment F - Addendum (95-EIR-01) Stonegate Ranch Project

Stonegate – Second Amendment to Agreement to Provide Affordable Housing

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**Authored by:**

Margo Wagner, Housing Program Specialist II

**cc:**

Mike Munoz, Deputy County Counsel

Kerry Bierman, Chief Financial Officer

Doug Anthony, Planning & Development