

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 4/3/02
Department Name: P&D
Department No.: 053
Agenda Date: 4/16/02
Placement: Departmental
Estimate Time: 1 hour
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: John Patton
Director, Planning & Development

STAFF CONTACT: John Cuykendall, Project Manager (x3560)
Dev Vrat, Supervising Planner (x2022)

SUBJECT: Interim Housing Element Amendments (Case No. 01GPA-00000-00003)

1.0 RECOMMENDATION(S):

That the Board of Supervisors consider Planning Commission recommendations to adopt interim amendments to the County's *Housing Element* as follows:

- A. Amend the *Housing Element Affordable Housing Overlay (AHO) Program* to convert from a fixed 30-year income/price control term to a *rolling* 30-year income/price term with a 60 year maximum period for "for-sale" projects;
- B. Remove the **off-site construction** and "**In-Lieu**" **Fee** option for Inclusionary Program (base density) "for-sale" projects on AHO sites, unless on-site construction of the affordable units is determined by the decision making body to be infeasible;
- C. Amend the *Housing Element Inclusionary Program* to extend the equity share term from 10 years to 30 years within the Lompoc, Santa Ynez, Santa Maria, and Cuyama Housing Market Areas, and from a 10 year equity share program to a *rolling* 30-year fixed income/price control program with a 60 year maximum period in the South Coast Housing Market Area for "for sale" projects;
- D. Amend the *Housing Element Bonus Density Program* to convert from a fixed 30-year income/price control term to a *rolling* 30-year income/price control term with a 60-year maximum period for "for-sale" projects.
- E. Add new *Housing Element Actions A - D* to be undertaken by the County to provide further County support and incentives for the development of affordable housing;

- F. Approve CEQA Addendum, dated June 6, 2001, to the *1993 Housing Element Update EIR* (93-EIR-1) (Attachment A);
- G. Adopt a Resolution amending the Housing Element and Housing Element Implementation Guidelines to reflect the proposed Interim Housing Element Amendments (Attachment B);
- H. Adopt a resolution adopting an ordinance amending Chapter 35, Article II of the County Code to reflect the proposed Interim Housing Element Amendments (Attachment C); and
- I. Adopt two ordinances amending Chapter 35, Article III and IV of the County Code to reflect the proposed Interim Housing Element Amendments (Attachment D).

2.0 ALIGNMENT WITH BOARD STRATEGIC PLAN:

The recommendation(s) are primarily aligned with Goal No. 1. An Efficient Government Able to Respond Effectively to the Needs of the Community; Goal No. 4. A Community that is Economically Vital and Sustainable; and Goal No. 5. A High Quality of Life for All Residents.

3.0 EXECUTIVE SUMMARY AND DISCUSSION:

The statutorily mandated update of the *Housing Element* of the *Comprehensive Plan* is not scheduled for completion until December 2003. Due to the importance of the housing issue, in March 2000 the Board of Supervisors directed Planning & Development (P&D) to prepare focused “*Interim Amendments*” to the *Housing Element* to achieve short-term improvements in advance of the full *Housing Element* update. The proposed *Interim Housing Element Amendments* are intended to improve the production and retention of affordable housing under the County’s **Affordable Housing Overlay (AHO) Program, Density Bonus Program** and the **Inclusionary Program**. County “Action Items” are also added to indicate activity the County will undertake to further encourage production of affordable housing immediately and as a part of the *2003 Housing Element Update*. The *Interim Housing Element Amendments* do not address the full set of *Housing Element* programs. Those will be analyzed in detail as part of the *2003 Housing Element Update* currently underway.

The Planning Commission considered the *Interim Housing Element Amendments* on June 4, July 18, August 29, November 28, 2001, and on February 27, 2002. In its November 28 public hearing the Planning Commission expressed concern about the scope and timing of the proposed “interim” changes to the *Housing Element* given the incorporation of Goleta and the onset of the *2003 Housing Element Update*. On February 27, 2002 the Planning Commission recommended that the Board of Supervisors adopt the more straightforward policy changes now and defer the complex issues to the *2003 Housing Element Update*. Attachment E contains a summary of the issues discussed before the Planning Commission, which were deferred to the full *Housing Element Update*.

State Department of Housing and Community Development Review

In compliance with Government Code § 65585(b) P&D submitted the proposed *Housing Element* amendments to the State Department of Housing and Community Development (HCD) for preliminary review and comment. Following a series of meetings with HCD staff, HCD provided a November 5, 2001

letter finding that with the inclusion of proposed amendments and actions, the County's Housing Element would continue to be in compliance with State housing element law (Article 10.6 of the Government Code) so long as changes to the AHO and Inclusionary Program do not conflict with the affordability provisions/percentages set forth under State density bonus law (G.C. § 65915). A copy of the November 5, 2001 HCD letter is included as Attachment F.

Following the February 27 final Planning Commission recommendations P&D again submitted the proposed amendment to HCD for review and comment. In a telephone conversation with HCD on March 14, 2002, HCD stated that they would take a neutral position on the pared down amendments. HCD based this decision on the fact that the revised amendments still include the new County actions as amended per HCD comments and that the revised amendments do not conflict with the affordability provisions/percentages set forth under State Bonus Density law.

4.0 INTERIM HOUSING ELEMENT AMENDMENTS

The proposed interim changes to the County's *Housing Element* before your Board today include: 1) amending the *Housing Element AHO Program* and *Bonus Density Program* to convert from a 30-year income/price control to a *rolling* 30-year income/price control, with a 60 year maximum, for "for-sale" projects; 2) removing offsite construction and in-lieu fee option for base density projects on AHO sites, unless constructing the units on-site is determined to be infeasible; 3) amending the *Housing Element Inclusionary Program* to extend the equity share term from a 10-year period to a 30-year period within the North County housing market areas, and from a 10-year shared equity term to a *rolling* 30-year income/price control, with a 60 year maximum, for the South Coast housing market area; and 4) adding four new *Housing Element* actions to provide further support and incentives for the development of affordable housing. A brief summary of existing requirements and proposed changes is presented below.

4.1 Affordable Housing Overlay (AHO) Program Amendments

The AHO Program provides dual zoning designations to specific sites especially well located for development of affordable housing (i.e., urban infill sites close to employment, community facilities and public transit). These specially located sites are provided two zoning designations, a "**Base Density**" designation and a much higher density "**AHO Designation**" to encourage increased production of affordable housing on the sites. Affordable units constructed under the AHO designation are currently subject to 30-year income/price resale or rental controls. Both the sale price or rent level and the income of each household is restricted to the formulas contained in the Santa Barbara County Income Price Guidelines, both for the initial sale/rental and any resale or rental during a thirty year period from the date of initial sale or rental. Alternatively, projects may be developed at the "Base Density" subject to the County's Inclusionary Program (discussed below).

While the Housing Element anticipated that these valuable AHO sites would be developed with large numbers of affordable units under the AHO Option, in fact, many sites have been developed as Base density projects providing as little as 5% affordable units or paying "**In-Lieu Fees**" with no onsite affordable housing production at all. Concern has also been expressed that since AHO sites are important locations for affordable housing, the affordability term should be extended as long as possible.

4.1.1 Retention of Affordable Housing - Increased Affordability Term

Existing Policy: The County's existing affordability restrictions ensure that AHO projects will remain affordable for at least 30 years. Once this period expires, the restriction expires and the units may be sold at market prices. The affordable units on the special sites are lost.

P/C Recommendation: Recognizing that AHO sites have been designated because they are particularly suitable for affordable housing it would be wise to maintain the units for as long as possible. Re-starting the 30-year re-sale restriction for each sale of an affordable single-family unit would better ensure long-term affordability of these units. Therefore, to improve retention of affordable for-sale housing units developed under the AHO Program, the following revision is proposed:

- For all affordable "for-sale" units developed under the **Affordable Housing Overlay (AHO) Program** convert from a *fixed* 30-year income/price control to a *rolling* 30-year income/price control with a maximum term of 60 years Countywide.

The proposed changes to the AHO Program would require that the 30-year restriction be re-initiated with each sale, hence a rolling 30-year compliance period, with a 60-year maximum period. The 60-year cap on the for-sale program is intended to allow the unit to be refinanced at market rates after 60 years to provide funds for major maintenance (e.g. new roof).

Because the economics of rental housing is totally different than for-sale housing and a paucity of rental production has occurred, the current 30-year restriction on affordable rental projects will remain in effect.

Adoption of the rolling 30-year affordability term would involve incremental increases in housing program administration costs to track individual project sales, resales and overall project affordability term.

4.1.2 Remove "In-Lieu" Fee Option for "Base Density" for-sale projects on "AHO" sites

As introduced above, AHO sites may be developed in a number of different ways. Increased density is provided under the **AHO Option** to provide incentives for production of affordable housing onsite. Projects may also be developed under the "**Base Density**" and may either provide a smaller number of affordable units onsite, develop affordable units offsite, or pay "**In-Lieu Fees**." While off-site construction of affordable units, or payment of in-lieu fees, generally helps achieve County objectives for increased supply of affordable housing, reduced affordable housing production on valuable AHO sites is inconsistent with the intent of the Housing Element. Nevertheless, not allowing developers the option of paying in-lieu fees or developing the affordable units off-site if on-site provision is infeasible, would be inconsistent with the Coastal Act when applied to units in the Coastal Zone and could be subject to legal challenge as confiscatory in in-land areas as well.

Existing Policy: AHO sites may be developed with (1) affordable housing projects under the AHO Option, (2) **Base Density** projects including some affordable housing, (3) **Base Density** projects with offsite affordable units, or (4) **Base Density** Projects paying **In-lieu Fees** with no onsite affordable housing production.

P/C Recommendation: Recognizing the importance of development of at least some affordable housing at these specially situated sites the Planning Commission recommended:

- Remove off-site construction and “In-Lieu” fee options for base density “for-sale” projects on AHO sites.

County Counsel’s office recommends that the following provision be added to the end of the recommendation: “unless on-site construction of the affordable units is determined by the decision making body to be infeasible.

This proposed change would only apply to “for-sale” type base density development projects. Rental housing projects are subject to other legal considerations which complicate required production of affordable rental housing.

4.2 Inclusionary Program Amendments

Unlike the AHO Program, which is applicable to only to predesignated sites, the Inclusionary Program is applicable County-wide. The Inclusionary Program is generally applicable to all housing projects of five or more units and requires that between 5-20 percent of the units be affordable depending on the targeted household income-level of the affordable units. Currently, for-sale affordable units constructed under the Inclusionary Program are subject to a Ten-Year Equity Shared Program enacted in 1995. Under this program affordable units may be sold at any time at market prices, with the equity being shared with the County on a straight-line basis for the ten-year period. During the recession of the early ‘90s the previous 30-year income/price resale controls were eliminated due to difficulty in marketing. The equity share provision allows the property owners to enjoy the equity appreciation aspect of home ownership.

Following the economic recovery of the late ‘90s and the most recent rapid price escalation, great public concern has been raised about the relatively short affordability term and the economic “windfall” that may be granted to winners of lotteries for Inclusionary Program affordable units, particularly on the South Coast. For these reasons P&D and the Planning Commission explored options for increasing the affordability term within the Inclusionary Program.

4.2.1 Retention of Affordable Housing - Increased Affordability Term (Inclusionary)

Existing Policy: For a ten year period homes may be sold at any time at market prices, however, equity shall be shared on a straight-line basis with Santa Barbara County. After ten years all restrictions are lifted and the owner retains 100% of the equity.

P/C Recommendations: The Planning Commission and the public raised concerns about the relatively short 10-year term of the shared appreciation compliance period for for-sale affordable units, as amended in 1995. Additional concern was raised about the loss of affordable housing to market rate on the South Coast, which is rapidly approaching build-out.

To address the above concerns, proposed changes include amending the current 10-year shared appreciation formula to cover a 30-year period within the North County HMAs. This approach would tend to retain the affordable housing stock for a longer period, because an early sale would yield a much larger share of the net proceeds to the County than the lower-income owner, making it easier for the County to help produce a

replacement unit. This approach is appropriate for the North County HMAs, where affordable housing demand is somewhat less intense than in the South Coast HMA, and where differences between affordable prices and market prices are narrower, and where more vacant urbanized land is available for housing production.

For the South Coast HMA, the 30-year income/price resale restriction that now applies to AHO sites and other density bonus projects would be reimposed, because demand for affordable units is highest and the difference from market prices is greatest on the South Coast. Similar to the proposed AHO Program changes, the 30-year compliance period would be re-started with each sale, with a 60-year maximum period, thereby ensuring long-term affordability.

The P/C recommended changes to the County's Housing Element Inclusionary Program are as follows:

- For affordable *for-sale* units developed under the **Inclusionary Program**, extend the equity share term from 10 to 30 years within the Lompoc, Santa Maria, Santa Ynez, and Cuyama Housing Market Areas, and convert to a *rolling* 30 year income/price control with a maximum term of 60 years in the South Coast Housing Market Area.

Again, the 60-year cap is intended to allow for major maintenance after this period of time. Similar modest increases in program administration costs would be incurred.

4.3 Density Bonus Program Changes

Government Code § 65915-65918 requires that local jurisdictions provide a density increase of at least 25% above base density if projects include 10% very low income households or 20% low income households or 50% for qualifying senior citizens. Affordable units must remain affordable for at least 30 years. Santa Barbara County provides the required density increase on AHO sites through its AHO Program. On non-AHO sites, Density Bonus requirements are considered as required by state law on a case-by-case basis.

Existing Policy: Affordable units within Density Bonus projects are presently required to remain affordable for 30 years.

P/C Recommendations: The Planning Commission concerns about the Density Bonus Program centered on the affordability term, very similar to the AHO Program. Although the Planning Commission's recommendations omitted to include a recommendation regarding the Density Bonus Program, a change to the affordability term of units produced under this program was discussed and supported by the Planning Commission. Staff believes that the following motion expresses the Planning Commission's intent.

- For all affordable "for-sale" units developed under the **Density Bonus Program** convert from a *fixed* 30-year income/price control to a *rolling* 30-year income/price control with a maximum term of 60 years Countywide.

Issues associated with the Planning Commission recommendations are also the same as the AHO Program (see section 4.1.1).

4.4 New Housing Element County “Actions”

In the course of reviewing the economic feasibility of the *AHO*, *Bonus Density*, and *Inclusionary Programs* for possible amendments, P&D determined that several actions should be adopted now in order to support the proposed changes and provide further incentives and support for the development of affordable housing in the County. P&D presented the following actions (Actions A-D) to the Planning Commission for County adoption. (Note: “Actions” are activities the County requires of itself). As mentioned above, the proposed actions were submitted to the State HCD for review and comment. Upon review by HCD, Actions B and D were revised to reflect HCD comments including **monitoring and reporting** to the State HCD on an annual basis concerning the County’s activity to facilitate affordable housing. Also noteworthy are State requested revisions requiring the County to **identify sites for multi-family housing by December 2002** (Action D). The revisions shown below include ~~strikeout~~ and underline to indicate recommended HCD changes. These actions include the following:

Action A: *The County shall strive to encourage development of low, moderate and middle median income housing at medium and higher density on limited remaining urban infill sites through:*

- *Strongly supporting development of AHO sites and other medium and higher density sites at the designated densities, while respecting environmental constraints and protecting neighborhood compatibility;*
- *Encouraging development of bonus density projects on unconstrained sites;*
- *Providing priority permit processing for AHO and other affordable housing or rental projects, even where it would result in delays for the processing of other development applications;*
- *Active advocacy by P&D and/or the new Department of Housing and Community Development supporting all well designed AHO, Density Bonus, and medium and higher density Inclusionary projects.*

Action B: *The Housing Element Annual Report required under Housing Element Policy 1.8 shall include a discussion of the success of Action A, C and D in the provision of affordable housing, including any recommended changes or improvements to the County’s programs.*

Action C: *In order to encourage provision of affordable housing on AHO sites at levels higher than required by the program, the County shall consider incentives for provision of increased numbers of affordable units, with the goal of obtaining 50% of new units in affordable ranges. Incentives should include, but not be limited to, rezones, mixed-use development, and fee reductions offset by grant revenues, etc.*

Action D: *The County shall strongly encourage the provision of multi-family housing. Recognizing the difficult economics of such housing, the County shall consider the following:*

1. *The County shall consider entering into a development agreement, rezone or other technique to allow construction of for sale attached homes, commercial components or other land use options to improve the economics of multi-family housing projects.*
2. *The County shall identify sites for increases in density to facilitate provision of multi-family housing by December 2002.*
3. *The County shall identify sites for rezoning from commercial and industrial uses to residential uses, including multi-family housing.*

4. *Any rezones of urban agricultural land located on major transportation corridors in close proximity to jobs and commercial uses shall include multi-family housing as the highest priority use.*
5. *The County shall provide priority processing, design modifications and other incentives consistent with the Housing Element to facilitate such projects.*

If these methods are insufficient to facilitate the construction of a particular multi-family housing project, the County should consider reducing impact fees based on the public benefit of the project (e.g. percentage of affordable units, other public amenities) and based on available grants to offset the loss of such fees, adjusting the mix of affordable units to improve project economics or establish minimum densities for multi-family housing. Prior to any reduction in fees or change of the required Housing Element affordable housing percentages, the County shall find that all other options to facilitate the project have been exhausted.

5.0 CEQA ADDENDUM

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15164 an Addendum to the *Housing Element Update* EIR (93-EIR-1) was prepared. The proposed amendments involve minor changes to program requirements previously included in the 1993 Housing Element. No additional significant, adverse impacts beyond those, which were evaluated in 93-EIR-1, were identified in the Addendum. Though not required by CEQA, the document was circulated for public review and comment between June 6, 2001 and July 6, 2001. The County received no public comments on the Draft Addendum. The Draft Addendum will be finalized upon Board of Supervisors Adoption of the *Interim Housing Element Amendments*.

The proposed *Interim Housing Element Amendments* consist of measures to extend the affordability term of affordable units in newly approved housing projects and encourage actual production of affordable housing on AHO sites instead of paying in-lieu fees. County "Actions" to further encourage production of affordable housing within existing policy would be subject to project specific environmental review at the time any specific project was proposed. Since the original EIR analyzed the potential development of up to 8,969 housing units countywide, the proposed amendments, which consist of minor, programmatic changes to the *Housing Element, Implementation Guidelines* and Zoning Ordinances would not increase the overall number of units evaluated as part of the original Housing Element EIR, no additional physical impacts were identified.

The 1993 EIR identified unavoidable significant impacts (Class I) with full buildout of the plan in the areas of Land Use/Aesthetics, Traffic, Water Resources, Wastewater, Solid Waste, Schools, Fire/Police, Air Quality, Noise, Biology, Archaeology, and Flooding. Class I cumulative impacts were determined to occur in the areas of Land Use/Aesthetics, Traffic, Water Resources, Solid Waste, Schools, Air Quality, Noise, Biology, and Archaeology. The EIR also identified significant environmental impacts that can be feasibly mitigated or avoided (Class II) in the area of Geology. The EIR included mitigation measures, which were incorporated into the *Housing Element and Implementation Guidelines*.

In 1993 the Board of Supervisors found that adverse impacts identified in the *Housing Element Update EIR* were mitigated to the maximum extent feasible, and to the extent these impacts remain significant and unavoidable after implementation of mitigation measures, that such impacts are acceptable when weighed against the overriding social, economic, and other considerations set forth in the Statement of Overriding Considerations adopted by the Board of Supervisors for the *Housing Element*.

6.0 ORDINANCES AND RESOLUTION

To formally adopt the proposed changes to the *Housing Element* and *Implementation Guidelines*, the Board of Supervisors will adopt a resolution (Attachment B). To codify the proposed changes to the Zoning Ordinances, the Board will adopt a resolution adopting an ordinance (Attachment C) and two ordinance amendments (Attachment D).

Mandates and Service Levels: State Government Code 65588 requires that Housing Elements be reviewed and revised as necessary but no less than every five years to evaluate progress and changes in conditions affecting housing needs. Although not statutorily required to do so, the County initiated interim changes to the Housing Element prior to the 2003 Update to improve the production and retention of affordable housing within the County.

Fiscal and Facilities Impacts: Costs associated with processing the interim amendments to the County's Housing Element were budgeted in P&D's FY 2000/2001 (\$50,000 staff; \$100,000 contract) and FY 2001/2002 budget (\$40,000 staff; \$60,000 contract). Implementation costs associated with the proposed actions would be included as part of the budget for the 2003 Housing Element Update. Implementation costs associated with the proposed "rolling" 30-year income/price control may result in unknown yet minor additional program administration costs to P&D and TTC Housing Finance Division.

Special Instructions: Please notice the April 16, 2002 Board hearing in the legal section of the Santa Barbara News-Press and Santa Maria Times, 10 days prior to the hearing. Also, please forward a copy of the minute order to John Cuykendall and Cintia Mendoza, P&D Hearing Support staff.

Attachments:

Attachment A	CEQA Addendum
Attachment B	Resolution amending Housing Element and Guidelines
Attachment C	Resolution adopting an Ordinance amending Ch. 35, Article II
Attachment D	Two Ordinance Amendments amending Ch. 35, Articles III and IV
Attachment E	Summary of issues raised during Planning Commission hearings
Attachment F	State HCD letter