



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

2011 SEP 27 AM
COUNTY OF SANTA BARBARA
CLERK OF THE BOARD OF SUPERVISORS

Department Name: Housing & Community Development
Department No.: 055
For Agenda Of: 10/04/2011
Placement: Administrative
Estimated Tme: n/a
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Sharon Friedrichsen, 568-2068 *S Friedrichsen*
Director(s) Housing & Community Development, Interim Director
Contact Info: Margo Wagner, Housing & Community Development, Housing Program Specialist II
Doug Anthony, 568-2046
Planning and Development, Deputy Director

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

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: Select_Concurrence

Recommended Actions:

That the Board of Supervisors:

Approve and execute the attached *First Amendment to Agreement to Provide Affordable Housing – StoneGate*, [TM 14,481, 98-DP-019] with the Department of Housing and Community Development and direct its recordation.

Summary Text:

The recommended Board action requests the Board of Supervisors approve and execute the attached *First Amendment to Agreement to Provide Affordable Housing* for StoneGate. The Agreement to Provide was executed on October 10, 2006 between the County and StoneGate Orcutt Venture, LLC, (“Developer”). This amendment changes the designation of the affordable units to be built and stipulates that the Developer must complete construction of two (2) affordable units for every two market rate units to be constructed in the following manner:

1. Developer must complete construction of two (2) Affordable Units and commence marketing of such Affordable Units prior to the issuance of any building permit for or sale of any market rate unit on the Subject Property.

2. Upon the completion of construction and commencement of marketing of at least two (2) Affordable Units, Developer may commence construction of no more than two (2) market rate units on the Subject Property.
3. The above schedule shall continue to apply, so that for every two (2) market rate units, two (2) Affordable Units are built and marketed, until a total of ten (10) Affordable Units have been built and marketing of them commenced at which point, building permits may be issued for all of the remaining market rate units.

Background:

The Planning Commission approved the StoneGate Project on May 14, 2003. 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 identified as being required to be provided by the Developer in the conditions of approval were affordable units that were imposed to satisfy an affordable housing condition on a different development, Harp Springs (TM, 14,478) (“Harp Springs”). The current developer of Harp Springs project has since satisfied the inclusionary housing requirement for the project through payment of in-lieu fees that was allowed in the conditions of approval for TM, 14,478. This payment reduced the required affordable housing units of the current requirement to ten (10) affordable units for StoneGate.

The original project conditions and Agreement to Provide *did not* set forth a schedule of when the Affordable Units were required to be built and sold in relation to the market rate units to be developed on the Subject Property. However, the original Agreement to Provide *did* specify which units would be sold as affordable to satisfy the required affordable unit of the permit condition. Staff recently learned that the Developer has sold seven (7) units that were designated as Affordable Units without compliance with the Agreement to Provide requirements regarding price and income restrictions and the recordation of a Restrictive Covenant against those units. The escrow company which performed escrow services for the sale of those units has indicated that it did *not* inform the purchasers of them that the units were restricted, did *not* notify the County that identified Affordable Units were being sold and did *not* record a Restrictive Covenant on the non-compliant units.

To address these issues, the *First Amendment to the Agreement to Provide* sets forth a schedule of when the Affordable Units must be constructed and amends the address list of the Affordable Units to ensure that the Affordable Units that were sold in error are replaced on a one to one basis by other units in the development. In order to ensure that the remaining Affordable Units are not approved without the affordable provisions in place, all of the parcels in the StoneGate Development have been “flagged” in Accela, Planning & Development’s tracking system, to require Housing and Community Development approval before zoning clearance are issued. In addition, since the time the Agreement to Provide was executed, the County has revised its model Deed of Trust, Marketing and Lottery Plans and the revised documents are included as part of the amendment.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

The Department of Housing and Community Development 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 Restriction 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 remain affordable for a period of thirty (30) years.

Narrative:

Staffing Impacts:

Legal Positions:
n/a

FTEs:
n/a

Special Instructions: Clerk of the Board to forward the executed *First Amendment to Agreement to Provide Affordable Housing* – TM 14,481, 98-DP-019 to the Department of Housing and Community Development to forward to the County Clerk Recorder for recordation

- Clerk of the Board shall send copies of the Minute Order and executed document to Margo Wagner, Housing Program Specialist II, Department of Housing and Community Development Department.

Attachments:

A. *Attachment A, First Amendment to Agreement to Provide Affordable Housing – StoneGate including:*

Exhibit B, Address List of Affordable Housing Units

Exhibit C to Exhibit “D” (Restrictive Covenant), Deed of Trust and Assignment of Rents

Exhibit D, Marketing Plan for StoneGate Affordable Homes

Exhibit F, Lottery Plan for StoneGate Affordable Homes

Authored by:

Margo Wagner, Housing Program Specialist II

cc: Doug Anthony
Dianne Black
Mary McMaster