COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Board of Supervisors

FROM: Josh McDonnell, Supervising Planner, Comprehensive Planning Division

DATE: November 10, 2004

RE: Additional information requested by the Board of Supervisors for the hearing of November 22, 2004 regarding consideration of the Inclusionary Housing Program and In-Lieu Fee Update

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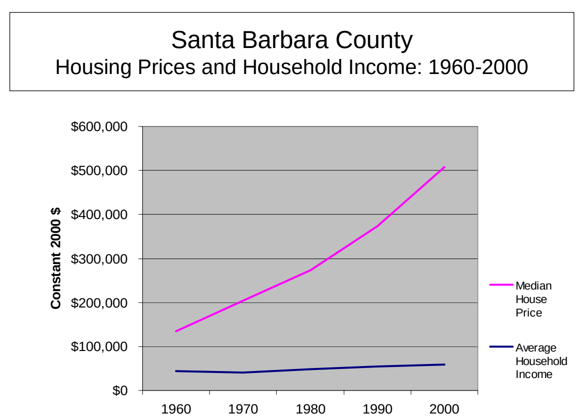
At the September 28th Board of Supervisors hearing regarding the Inclusionary Housing Program (IHP) and In-Lieu Fee Update, the Board directed staff to provide additional information on several issues related to the proposed program revisions, including housing need, programs in other jurisdictions, the county's affordable housing monitoring procedures, information regarding who qualifies for IHP units, employee housing and specific variations of the program. This information is provided below. Per the Board's request, staff also met with the county's Housing Advisory Committee on November 4th to discuss the proposed revisions. Finally, amendments to the state's density bonus law (SB 1818) were just signed by the Governor and will be in effect on January 1, 2005. This memo compares the amended State Density Bonus Program to the proposed IHP.

I. Need for Affordable Housing in Unincorporated Santa Barbara County

Your Board requested an explanation of the need for affordable housing in Santa Barbara County. As identified in the Housing Element's Needs Assessment, there remains a significant need in all regions of the county except the Cuyama HMA[1]. Some key findings include:



Source: Regional Impacts of Growth Study (October 2003)

Overpayment: In 1999, nearly 40% of unincorporated county households (renters and owners) overpaid for housing[2]. In the Lompoc and Santa Maria Housing Market Areas (HMA) 35% of households overpaid, while 45% overpaid in the South Coast HMA. Countywide, 18% of households in the unincorporated area spent more than half of their income on housing.

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[1] Affordable housing need is currently met through market rate housing in the Cuyama HMA.
[2] Overpayment is defined as paying 30% or more of gross income for housing.

Rising House Prices: The gap between income and home prices in the county has significantly increased over the last several decades, as shown in the table above. In just the last eight years, income in the county increased by 28% while home prices increased by 99%. Currently, the following conditions exist:

- The South Coast median home price rose from $900,000 in 2003 to approximately $1,000,000 in mid-2004, which means more than 95% of South County residents cannot afford to purchase a home in the South Coast today if they do not already own one;
- The North County median home price rose from $310,870 in 2003 to $370,000 in mid-2004, which means more than 85% of North County residents cannot afford to purchase a home in the North County today if they do not already own one;
- There are few homes on the market below $600,000 on the South Coast. To afford a $600,000 home a household must have an annual salary of $164,000 and $30,000 for a down payment;
- There are few homes on the market below $300,000 in the North County. To afford a $300,000 home a household must have an annual salary of $82,000 and $15,000 for a down payment.

County Housing Authority's Section 8 Waiting List: The County Housing Authority administers the Section 8 program and other federal housing programs in the unincorporated areas of the county and in the cities with the exception of the City of Santa Barbara which has its own Housing Authority. Over 6,100 households are on the waiting list for Section 8 affordable housing vouchers. Over 8,500 households are on the waiting list for other public housing. Over 80% of households on both lists are in the Santa Maria and Lompoc areas. The waiting lists have been closed for the last six months.

County HCD's Affordable Housing Waiting List: Over 3,500 households are on the waiting list for affordable units constructed through the county's programs. The majority of households on the list are in the South County. However, with home prices continuing to rise in the North County, County Housing and Community Development (CHCD) has been receiving more requests from North County residents to be put on the waiting list.

II. Methods Other Jurisdictions Use to Meet Affordable Housing Needs

Your Board requested more information regarding how other jurisdictions, particularly in the North County, are meeting their affordable housing needs, and based on this information, whether there are other programs the county can draw from to address affordable housing in the unincorporated county.

Cities and urban counties have better access to affordable housing funds: Cities and some more populated counties receive a constant stream of monies from the federal government through the Housing and Urban Development Department (HUD) because they qualify as "urban areas" as defined by HUD. The qualification is based on population density. Cities and counties with higher population densities receive "entitlement" to these funds. Santa Barbara County does not meet HUD's population density qualification and therefore does not automatically receive funding. Instead, the county must apply and compete for funding. The funding the county can compete for each year totals approximately $4 million, and includes:

CDBG	(federal)	$870,000
BEGIN	(state)	$1,000,000
HELP	(state)	$1,000,000
CalHOME	(state)	$500,000

Without entitlement to these funds, the county is more reliant than cities and urban counties on in-lieu fees to provide the gap financing necessary to assist non-profit affordable housing projects.

How other counties address housing need: Ventura and San Luis Obispo Counties both qualify as "urban areas" as defined by HUD and as such receive federal CDBG and HOME funds automatically. Much of this funding is used to assist in the production of affordable housing in these counties. The counties also utilize BEGIN and HELP funds from the state as well as other federal funding sources available including Section 8 funds and USDA rural housing assistance funds. These funds have also been utilized in Santa Barbara County in the past and the county will continue to compete for all monies for which it is eligible.

In addition, the following list identifies other programs either currently used or being considered for use by these counties to address affordable housing needs:

	Ventura County	**San Luis Obispo County**
Existing Programs and Policies	▪ State Density Bonus Program ▪ Mortgage revenue bonds ▪ Mortgage credit certificate program	▪ State Density Bonus Program ▪ Waiver of public facility impact fees for very low/low income units
Proposed Programs and Policies	▪ Rezones of non-residential land or increased densities on residential land ▪ Revisions to development standards for residential development ▪ Land banking and use of public land for affordable housing ▪ Housing Trust Fund	▪ Inclusionary Housing Program ▪ Rezones of non-residential land ▪ Revisions to development standards for multi-family housing, mixed use development, and RSUs to encourage affordable housing ▪ Minimum densities ▪ Housing Trust Fund ▪ Program to allow master planned communities

All but one of the programs listed[3] are either existing programs in Santa Barbara County's Housing Element or are included as action items for the Board to consider implementing over the next year as part of the Housing Element Action Phase.

How the City of Santa Maria addresses affordable housing: Most of your Board's discussion on September 28th was related to the City of Santa Maria specifically. Staff therefore focused on identifying the key programs and funding sources used by the city to address affordable housing needs. It is important to note that like most jurisdictions in Santa Barbara County, the City of Santa Maria did not meet its regional housing allocation during the last planning period nor did it meet the need for affordable units.

<u>State and Federal Funding Sources</u>: The city primarily relies on state and federal sources of financing to address affordable housing needs. The city is an "urban area" as defined by HUD, and is thereby

[3] Except a program to allow master planned communities.

entitled to automatically receive a stream of funds. In fiscal year 2003/2004, the city expected to receive $1.56 million in CDBG funds. These funds can be used to assist affordable housing projects as well as a variety of other projects including neighborhood revitalization, economic development, and improved community facilities.

In addition, 2,100 households in the City of Santa Maria are served by the federal Section 8 Housing Program and other federal housing funds and/or federal public housing. The Section 8 Program is administered by the County Housing Authority for the unincorporated area and cities in the county excluding the City of Santa Barbara.

The city also received one Proposition 46 grant through the Jobs Housing Balance Incentive Program[4] and plans to apply for a Workforce Housing Program grant in the spring. These are non-competitive reward programs based on building permit issuance and affordable housing development. The county is not eligible for either funding source.

<u>Local Programs and Funding Sources</u>: The city has donated city-owned land or sold its land at reduced costs to non-profit housing developers for affordable housing development. The city has also rezoned land to relatively higher densities to provide adequate appropriately zoned land that can accommodate a range of affordability. The county is also exploring using county-owned land for affordable housing, as well as identifying sites for increased densities to support affordable housing.

Another source of funds used to produce affordable housing in the City of Santa Maria is the county's in-lieu fees. The county is part of a housing consortium with several cities in the county including the City of Santa Maria. In-lieu fees collected by the county through its IHP may be used to assist projects in cities as well as projects in the unincorporated area of the respective HMA. In the Santa Maria HMA specifically, the county has received about $170,000 in fees over the last 15 years. Approximately $55,000 of the in-lieu fees were used to help fund affordable housing projects in the City of Santa Maria.

III. County HCD Monitoring and Enforcement Procedures

Your Board requested additional information regarding the county's monitoring and enforcement procedures for affordable units produced through the IHP and other county programs. This information is provided below.

County HCD ensures that persons who purchase affordable homes through the county's IHP, as well as other county programs, uphold the obligations and responsibilities outlined in the signed and recorded restricted covenants. A procedure to monitor and investigate alleged violations of restrictive covenants was approved by your Board on March 9, 2004. Per the approved procedures, HCD will monitor owner occupancy of the units with an annual certification questionnaire sent by certified mail including "Do Not Forward" and "Owner Signature Only" notices. If an owner does not respond to the annual certification, or in cases of alleged violation, HCD will conduct further investigation. A written notice of investigation for non-compliance with the covenant will be mailed and staff or an appointed designee will request proof of occupancy, make random visits to the property and solicit testimony of

[4] These monies are not limited to housing and, in fact, the Jobs Housing Balance funds are to be utilized for capital projects in the city.

neighbors. Additionally, HCD will make random site visits to approximately five percent of the affordable units under the county's program annually to verify owner-occupancy as a pro-active deterrent measure. To enforce the provisions of the covenants, HCD will issue a "Notice of Violation" to the occupant of the affordable unit and seek recourse in the court system for violations. Penalties for non-compliance include significant financial fees and fines and/or rescission of the sale or purchase of the home.

IV. Affordable Housing for the County's Workforce

Your Board directed staff to provide additional information on 1) who qualifies for affordable units built through the IHP; 2) whether housing can be provided exclusively for county or other public sector employees on county-owned land, as well as land not owned by the county; and 3) whether special districts can provide housing for their employees.

Who qualifies for affordable units built through the IHP: To ensure that affordable housing serves the county's existing population and workforce, the county requires that applicants either live or work in Santa Barbara County to qualify for affordable housing. CHCD verifies applicants' current address and employment information to assure this requirement is met. This is further reinforced in Housing Element Development Standard 8.3.1 which states the county should give preference to workers within a specified geographic area adjacent to a project, recognizing the impact of commuting on traffic and air quality when affordable housing is not available near places of employment.

Consistent with these policies, the lottery for affordable units can be modified, on a case by case basis, to give preference to households with individuals who work within some defined geographic area around a project, so long as there is a level of demographic diversity in that defined geographic area that is similar to the demographics of the county or region. The HMAs identified in the Housing Element provide sufficiently diverse geographic preference areas for individual projects. For example, if the MTD site in unincorporated Goleta is developed with a portion of units set aside for affordable housing, first preference for those units could be given to applicants who work within the South Coast HMA.

Can housing be provided exclusively for public sector employees on county-owned land and on land not owned by the county: On county-owned land, the county can restrict affordable units exclusively to county employees and other public employees. On land not owned by the county, the county can give "preference" to established employment categories for affordable units. This preference could be established as a tiered system that would make units available to a defined preference group first and then other members of the community second, as long as the preference groups specified do not violate Fair Housing Laws. For example, when affordable units become available, the first option could be given to some "critical workforce" employment category, as defined by your Board. However, analysis must be done to show that this preference category, or any other preference category identified by the Board, is sufficiently diverse.

The challenge to establishing preference employment categories is that this could potentially exclude the middle income worker in the *private* sector (e.g., Fidelity, Raytheon, Mentor, etc.) who contribute to the local economy and also play an important role in the community, but may not be included in a specific "critical workforce" employment category.

Can special districts, such as water or school districts, provide housing for their employees: Like the county, other local agencies and districts are given "general powers" to accomplish their authorized public functions, and generally, most agencies/districts could find that providing housing for their employees is within their general powers. However, each agency would have to perform its own analysis and determine 1) whether employee housing is justified given their needs and goals; and 2) whether there are any potential issues with respect to discriminatory impact. Once this analysis is complete and approved by the agency/district, the entity may potentially use their funds and land to provide housing units exclusively for their employees.

V. Variations of the Program

Your Board directed staff to research several variations of the proposed IHP: 1) modifying in-lieu fees to apply proportionate fees to higher cost sub-areas in addition to the already identified Montecito Sub-Area; 2) exempting the North County from the IHP; and 3) establishing a fee only program that requires in-lieu fees be paid rather than allowing an option for affordable units to be built as part of market rate projects.

Modifying In-Lieu Fees in Higher Cost Sub-Areas: Your Board directed staff to research how proportionate fees may be applied to other higher cost sub-areas of the county, such as the Hope Ranch and Goleta Foothills areas, instead of only applied to the currently identified Montecito Sub-Area. Similar to Montecito, most of the potential development in these higher cost areas is for single housing units on large lots. Few if any new projects in these areas would be subject to the proposed IHP. Therefore, it may be unnecessary to establish a separate, new in-lieu fee for these areas.

The proposed in-lieu fees are based on market rate condominium sale prices in each HMA and Sub-Area. Since higher cost sub-areas of the county such as the Hope Ranch or Goleta Foothills areas have no condominium development, a fee applied to these areas would have to be derived from condominium sales prices in adjacent areas.

The county's Housing Element includes an action item that requires the county to consider implementing a Service Worker Housing Program that would apply to large homes built as single unit projects. This program would potentially address the need for affordable housing generated by the type of development typical of these higher cost areas in the county.

<u>Possible modification:</u> Given that most development in the Montecito Sub-Area will be single unit development and not subject to the proposed IHP, your Board could consider simplifying the program by eliminating the separate sub-area for Montecito and instead incorporating the Montecito area into the fee structure for the South Coast HMA. This would result in two changes to the proposed program. First, fee reductions for small projects that apply in the rest of the county, but not to the Montecito Sub-Area, would now apply to Montecito projects. Second, the fee for the moderate/workforce category in the South Coast HMA, with Montecito Sub-Area incorporated, would increase to $422,700[5] from separate fees of $871,300 and $420,800 for the Montecito Sub-Area and the rest of the

[5] In previous reports to the Board, staff incorrectly stated the fee for the South Coast HMA as $422,700, with the separate Montecito Sub-Area. The fee is actually $420,800 with the separate Montecito Sub-Area and $422,700 with the Montecito Sub-Area incorporated into the fee structure for the South Coast HMA.

South Coast HMA, respectively. This would result in lower moderate/workforce fees for projects subject to the IHP in the Montecito area.

Exempting the North County from the IHP: In order to exempt a specific area of the county while applying the IHP in another, the county must make a finding that there is a rational basis for distinguishing that area from the rest of the county in terms of need for affordable housing. For example, the Cuyama HMA is exempt from the program because affordable housing needs are currently being met in this area. However, based on the Needs Assessment in the county's Housing Element and the description of housing needs included in the first section of this memo, there is currently unmet affordable housing need in the Santa Maria HMA.

Affordable housing need does vary by HMA due to different housing market conditions within each HMA. For this reason, the requirements of the proposed IHP and associated In-Lieu Fee Policy vary by HMA. Specifically, there is a requirement for workforce income units in the South Coast and Santa Ynez HMAs while there is currently no requirement for this category in the Santa Maria and Lompoc HMAs because the market is currently meeting this need. In addition, the in-lieu fees vary in each HMA to reflect differences in the cost of development in each area. The fees are highest in the South Coast HMA and Montecito Sub-Area and lowest in the Santa Maria and Lompoc HMAs. The proposed In-Lieu Fee Policy requires that fees in an HMA be updated annually based on changes in market rate condominium prices in the respective HMA. Therefore, if prices increase significantly in one area of the county while they remain fairly constant in another area, these differences will be reflected.

<u>Possible modification:</u> The proposed IHP currently includes a trigger that would put the workforce income category requirement into effect in the Santa Maria and Lompoc HMAs should market sale prices in those areas surpass an established threshold. Another trigger would put some or all IHP requirements into effect in the Cuyama HMA should market sale prices not continue to meet affordable housing needs. To simplify the program, your Board could consider removing these triggers. These requirements could then be evaluated the next time the IHP is updated by your Board rather than triggered automatically based on changes in market conditions in these areas.

Fee Only Program: Affordable housing programs must include sufficient, reasonable options for meeting requirements in order to avoid a takings charge (Home Builders Assn. of Northern California v. City of Napa, 90 Cal.App.4th 188, 2001). Therefore, County Counsel has concluded that the IHP cannot be structured as a fee only program without allowing applicants other options to meet the requirements of the program such as building units on-site or donating land.

VI. Additional Public Outreach

Per your Board's request, staff met with the county's Housing Advisory Committee (HAC) on November 4th to discuss the proposed IHP revisions. The HAC attendees were generally appreciative of the update and presentation, and staff responded to questions. At the conclusion of the meeting, the HAC requested that staff present the IHP, once adopted by the Board, to city councils in the county to initiate or continue the dialogue about this program in the North County and South Coast. The HAC also requested that staff return to a December HAC meeting to discuss other Housing Element action items that the HAC subcommittees might be interested in providing input.

VII. Amendments to State Density Bonus law

On September 29, 2004 the State of California amended Government Code §65915 relating to the state mandated Density Bonus Program. The amendments reduce the percent of affordable units a developer must provide to receive a density bonus and also reduce the density received. The amendments further specify that a developer can provide additional affordable units for an increased density bonus up to 35 percent over base density. The amendments also provide a density bonus to developers who donate a portion of the land in the project for affordable housing rather than actually building affordable units.

The following table compares the amended state density bonus law requirements to the proposed IHP:

Components	**State Density Bonus Program** (as amended by SB1818)	**Proposed Inclusionary Housing Program**
Affordability Requirement	▪ 5% very low income units, or ▪ 10% low income units, or ▪ 10% moderate income condominiums/PUDs, or ▪ Land donation of portion of site to accommodate very low units equal to 10% of project	▪ 5% very low, and ▪ 5% low, and ▪ 10% moderate, and ▪ 10% workforce (in South Coast and Santa Ynez HMAs)
Density Increase	▪ Very Low Income Units: 20% density bonus, ▪ Low Income Units: 20% density bonus, ▪ Moderate Income Condos/PUDs: 5% density bonus, ▪ Land Donation: 15% density bonus Density bonus on sliding scale up to 35% for developers offering additional affordable units or donating land.	1:1 density increase for moderate and/or workforce inclusionary units built on-site up to approx. 20%
Additional Incentives	Developers receive one to three additional incentives depending on the percent of affordable units provided. Incentives could include reduced common open space, setback, or parking requirements, or other agreed upon incentives.	None
Affordability Terms	Very Low and Low Income Units: 30 years Moderate Income Condos/PUDs: 10 year shared equity	45 years, rolling to 90 years upon resale for ownership units

The following is one example of how the amended State Density Bonus Program and the IHP could by applied to a project in the Santa Maria HMA on a site with a base density of 30 units:

State Density Bonus Program (as amended by SB1818)	**Proposed Inclusionary Housing Program**
Market Rate: 30 units Affordable (10% low income): 3 units Density Bonus (20%): 6 units	Market Rate: 30 units Affordable (10% moderate income): 3 units Density Increase (10%): 3 units
Total Project Size: 36 units (33 market + 3 affordable) Fees Paid: $0	Total Project Size: 33 units (30 market + 3 affordable) Fees Paid for Very Low and Low: $240,000

The State Density Bonus Program is a one size fits all program whereas the IHP has been tailored to address the specific housing needs of Santa Barbara County. Staff's analysis, which has been confirmed by conversations with the local building community, is that the proposed Inclusionary Program and the amended State Density Bonus Program will continue to be complimentary. Applicants would still have the option to meet county affordable housing requirements through either the State Density Bonus Program or the IHP. Applicants choosing to build lower income units (up to 60% of AMI) on-site would likely select the State Density Bonus Program while those who would rather pay fees for low and very low income units and build units for moderate and workforce income households would select the IHP.

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