



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: 11/7/23 Set Hearing
Placement: 11/28/23 Departmental
12/5/23 Administrative
Estimated Tme: 30 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department George Chapjian, Community Services Department Director
Director(s)
Joe Dzvonik, Deputy Director, HCD Division
Contact Info: Laurie Baker, Housing and Programs Manager, 568-3521

SUBJECT: Ordinance to Amend County Code Chapter 46A Inclusionary Housing

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

As to form: Yes

Recommended Actions: That the Board of Supervisors on November 7, 2023, set a public hearing on the Departmental Agenda for the November 28th, 2023 Board of Supervisors meeting to consider recommendations, as follows:

- a) On November 7, 2023, set a hearing on the Departmental Agenda for November 28, 2023 to consider the introduction (first reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara to amend County Code Chapter 46A to revise Section 46A-3; and
- b) Set a hearing on the Administrative Agenda for December 5, 2023, to consider the adoption (second reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara to amend County Code Chapter 46A to revise Section 46A-3; and
- c) Determine that the proposed action does not constitute a “Project” within the meaning of the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(5) of the CEQA Guidelines, because it consists of an organizational or administrative activity of government which will not result in direct or indirect physical changes in the environment.

Summary Text: The California State Density Bonus Law (SDBL) was amended in 2014 to require an equity-sharing agreement between the local governments and initial owner occupants for all below market rate, affordable ownership units that qualified for a density bonus in accordance with the provisions of the SDBL.

For-sale units produced through SDBL are only required to be affordable to each unit's initial buyer whose annual income is within the limits of the County of Santa Barbara's Inclusionary Housing Program (IHP). The for-sale unit must be sold to the initial occupant at a below-market rate established by the County's Housing and Community Development Division (HCD). Under an equity-sharing agreement as contemplated by the SDBP, upon the first resale of the affordable unit, the unit could be sold at market rate, with a certain percentage of the equity, less the cost of sales, shared with the County. The second buyer of such a unit subject to an equity-sharing agreement would not be required to meet the income limit restrictions, and the percentage of equity realized by the County under such an equity-sharing agreement would be insufficient in this market to fund construction of a replacement affordable housing unit. Accordingly, such equity-sharing agreements disincentivize the County to make units available to very-low, low, moderate, and/or workforce income households over a long-term period.

The SDBL provides, however, that a local government is not required to enforce an equity sharing agreement if in conflict with a public funding source or another law. The recommended Ordinance would constitute such a law. Accordingly, the County Department of Planning and HCD seek to amend the County Housing Code to align the County's Inclusionary Housing Program (IHP) under County Code 46A with the provisions of the SDBL. By amending Chapter 46A and requiring the affordable ownership units produced through projects using the SDBL to nevertheless be subject to the affordable housing covenant provisions of Chapters 46 and 46A, the County will benefit by retaining units of long-term affordable housing that will help meet the needs of very-low, low, moderate, and/or workforce income households in the County.

Background:

Both County HCD and Planning & Development have recognized a recent pattern where the majority of local developers satisfy their residential real estate project requirements under Chapter 46 of the County code by providing price-restricted affordable housing units through use of the SDBL. Deed-restricted rental units produced through SDBL are subject to an affordability term of 55 years, but deed-restricted ownership units produced under the SDBL only require an equity sharing agreement between the County and the initial owner-occupant, unless such an equity sharing agreement is in conflict with the requirements of a public funding source or another law. Equity sharing agreements, as contemplated by the SDBL, are only applicable to the initial resale of such affordable housing units, and do not help the County in its efforts to preserve the long-term affordability of such deed-restricted ownership units.

Both the County's adopted 2015-2023 Housing Element and the draft 2023-2031 Housing Element include the goal "to promote home ownership, owner occupancy, and/or the *continued availability* of affordable housing units through programs and implementing ordinances for all economic segments of the population including very-low, low, moderate, and/or workforce income households to assure that existing and projected needs for affordable housing are accommodated in residential development."

To meet the goal of the 2015-2023 Housing Element, and draft 2023-2031 Housing Element, to preserve the long-term affordability of affordable housing units, County HCD is recommending an amendment to Section 46A-3 to provide that an exemption from Chapters 46 and 46A for projects that qualify under the provisions of the SDBL does not include an exemption from the requirement that such projects be subject to HCD's existing form of Resale Restrictive Covenant under Sec. 46-5. The recommended amendment would add the following language to Section 46A-3: "...provided that such projects shall not be exempt from, and shall be subject to, the affordable housing covenant provisions of this chapter and chapter 46, including, but not limited to Sec. 46-5". County HCD's existing model Resale Restrictive Covenant, described in Sec. 46-5, includes a 45 rolling 90-year resale restriction. By requiring the use of HCD's model Resale Restrictive covenant on projects utilizing SDBL, the County will preserve affordable units into the long-term future and advance the 2015-23 Housing Element's stated goal of an increased term of affordability for the County's IHP's deed-restricted units, while remaining in compliance with State law.

Performance Measure:

N/A

Fiscal and Facilities Impacts: N/A

Special Instructions: The Clerk of the Board shall publish the ordinance in accordance with Government Code section 25124

Attachments:

Attachment A: Ordinance Amending Chapter 46A-3

Attachment B: Ordinance Amending Chapter 46A-3 (redlined)

Authored by: Andrew Kish, HPSS

cc: Lisa Plowman, Planning and Development