

MINUTES OF THE
SANTA FE COUNTY COMMISSION
AFFORDABLE HOUSING MEETING

November 27, 2012

This meeting of the Santa Fe County Commission regarding Affordable Housing was called to order at approximately 11:05 a.m. by Commission Chair Liz Stefanics in the County Legal Conference Room, Santa Fe, New Mexico.

A quorum was present as follows:

Members Present:

Commissioner Liz Stefanics, Chair
Commissioner Kathy Holian
Commissioner Virginia Vigil
Commissioner Danny Mayfield
Commissioner Robert Anaya

Members Excused:

[None]

Staff Present:

Katherine Miller, County Manager
Steve Brugger, Affordable Housing Administrator
Rachel Brown, Deputy County Attorney
Rosemary Bailey, Affordable Housing Staff
Penny Ellis-Green, Land Use Administrator
Chris Barela, Constituent Liaison
Robert Griego, Planning Director
Tracey Young, Senior Accountant
Ron Pacheco, Housing Authority Director

Others Present:

Warren Thompson, Rancho Viejo
Cass Thompson, Rancho Viejo
Alexis Girard, La Pradera
John McCarthy, La Pradera
Karl Sommer, La Pradera
Kurt Sommer, Rancho Viejo
Donna Reynolds, SF Association of Realtors
Lois Sury, SF Association of Realtors
Francis Ong, Housing Authority Member

III. APPROVAL OF THE AGENDA

Commissioner Anaya moved to approve the agenda. Commissioner Mayfield seconded and the motion passed by unanimous [5-0] voice vote.

IV. APPROVAL OF MINUTES: October 30, 2012

Upon motion by Commissioner Vigil and second by Commissioner Holian, the minutes were unanimously [5-0] approved as submitted.

V. INTRODUCTIONS

Those present introduced themselves.

VI. AFFORDABLE HOUSING ACTIONS

- A. La Entrada Amended and Restated Affordable Housing Agreement**
- B. La Pradera Amended and Restated Affordable Housing Agreement**

Steve Brugger distributed synopses of the agreements [*Exhibit 1*]. Both agreements have the same provisions and format. Mr. Thompson of La Entrada has reviewed the changes and found them satisfactory. Mr. Brugger said they replace the agreements rather than amend them and is designed to be consistent with developments in the future. He reviewed the salient points:

- Previously the agreements did not address market rate transactions that were not included; modifications address that point.
- Ordinance 2012-1 now requires 15 percent affordable units instead of 30 percent, spread across all tiers and includes rentals.
- The affordability lien is reduced by ten percent per year.
- La Entrada now requires 68.1 units; 15 have been completed. A residual fee can be applied for the .1.
- La Pradera requires 40 units; 15 remain to be completed.
- Requirement to change maximum target home prices annually is eliminated. There is now a fixed maximum target home price over three years with a 5 percent cap on changes.
- If homeowner association fees are over \$100 month there will be an adjustment to the maximum home price.
- Staff is developing more viable means to effect alternate means of compliance.
- There are penalties for not maintaining appropriate phasing and housing mix.
- Substitutions of lot designations can be made at the discretion of the Affordable Housing Administrator.
- Broker listing and print advertising are no longer required as part of the marketing plan.
- A non-profit can hold a lien in lieu of the County's affordability lien and maximum amounts are defined. New inserted language regarding cash brought to the table: "any phase of the transaction (such as the construction phase as evidenced by a HUD 1)." This incentivizes the non-profit to put in more money in exchange for lien.
- Provisions are outlined for qualifying market rate transactions. The market will now determine the mix of number of bedrooms, rather than there being fixed ratios.

- Prescribed remedies are less draconian.
- Entering into this Agreement does not prohibit Applicant or Applicant's buyers from applying for downpayment assistance.

Mr. Brugger referred to the exhibits in the packet, pointing out the requirement for a two-car garage is now deleted.

Responding to a request from Commissioner Mayfield, Mr. Brugger reviewed the homeowners association fee provision. If the price is reduced due to the fees being over \$100 per month the buyer would be required to disclose this to the bank in a qualified transaction along with an itemized list of household expenses. Most of the developments in the Community College District have homeowners association fees below \$100. Karl Sommer explained the associations generally have reserves in their budgets for things like road maintenance. Over time the fees tend to stabilize.

Commissioner Vigil asked what happens when the homeowners take over the association. Mr. Brugger stated the amount of fees is generally specified at the time of purchase.

Noting it was not clear in the language of provision 12, Commissioner Anaya asked if the non-profit taking the lien cover the difference between the cost of construction and the sales price, or the appraised price. He asked if the non-profit was bringing cash to the table. Mr. Brugger said the non-profit is bringing hard cash in the form of a permanent subsidy, and partly in construction loan money. Commissioner Anaya stated there has to be a one-to-one trade-off to the contribution and it has to be easily auditable.

John McCarthy gave the example of La Nueva Querencia which is almost entirely owned by the Housing Trust, which brings \$70,000 to \$80,000 to the closing to facilitate construction as evidenced by a HUD 1. Commissioner Anaya expressed concern about spreading costs to prior phases not tied to the closing. Mr. McCarthy said HUD 1 is discrete without allocation costs and not prorated. This is what has occurred in the last 18 transactions. He said the lien by the non-profit cannot exceed the amount of cash they put in, including the construction phase. Historically, when the eligible buyer qualifies the decision is made as to what the amount will be.

Commissioner Anaya asked if there is an amount above what the non-profit brings to the table, is the County to carry that difference? Mr. McCarthy said the only case he could envision is where the County provided downpayment assistance. Commissioner Anaya said if someone brings cash to the table equal to the amount of the lien and there is a difference they can't carry, the County should carry the third or fourth, etc. Mr. McCarthy discouraged hybrids as being too difficult administratively.

Mr. Thompson said he had no issue with the County taking a lien if the appraised value comes in above the construction cost and what the non-profit has put in. Chair Stefanics said she was opposed to third mortgage liens.

A discussion ensued as to whether the action could be taken or if the matter should be taken up at the December BCC meeting to make sure there is clarity. Commissioner Vigil

indicated she would like more staff input. Chair Stefanics suggested the Commissioners meet with all the developers.

Continuing the discussion, Commissioner Anaya lauded the change in the requirement from 30 to 15 percent. He asked about accrued appreciation. Mr. Thompson said he would like to see the buyer get the appreciation. He added he was not in favor of 3rd and 4th liens. Mr. McCarthy stated an entity putting up a substantial amount of cash has the same attendant risks, therefore any overage should stay with the non-profit. Commissioner Anaya said the reason for deferral was to give the money back to the buyer; this is not clear in the document.

Regarding house size, Commissioner Anaya asked what would happen if a developer built only the smallest units. Mr. Thompson said he understood that all three sizes were on offer and available. Commissioner Anaya said that should be made clear. He added he has reservations about item #12. Mr. Brugger said it was inserted for consistency. Chair Stefanics said she was hesitant about removing #12 completely.

Ms. Miller remarked there were a number of issues that remain to be ironed out, such as energy efficiency. She recommended taking up the discussion at the next Commission meeting.

Commissioner Mayfield asked about the dispersal of the affordable units within the development. Mr. Brugger said in La Entrada Phase 1-A they are more scattered whereas in Phase 1-B they are more grouped.

Mr. Thompson noted fixing the homeowners association fee at \$100 per month won't work because things will change. The affordable lots can be addressed in the covenants. He reviewed the distribution of homes, showing a map of the area. The affordable lots are not smaller than market rate lots.

Commissioner Mayfield asked about parks, and Mr. Thompson showed the locations on the map.

Commissioner Vigil stressed the value of maintaining affordability over time. Chair Stefanics noted that the issue of third mortgage liens remained to be settled. Mr. Brugger said the question always arises over who is subordinate and this is not explained in the downpayment policies. The bank wants to know how the transaction is structured so they have to see the whole thing. He said they do not look askance at any component that comes in cash, although the fewer liens, the easier it is. The additional liens are generally not amortized and are payable on sale.

Commissioner Anaya said carrying additional liens is a philosophical question and asked to hear from the Association of Realtors. Donna Reynolds mentioned that the Association supported the changes, i.e., the ten percent per year on appreciation. She said they rely on appraisals. This is a whole new market so it is good to be thoughtful.

Karl Sommer pointed out if a non-profit does the underwriting they are not going to want to be behind the County putting up a smaller amount of money. Commissioner Anaya

noted that currently the County tends to be at the end of the line behind banks, MFA and other subsidies.

Commissioner Anaya moved to take the matter until December 11th. Commissioner Mayfield seconded and the motion carried by 4-0 voice vote. [Commissioner Holian was not present for this action.]

Chair Stefanics encourage all the parties to meet in order to get this done. Mr. Thompson noted that much of the details can be done through the regulations.

IX. EXECUTIVE SESSION

There were no issues.

X. ADJOURNMENT

Chair Stefanics declared this meeting adjourned at 12:35 a.m.

Approved by:

Liz Stefanics

Board of County Commissioners
Liz Stefanics, Chair



ATTEST TO:
Geraldine Salazar 3/29/2013

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Respectfully submitted:

Debbie Doyle, Wordswork



COUNTY OF SANTA FE) AFFORDABLE HOUSING MIN
STATE OF NEW MEXICO) ss PAGES: 5

I Hereby Certify That This Instrument Was Filed for
Record On The 2ND Day Of April, 2013 at 01:16:19 PM
And Was Duly Recorded as Instrument # 1701238
Of The Records Of Santa Fe County

Deputy *Marcella Salazar* Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM