MINUTES OF THE

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

AFFORDABLE HOUSING MEETING

September 25, 2012

This meeting of the Santa Fe County Affordable Housing Board was called to order on the above-cited date in the Santa Fe County Legal Conference Room at the County Courthouse at approximately 11:12 a.m. by County Commission Chair Liz Stefanics.

Roll call indicated the presence of a quorum with the following Board members present:

Members Present:
Commissioner Liz Stefanics, Chair
Commissioner Kathy Holian
Commissioner Robert Anaya
Commissioner Danny Mayfield

Member(s) Excused:
Commissioner Virginia Vigil

County Staff Present:
Katherine Miller, County Manager
Steve Ross, County Attorney
Rachel Brown, Deputy County Attorney
Steve Brugger, Affordable Housing Administrator
Robert Griego, Planning Manager
Ron Pacheco, Interim Housing Authority Director
Teresa Martinez, Finance Director
Tracey Young, Senior Accountant
Chris Barela, Constituent Services
Rosemary Bailey, Affordable Housing Staff

Others present:
Warren Thompson, Rancho Viejo
Cass Thompson, Rancho Viejo
Bobby Lee Trujillo, La Pradera
Alexis Girard, La Pradera
John McCarthy, La Pradera
Bobby Trujillo, La Pradera
Danny Martinez, Developer
Francis Ong, Housing Authority Board member

III. Approval of Agenda

Mr. Brugger stated there were no changes to the agenda and Commissioner Holian moved for approval as published. Commissioner Anaya seconded and the motion carried by unanimous [3-0] voice vote. [Commissioner Mayfield was not present for this action.]

IV. Approval of Minutes: July 31, 2012

Mr. Brugger gave the following 'changes: page 3, paragraph 2, line 3 ~~of its expenses~~ should be the principal amount of the lien.

Page 3, item C paragraph 3, line 3: ~~of a unit serving~~ should be land or cash to be used to serve.

Page 4, paragraph 6, line 4: ~~40~~: 30 percent affordable housing requirement.

Commissioner Holian moved to approve as amended and Commissioner Anaya seconded. The motion carried by 4-0 unanimous voice vote.

V. Introductions

Those present introduced themselves.

VI. Program Report:

A. Discussion of Suggested Changes to Ordinances No. 2012-1 and 2006-02 (Affordable Housing Ordinance) and Resolution No. 2010-189 (Affordable Housing Regulations)

Mr. Brugger reviewed the possible changes to Ordinances 2006-2 and 2012-1. Additionally there were suggested changes to the agreements with La Pradera and La Entrada. Rather than have individual negotiations with specific developers it was decided to bring all the stakeholders together to develop language that everyone can agree to. The stakeholders meeting was held last Tuesday and was well attended by approximately 12 developer representatives. Staff reports have been issued to all the participants.

Mr. Brugger said the intent is to work within the framework of the existing ordinance and program and make changes as needed.

(1) Alternate Means of Compliance - Land Donation and Cash Payment

Changes to the section on alternate means of compliance of 20 12-1 might free-up potential approaches to providing affordable housing. Rental housing is included. Staff s position is open but not open-ended; there is a need to agree on basic rules.

(2) Extra Credit for Developer Provision of Income Range 1 Housing
(3) Broaden Income Ranges for Income Ranges 3 and/or 4

It was agreed that since providing units in Tiers 1 and 2 is the most difficult and the land and cash donation formulas were seen as prohibitive, that redefinition was deemed appropriate. The possibility of granting extra credit for units in these income ranges had stakeholder support.

Income eligibility could be certified by a non-profit as long as program requirements are followed. Certain regulations may need to be relaxed in the case of buyers who have an equal choice between a market rate and an affordable home so they are not deterred from participating in the County program.

(4) Long Term Affordability - Holder of Affordability Mortgage or Lien

There is a continuing question of who is to hold the long-tern affordability lien and can a third party that contributes cash hold the lien. Staff is recommending that a non-profit be allowed to hold a lien as long as the instrument is reviewed and approved by the County. For properties that are under water there might need to be significant write-downs and if another entity is holding the lien they should have to provide the same service.

(5) Integration and Phasing

Additionally, the integration language in the existing ordinance and regulation should be modified so as to not discourage rental housing. There was discussion of providing flexibility in phasing requirements to accommodate market conditions. Staff will draft and bring forward language to that effect.

(6) Residual Fee Payment for Small Projects

For small projects - five to six units, where an affordable lot is not provided, flexibility in the timing of the payment in lieu was called for so that it could occur later in the process at the time of filing the final plat.

(7) Other (Discussion)

Mr. Brugger said they intend to revisit the in the future. La Pradera and La Entrada would like to bring forwardable housing agreements for modifications that are consistent with the ordinance and regulations or changes to those.

VII. Public Comments

John McCarthy from La Pradera said to date they have delivered 25 homes under the County program and have committed to or have delivered 42 more under the Housing Trust. On average the Housing Trust brings $75,000 to each transaction and takes back an affordability lien. All houses were in Tiers 1 through 3. He was glad to see a possibility for expanding the process to qualified non-profits. However, since the Housing Trust risks $75,000 cash and has an affordability lien they believe that long-term affordability protection is already in place. La Pradera's business model differs from that of the County's because there is solid cash that is the difference between the total purchase price and the cost of the unit.

Mr. McCarthy stated that "our request is that because of the Housing Trust's involvement and because of the mutual agreement to have the County staff audit the process in the Housing Trust, that they, the Housing Trust, be allowed to receive with this program, subject to underwriting by staff and Steve, and make that a condition of moving forward, which we'd like to do for next month's agenda as we have an approved master plan amendment that only needs the affordable housing agreement in order to record. But we are trying to be totally transparent." He added that the Housing Trust is willing to provide summary data subject to the confidentiality of individual buyers.

Danny Martinez, a developer in the Eldorado area stated his issue of concern was the availability of municipal services. Eldorado Water charges $13,000 for a cap, creating an inequitable situation for those projects that can avail themselves of County water. He asked that there be flexibility in the language that would take this disparity into account.

Chair Stefanics pointed out that if he were required to put in a water line it could cost a great deal of money as well.

Warren Thompson, Rancho Viejo, spoke of long-term affordability for Tiers 3 and 4. Currently, some market rate homes are selling below the County's requirements. *[Exhibit I]* Long-term affordability restrictions drive the buyer into choosing a market rate home. However, Rancho Viejo is still required to deliver a set number of Tier 3 and 4 houses. To get buyers in the affordable housing program houses they would have to lower the prices even more and lose money. The structure of the ordinance is causing them to lose money across the entire spectrum. He asked for some modification that would allow certified buyers to get into the program while buying market rate homes.

Mr. Thompson said the issue is complex and he encouraged the County to explore other ideas; there may be a simpler approach that solves the problem using a different framework.

Commissioner Anaya agreed adjustments need to be made and spoke of multi-family housing as a means of alternative compliance. Transfer of compliance is another option. He noted non-profits that bring cash to the table are already getting a lien.

Mr. McCarthy pointed out that that would not supplant the County lien. Commissioner Anaya gave an example of a house with three tiers of County-subsidized notes and asked if there should be no lien between the appraised value and the subsidized notes. Mr. McCarthy stated it is a matter of administrative control. MFA supplies some funding and the non-profit provides the cash balance. The difference between the purchase price and the sum of the liens allows the nonprofit to function as the County does in terms of write-downs and accommodations to the buyer. The Housing Trust, for example, predominantly deals with Tier 1. Long-term affordability could be achieved through accommodations.

Ms. Miller asked if once the house gets sold the gap amount would go to the non-profit. Mr. McCarthy said that was correct.

Commissioner Anaya said modifications are necessary due to the current economic climate and more work needs to be done. He again voiced his support for multi-family housing. He said the provisions should not apply to every single subdivision. Speaking to the issue of who holds the lien, Ms. Miller agreed it was a matter of control. The issues with the third and fourth tier are a real barrier in the current market. The County continues to emphasize long-term affordability, which is a requirement in the Affordable Housing Act. Staff is coming up with good ideas but more dialogue is needed.

Referring to Mr. Thompson's list of parallel requirements, Commissioner Anaya asked if it is demonstrated that the prices are equivalent why they would not remove the requirements. Ms. Miller stated if there is no income eligibility requirement the intended population is not addressed.

Commissioner Anaya brought up the discrepancy between the new 15 percent requirement across the board versus past requirements. Mr. Brugger indicated that the issue of amending old agreements was discussed. Commissioner Anaya asked if this could be done across the board rather than having to modify each agreement separately. Mr. Ross said administrative approval might be possible, although complications could ensue from the developers having to replat.

Replying to Commissioner Anaya's question of whether amendment modification could be an interim step, Mr. McCarthy replied yes, but in calculating target housing prices he would request that it be changed to market conditions. Mr. Thompson said it was a first step.

Chair Stefanics noted the consensus that more discussion was necessary and she asked the County Manager to look at the pros and cons of taking any action. "We want to support the development, we want to support the housing but we also don't want to do it to the detriment of what some of our goals were." She asked that the issues be separated out.

Mr. Brugger said something could be brought forward at the next meeting, and Chair Stefanics asked about the role of MFA. Ms. Miller said inclusionary zoning does not require MFA approval but affordable housing issues do.

IX. Adjournment

Having completed the agenda and with no further business to come before the Authority, this meeting adjourned at approximately 12:10 p.m.

Approved by:

Liz Stefanics, Commission Chair

ATTEST TO:

VALERIE ESPINOZA
COUNTY CLERK

Respectfully submitted:

Debbie Doyle, Wordswork

To qualify for affordable credits:

1. Obtain certificate of eligibility.
    a. Certification Process
        i. Current pay stub
        ii. 2 years of federal tax returns and W-2
        iii. Income and asset analysis applies to all household members 19 years old or older
        iv. Credit report on all 19 years old or older
        v. Account summary of all accounts
        vi. Financial statements of all
        vii. Sworn statement as to the veracity of all documentation
        viii. $200 fee
2. Limit on Options and lot premiums of $5,000
3. Long term affordability
    a. County lien to 95% of appraisal
    b. Prohibition against renting for as long as County lien is in place
    c. County to have a 30 day right of first refusal in the event of sale
    d. The County will share in the appreciation of the home with the homeowner
4. Minimum house size based on the number of people in household.

The Problem:

In a housing market where market-rate homes are equal to the cost of mandated affordable units, the buyer has a clear choice as to whether to buy a market-rate home or program home. Any sensible buyer would select a market-rate home without restrictions.

In order to satisfy the affordable housing credit requirements, however, the developer is required sell to a buyer with a certificate of eligibility. The buyer is subject to the long- term affordability requirements, limitations on upgrades dictated house size (a family of 4 must buy a 3 bedroom house a 2 bedroom house will not qualify).

The certification process seems very similar the documentation process for a loan except that it applies to all people in the household. This should not in itself be too much to overcome. The real problem lies in the long-term affordable requirements. There is no motivation for a buyer to agree to these restrictions when they can own the home without the restrictions.

In order to overcome a buyer's reluctance to buy an affordable home, the only solution the developer has available to it is to lower the price below market rate to entice a buyer to buy under the program. This solution will cause the developer to loose money across all affordable tiers.

1. Obtain certificate of eligibility.
    a. Certification Process
        i. Current pay stub
        ii. 2 years of federal tax returns and W-2
        iii. Income and asset analysis applies to all household members 19 years old or older
        iv. Credit report on all 19 years old or older
        v. Account summary of all accounts
        vi. Financial statements of all
        vii. Sworn statement as to the veracity of all documentation
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    c. County to have a 30 day right of first refusal in the event of sale
    d. The County will share in the appreciation of the home with the homeowner
4. Minimum house size based on the number of people in household

1. Loan application Process
    i. Current pay stub
    ii. 2 years of federal tax returns and W-2
    iii. Income and asset analysis applies to all household members 19 years old or older
    iv. Credit Report
    v. Account summary of all accounts
    vi. Financial statements
    vii. Sworn statement as to the veracity of all documentation
    viii. Loan application fee