

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL STUDY SESSION

October 18, 2005

Michael Anaya, Chairman
Harry Montoya, Vice Chair
Paul Campos
Jack Sullivan
Virginia Vigil



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
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**MINUTES OF THE
SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING**

October 18, 2005

This special meeting of the Santa Fe County Board of Commissioners was called to order on the above-cited date in the Commission Chambers at the County Courthouse at approximately 3:00 p.m., by County Commission Chairman Mike Anaya.

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

Members Present:

Mike Anaya, Chair
Paul Campos, Commissioner
Harry Montoya, Commissioner
Jack Sullivan, Commissioner
Virginia Vigil, Commissioner

Member(s) Excused:

None

Staff Present:

Gerald Gonzalez, County Manager
Steve Ross, County Attorney
Diane Quarles, Strategic Planner
Dodi Salazar, Housing Administrator
Robert Anaya, Housing Department Director
Judy McGowan, Senior Planner

Others Present:

Mike Loftin, AHTF Chair

III. APPROVAL OF AGENDA

Chair Anaya requested the inclusion of "Public Comment" following the discussion of the draft. County Attorney Ross said it was the Chair's prerogative to solicit public comment regarding any of the issues on the agenda.

Commissioner Sullivan noted that public comment was not included on the published agenda. He pointed out that there is a difference between comment and full-blown presentation which it appears one developer would like to do. He questioned whether it was appropriate to permit the presentation and added there was a time constraint today.

The Chair asked those interested in making a presentation or comments to identify themselves and four people stood. Ike Pino stated 10 minutes would be sufficient to make a presentation representing the four individuals.

Upon motion by Commissioner Sullivan and second by Commissioner Campos, the agenda was approved as published by majority [4-1] voice vote with Chair Anaya voting against.

Commissioners Montoya and Vigil said they wanted public comment and voting to approve the agenda as published with the attorney's direction that it was the Chair's prerogative to permit public input.

IV. DISCUSSION: Continuation of Discussion of the Draft Affordable Housing Ordinance

Exhibit 1: Staff memo and revised draft

Exhibit 2: Long-Term Affordability Options

Exhibit 3: Estimated Values of County Affordable Housing Incentives

Exhibit 4: Borrego Development worksheet on residential lot cost with affordable housing

DIANE QUARLES (Strategic Planner): Thank you, Commissioners. What I'll do is start with the memo and I will go through the changes.

The first item since the main changes were regarding the alternative means of compliance that's where I'll begin in Section Sixteen, part 1, A.1 and 3, page 7: "The alternative means could be considered within the unincorporated areas of the County," that's the way we originally left off. A point of clarification: on the unincorporated area we added language "where the BCC has exclusive jurisdiction to consider such alternatives." One concern that came out of this was if a project comes in and it's not in the BCC jurisdiction, for instance say Edgewood or Española and a project came in and it was for off site construction and the BCC may consider it. But because they can't approve that project, there would have been a conflict -- would be committing another jurisdiction for a project that you would be considering so we changed that language to say, "where the BCC has jurisdiction to consider."

One possibility if you want to broader it, because it's fairly restrictive, but if you also want to say or where they are authorized to make those considerations. It's not currently in here but that may be an alternative.

The main thing is that the BCC needs to be able to have authority to be able to consider projects for the alternative means of compliance. That's A.1 part 1 and A.1 and A.3, the same language was duplicated in both those consideration. So that would be for dedication of property and also for off-site construction.

If I don't hear any questions, I'll just keep going.

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, at the last meeting there was some discussion as to whether we were going to restrict this to certain areas, perhaps the metro area, as opposed to the entire county; was that resolved?

MS. QUARLES: Commissioner Campos, the way I believe we left it as -- we left it in the unincorporated areas rather than saying the central area. Originally it implied that it was the central area, but in order to capture parts of District 1 where they may be some

benefits received by the alternative means of compliance we changed it to say the unincorporated area – to broaden it so that there could be more opportunity, if you will. The problem that we noticed in doing that is the BCC has to have jurisdiction to be able to consider that so the language was broadened originally then it was slightly narrowed to say that there should be jurisdiction.

COMMISSIONER CAMPOS: Thank you.

MS. QUARLES: It still would be applied countywide where the BCC has jurisdiction to make those consideration.

Then under, the next part, Section 16, part B, page 8, if off-site construction is proposed there is potential that it will generate development, and I call it a “receiving project” for purposes of discussion. This process was not intended to insure approval of say a de facto approval of another project. So in order to remove that conflict preliminary review of an alternative means of compliance the proposal now treats it as a “concept review.” If the new project is created, it would be considered that both projects would have to come forward together and be reviewed since the projects are essentially joined. One would be more or less the sending project where you’re sending the affordable units to another for off-site construction. The receiving project then is gaining or accepting those off-site construction units and by virtue of that they become linked. So they are two separate projects that have a common interest.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Would the receiving project have the same affordable housing percentage requirements as the original project?

MS. QUARLES: That would be correct and that was one of the reasons to clarify the language. They are two separate projects. It would be the same as if you had an existing project that was going through the process and you were going to transfer some of your affordability to that project you would have the original calculation for the 30 percent plus the additional receiving calculation of how ever many units that would be.

COMMISSIONER SULLIVAN: But you couldn’t double count – in other words, let’s say you had to move 30 units – or you want to move, you don’t have to, you can build them right here but if you wanted to move 30 units from a 100 unit project, so you would move those over to tract x and if tract x has a requirement depending on how many units that at least 30 percent of those be affordable. So let’s say you only build 30 units in tract x, I just want to make sure you weren’t double counting, but let’s say you built those 30 units and those 30 units came from the original project. So you couldn’t count those as nine units in tract x because the 30 would be – 9 more units that you’d have to build; is that correct?

MS. QUARLES: I think I understand. They’re two separate projects and each one of them has a 30 percent requirement. They would have to be in accordance with the ordinance each project independently unless under the alternative means of compliance there’s a relief under the hardship and where we’re reducing the number of units in either project. But, again, they’re independent projects and they would each have their affordability requirement.

COMMISSIONER SULLIVAN: Okay, then on the second question, is there any maximum? In other words, say we move 20 units to tract x and that’s all tract x can hold; is that okay that we have 100 percent affordable on tract x?

MS. QUARLES: Commissioner, I think under the very first draft I think it was fairly specific that it said under the density bonus language that you can do affordability up to

50 percent and anything above that was reviewed on a case by case basis and you had to look at impacts and everything else to make sure that the area was appropriate for those kinds of densities. In the language now it is not quite as clear and specific. It deals specifically with density bonus and you can receive a density bonus up to 50 percent and anything above that would be reviewed on a case-by-case. But I think it is fairly silent on the issue of total affordability. I think that may be something that got changed when we went from the first version to the more legal standard version.

COMMISSIONER SULLIVAN: Okay, then that is something that we can hash out whether we want to say that it's okay to put all the affordable housing on one tract.

CHAIRMAN ANAYA: Then tract x would be 100 percent affordable housing.

COMMISSIONER SULLIVAN: And then tract x would be 100 percent affordable housing or whether we want to have some 50 percent maximum to continue to encourage mixed-use.

MS. QUARLES: There is back-up language that deals with that - under C.1 on page 8, right about in the middle it says, "deciding whether to accept a proposed alternative means of compliance for off-site land dedications" and one of the things that you would consider is whether implementation of a proposed alternative means of compliance would overly concentrate the affordable units in that area or within the proposed project where such concentration would be inappropriate given present or future conditions. So there is a portion of the amended compliance that deals with the amount of affordability in any project but it's not specific as to percentage.

COMMISSIONER SULLIVAN: Thank you.

MS. QUARLES: Okay, under C, section 16, part C and D, page 8, there are two sets that were established under part C and 1 through 7 apply to land dedications or off-site construction and then Part D, 1 through 3 apply to fee in lieu. One of the things that was changed originally and it was actually a typo it said "or" for the test you had to satisfy "or" so you had to meet one of them and now it says "and" so all tests generally have to be satisfied to consider the alternative means proposal. And I'll go through these rather quickly. Test for land dedication/off-site construction would include that proposal cannot, again, overly concentrate the number of affordable units in the area or within the project. The proposal must be supported by infrastructure including water, sewer and roads. The proposal must also demonstrate a commitment to serve the project with water and sewer through some demonstrated document, such as a service agreement. This way it is clear that the proposal would be served rather than it can be served. The proposal must indicate a ready market and clear need for the units in the location proposed. The proposal must be compatible for residential use and it must be consistent with the current zoning and appropriate for development. For example, you couldn't dedicate flood plains for residential development or currently have zoning for heavy industrial use.

The most important task and this is where the BCC would probably have the most discretion if, the proposal should provide a higher public benefit than what would have been created had the units been built within the original project. The intent of the ordinance is to provide housing opportunity for a broad range of incomes within any given development. And that should be considered the "bar" if you will, by which other means of compliance is measured. This is also meant to encourage creative, affordable projects to come in that you could consider and it's meant to really open it up rather than to be more restrictive.

The test then for cash payment in part D includes the following: cash payment shall be at least be comparable to the cost value as if you were to construct the units. The value could be higher but the actual method of calculation is reserved for the housing regs. The cash

payment shall not create a surplus in the housing trust or dedicated fund. This would be identified in the annual budget review of the fund. If the funds have not been sufficiently expended for the benefit of affordable housing then the BCC may consider whether a cash payment is appropriate based on the status of that fund. And, finally, as a test the land dedication and off-site construction the cash payment should provide a higher public benefit than if the units were built on site.

COMMISSIONER CAMPOS: Mr. Chairman.

Ca: Commissioner Campos.

COMMISSIONER CAMPOS: Question for legal. Mr. Ross, as far as section C is concerned in off-site or land dedication, does the County Commission have much discretion? I mean there are five conditions, how much discretion does the BCC have? And the other issue should the BCC have complete discretion deciding whether they want land or cash? We could be getting land that is not very good or suitable. That's my question for you.

MR. ROSS: With respect to C, Mr. Chairman, Commissioner Campos, those are not conditions. Those are consideration. There are five considerations. When you get an application in you have to consider all five of those items. The way it is written it is not a requirement. They are not five requirements. They are five things that you have to consider and that limits your discretion I think permissibly so that you can avoid any claim that a decision that arises out of those five factors was arbitrary which would be unlawful. You can't have an arbitrary decision. But as long as you have some standards and you're going to consider these five things when ruling on whether or not an application for an alternative means of compliance is acceptable. You're going to consider all these five things and the inclusion of the "and" will require you to consider all five things and it would be hard-pressed to say that a decision that came out of that sort of a process would be arbitrary and that's what we want to avoid arbitrary decisions, decisions without base.

COMMISSIONER CAMPOS: I'm just concerned that this might be binding the Commission in that if the development comes in and says, 'look I've met all these conditions and now you have to take this land.' Could we be put in that situation or do we have sufficient discretion within these five considerations?

MR. ROSS: I suppose if somebody met all five and could demonstrate that they met all five there could be an argument made that you have to approve something.

COMMISSIONER CAMPOS: And then if there's a dispute between the Commission and the developer then we go to court to determine whether we met all five?

MR. ROSS: Correct.

COMMISSIONER CAMPOS: So it appears to me that it complicates things a little bit. I don't know whether there's an alternative or better way to doing that. We could say we will just take cash only instead of dealing with off-site construction or dedication of land.

MR. ROSS: The more objective the criteria the less chance that your decisions could be challenged.

COMMISSIONER CAMPOS: But could we get away from off-site dedications of land or constructions off-site?

MR. ROSS: You wouldn't have to consider this at all - these are suggestions.

COMMISSIONER CAMPOS: Could we exclude that as an option altogether?

MR. ROSS: Sure.

COMMISSIONER CAMPOS: Okay.

MR. ROSS: This is your ordinance. We're trying to write it together.

COMMISSIONER CAMPOS: I'm asking from a legal perspective if that's

something that could be done.

MR. ROSS: Sure, we're legislating.

Ch: Eliminating it altogether; is that what you're suggesting?

COMMISSIONER CAMPOS: Yeah, I'm just saying that I think that's better because sometimes you can get stuck with land that is not appropriate, not valuable and somebody could argue that they've met all five conditions and we're bound to take a certain piece of property.

MR. ROSS: Mr. Chairman, Commissioner Campos, let me clarify. I thought you were asking whether you could eliminate section 16 altogether. If you have a 16, in other words, if you provide for an alternative means of compliance that's not a guaranteed method you're going to have to have some criteria by which to approve that. It's either approved or not approved. If you want to make it completely objective and say you can use an alternative means of compliance under the following circumstances and you're willing to eliminate any discretion that you as a body might have, that can be done.

That's not what this does. This retains in the Commission some flexibility to scrutinize the reasons given for any proposal for alternative means. But you still have to consider some factors, some facts upon which you would make some sort of a reasoned opinion. You can't just eliminate C and say it's completely discretionary because a completely discretionary decision is by nature arbitrary. So you have some sort of a consideration in there if you're going to make it discretionary whether to approve an alternative means or not.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, just to clarify on this band - you had parts C 1 through 7 but it's only 1 through 5.

MS. QUARLES: I'm sorry. We compacted a little bit. I guess I didn't update the memo when we did that. It's only five.

COMMISSIONER MONTOYA: My other questions were just answered. But I guess the question I would have though what would be the advantage of eliminating section C? This is part of what I was hoping would come forward in terms of other alternatives. I'm in favor of it but what if we were to eliminate it as is being suggested?

MIKE LOFTIN (Affordable Housing Task Force): Mr. Chairman, Commissioner Montoya, it strikes that what Commissioner Campos is raising is really three issues. One is do you allow alternative means of compliance. That's the big issue. Two is, what kinds of alternative means of compliance. And three is under what conditions do you allow that alternative.

The one thing I heard is that you can have alternative means of compliance - a couple of them are money, right, cash, another is off-site construction, the third one is a dedication of land or donation of land. And I think what Commissioner Campos is talking about is that the land is a harder thing to assess. Money you know what it's worth, land is hard.

Whether a developer does off-site construction, you can evaluate that too because you know how many homes are going to be built. If you just get the land, it's a harder thing to assess. One thing, you could allow off-site construction as an alternative means of compliance and cash and eliminate the land dedication as one. That doesn't mean you would eliminate all alternative means to compliance. It's really just choosing which ways do you want to offer alternative means compliance. But I would agree with Commissioner Campos, that the land one - donating a piece of land is the most complicated because there has to be a lot of due diligence. You know, is there environmental problems on it. Is it in a flood plain - someone has to do that due diligence to figure it. I'd rather have this developer saying that on this other

piece of land I will build this off-site x number of homes – well, then they're taking the responsibility to do that and you know what you've got.

So that's one issue and then Section C is just deciding under what condition under those alternative means of compliance what are you going to consider in granting that. It seems to me if you are going to do an alternative – whatever alternative means of compliance you're going to have to have some conditions to evaluate it. You have to have some method of evaluating to decide whether you want to accept that or not. Does that make sense? I don't think you want to eliminate the "under what conditions" you have to have something to consider. You might want to change it but you have to have something to consider. But the prior issue is if you are allowing an alternative means to compliance which alternative means are you allowing. And I think Commissioner Campos is raising do you want somebody to just give land to the County; is that one that you want?

COMMISSIONER CAMPOS: That's right. Commissioner Montoya, I think that option kind of limits us. We may get stuck with a piece of property that's not really a good piece of property to do x, y, or z. With cash the County can go out and buy land where it feels that affordable housing should be and therefore the County would have more discretion in making that decision. That would be my concern on that issue.

ROBERT ANAYA: Mr. Chairman, Commissioner Montoya, an alternate consideration on the land aspect might be if one looks historically back at the County and Commission decisions that have been made around youth shelters, Esperanza shelter, other homeless programs, Open Hands, that the County has stepped up to try and assist with those players to find land to do facilities. There could be some benefit in trying to figuring out a way and I don't know off-the-cuff exactly how that would work but I do know that on a constant and continuous basis the Commission has requested of providing land to build just those types of facilities. So I think there is some merit for alternate housing types that are not single-family home ownership where land could be a great benefit. As far as how to assess how to get there, I don't have an answer to that. But I do see some benefit if it's the right property and there is a specific need that has been put forth in the community for another housing type.

COMMISSIONER MONTOYA: Then I guess, who would do that assessment also? That would be the question and maybe we could hear some suggestions on that from people when they come forward.

MS. QUARLES: Commissioner Montoya, when we wrote the alternative means of compliance, again, being perfectly frank much of what we did was focusing on off-site construction and the cash payment – land dedication we haven't paid much attention to frankly. We do need a process to evaluate the cost of the land. There needs to be a process to figure out the commensurate value versus the land trade-off versus how many units would have been built. So we do need a method of doing that. It still would have to meet the criteria in one through five; is it appropriate and is it properly zoned and all of that. But the method for calculating its value to figure out if it's of equal or greater value has to be determined.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: You're welcome. Yes, okay, go ahead.

MS. QUARLES: And then finally on page 2, letter D of the memo, under Section 16, part F, page 9, at the very end of the alternative means of compliance we added the language that "a proposal for alternative means of compliance would not be eligible for the incentives as offered under the ordinance." So by opting for alternative means of compliance, it means you are waiving your rights to the incentive. Yes, page 9 of the ordinance.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would be interested, Diane, in knowing the kinds of discussions that brought you to that conclusion. It's really hard for me to foresee this so black and white, where a developer might choose an alternative means of compliance. It's possible that you could look at some property and some cash. Is that what you're trying to avoid by this conclusionary statement?

MS. QUARLES: Actually, that would bring up a point of clarification, Commissioner. For any units that are built on-site, the intent is that you may take advantage of the incentive. But for where you are exercising the right of alternative means of compliance you will waive your right because the units are not being built within the project where we are trying to encourage the units to be built. So, in a lot of cases we're going to get in part, where some units will be built and they use alternative means of compliance like for instance a cash payment for some of the units for whatever reason and in those particular units there would be no incentive. Where for off-site construction you wouldn't get the benefit of the incentives.

But if you're building them within the project - but the ordinance probably needs to be clarified to say that. Because right now it just says that for the alternative means of compliance you don't get the incentive but it's a black or white, you're right. It doesn't take into account the gray where you may do some of the units and you may not do some others.

COMMISSIONER VIGIL: Mr. Chairman, I think we need to provide those options. So my recommendation would be that we draft language that - of course, it requires Board of County Commission final authority, but does allow for those kinds of proposals. It is foreseeable that someone has certain tracts of land and some land within the development and it is foreseeable that they have some land in the development and then want to make up the rest with a cash - it's going to depend on the calculations. But I don't want to create a restriction for that possibility because there is only so much land.

MS. QUARLES: Commissioner, currently the ordinance reads in whole or in part. So it actually allows you to do part alternative means of compliance in whatever combination. But what it's not real clear in is that you can still take advantage of the incentives for the units that are built within the project.

COMMISSIONER VIGIL: And that can easily be done?

MS. QUARLES: Yes.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Thank you, Diane.

CHAIRMAN ANAYA: You're welcome. Go ahead.

MS. QUARLES: Moving on to number two in the discussion on long-term affordability in Section 18 between pages 9 and 10. The discussion so far has focused on around three issues. One is the use of the affordability lien. The second is the affordability terms or what we're calling resale restrictions and then finally the question of appreciation share. Just to refresh your memory, in the task force there was consensus that an affordability lien should be applied. But they were unable to reach consensus on the second and third issues and send a recommendation forward. We were then directed to look at similar approaches by other jurisdictions and that has been included in your packet as Attachment B. We thank HomeWise for their help in pulling that information together.

Based on the information provided it's a summary of the issues and potential alternative, the ordinance currently allows for affordability liens to be applied to each unit and it's in the ordinance. In the Attachment B there's usually a combination of resale restrictions that range somewhere between 15 years which is the minimum that we saw all the way to in perpetuity and a graduated share of appreciation during that term. Some of these formulas may be difficult to administer therefore we do recommend that whatever we do suggest it be

thoroughly straightforward and I did promise that staff would present several options for discussion which I have included under "long-term affordability options."

Robert, do you want me to go through these or do you want to go through them? Okay. I'll go through them and I'll allow Robert to discuss.

Under Option 1, the affordability lien with no resale restriction or appreciation share and that's generally what's reflected in the ordinance. A lien is applied and held by the County or its agent based on the difference between the appraised value and the sales price. Then upon sale of the property the buyer would either transfer the lien to another eligible buyer keeping the unit affordable or they could pay off the lien and the unit is no longer affordably restricted. The appreciation - as far as I can tell right now the language says it's fairly silent on the question of appreciation so under that scenario I assume it goes to the homebuyer.

Under Option 2, affordability lien with resale restrictions for 15 years with appreciation going to the homebuyer beginning in the 10th year. This option is modeled generally after the City of San Diego. If an owner wishes to sell a unit before the 15th year they would notify the County. The County working through its agents or its own housing staff, whoever is responsible for qualifying the eligible buyer, would refer buyer for purchase under the continued resale restriction where the unit remains affordable. If a buyer could not be found within a reasonable period, say 120 days, then the owner may sell the unit market value but the affordability lien must be repaid as well as any appreciation that would be due to the County. Beginning in year 10, the seller would be eligible to share in the appreciation based on 20 percent per year, to the end of the 15th year where the resale restrictions would be released and the unit could be sold at market value with full appreciation going to the homebuyer. The County would receive the proceeds of the original affordability lien.

It's comprehensive and you can see on the full benefits and the options, under Option 1, there is some trust fund generation. We would generate money from the lien. Most of [inaudible] is received by the homeowner. Under Option 2 that I just went through, there is benefit for the trust fund in the long-term housing stock and also for homeowner benefit. The downside of Option 2 is that it would be fairly hard to administer because it is somewhat complicated.

Under Option 3 -

CHAIRMAN ANAYA: Just a minute.

COMMISSIONER MONTOYA: Thank you. On Option 2 how are they doing it in the City of San Diego? How are they administering it?

MS. QUARLES: I don't know. I would assume it is done by their staff. Do you know? Is it done by staff - yes, it's done by staff within their own housing staff.

COMMISSIONER MONTOYA: So we would have to consider hiring staff if we were to go with Option 2?

MS. QUARLES: That is correct. The ordinance is already creating one position, the affordable housing administrator and theoretically that person would be doing this. But as you can see I bolded this "all options would require monitoring, tracking and follow-up." I can't understate that.

[Audio difficulties]

Under Option 3, a much simpler approach would be an affordability lien with resale restrictions for 10 years with shared appreciation at the end of the term. You would still have a similar process from number two where you would help to find that eligible buyer in that resale restriction period but at the end of 10 years it would be a 50/50 shared appreciation. The County would receive both the proceeds from the lien and 50 percent of the appreciation

The County would receive both the proceeds from the lien and 50 percent of the appreciation on the lien. And the homebuyer would then receive the other 50 percent. It's not as difficult because there isn't a gain each year. It's an upright 50/50 at the end of 10. And you can see under the chart, that under the trust fund generation we would be getting both the proceeds from the lien and 50 percent of the appreciation for the trust fund. There would also be some homeowner ownership benefits in the 50 percent that they would gain but there isn't a lot of long-term housing stock since it's only 10 years.

And, finally, under Option 4 the affordability lien with resale restrictions for 30 years where the lien and the appreciation are retired and the proceeds of both go to the homebuyer. There would be generally no monies to the trust fund generation but the unit would stay affordable longer for the 30-year period and the homeowner would receive benefits of both. Those are really four different, very different, options that we would present. And I would turn it over to Robert at this point.

CHAIRMAN ANAYA: Commissioner Montoya and Commissioner Vigil after that.

COMMISSIONER MONTOYA: The double-check obviously means that it's stronger than a single-check.

MS. QUARLES: That's correct.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: So Option 4 it's really clear would be first time or one-time homeowner, and Options 3,2 and 1 are options that allow us to create some safety net should the homes be resold within the time frame. Is that accurate?

MS. QUARLES: That's correct. Under Option 4 you would still have to allow a process where the unit can be resold. The difference is the unit remains affordable. So in cases of 2, 3, and 4 there's a process for qualifying an eligible buyer and moving a new eligible buyer into a unit.

CHAIRMAN ANAYA: Robert.

MR. ANAYA: Mr. Chairman, I would just help answer any questions the Commission might have.

CHAIRMAN ANAYA: Okay. Any other comments, questions?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Option 4, the restriction for 30 years, someone would have to own a piece of property for 30 years. There's very few people that do that anymore it seems. So it wouldn't be a lot of takers, I don't think, under Option 4. Do you think?

MS. QUARLES: Commissioner Campos, you can resell the unit to another eligible buyer but 30 years is, believe it or not, many of the ordinances that we looked at used 30 years which is generally the life of a mortgage. One of the drawbacks of using a 30-year is if the unit stays affordable rather than allowing it to move to market rate there may be some conditions where the unit becomes dilapidated or run down because it can't fully appreciate in value, so it's not moving up into the market. That's one reason we presented a 15-year alternative. Again, the range seems to be 15 years to in perpetuity.

But 30 years is definitely sort of on the higher end because that tends to be the life of the mortgage.

CHAIRMAN ANAYA: Do we need to pick one now or what do you recommend?

MR. ANAYA: Mr. Chairman, yes, we would like some direction. You could

pick one of these or pick some alternate different one that we haven't thought of. I just want to make clear Option 1 is what you have in the Community College District. Options 2, 3, and 4 are all variations of all of the discussions we've had to this point. Commissioner Vigil, I believe, at the last meeting expressed some concerns about being able to allow for a buyer to be able to buy up. Other Commissioners expressed a desire to ensure that there is some resources coming back to the County, but it's entirely up to the Commission at this point. One alternate that we had talked about before that is maybe a variation of 3 or 1 is to say an appreciation share, whatever the proportion is that the County put in, that would be the appreciation share that we would take back, and what ever is the portion is the buyer puts in they get back and do that in perpetuity. That was something that was discussed several times with the task force.

So no time period, just whenever the house would sell that the proportion that was put in by the County, the County would get back and the proportion that the homebuyer put in, they would get back. That's probably another straightforward alternative that you could consider as well that doesn't get into 10, 15, 20, or 30-year compliance issues. It just says on sale there's a percentage that goes to the buyer and a percentage that comes back to the County based on what they put in. That's another alternate that you could consider that you've talked about before.

CHAIRMAN ANAYA: Robert, would that be more fair? I guess the bottom line to me would be the fairest way for the buyer and the seller and the County.

MR. ANAYA: Mr. Chairman, I don't think it's so much a fairness question as to wanting to maintain or create other opportunities for other homebuyers in the community. You could argue it or discuss it either way as far as the fairness question is. How much does the County want to ensure affordability on a particular house and do you want to get back the resources that you are assisting the homebuyer with in getting into a house in the first place. I think that's one of the reasons that the Commission, the task force and even staff has struggled with, because it's really kind of a philosophical point as to where you sit, as to where you lie on that issue.

I would offer that a middle of the road might be appreciation share based on the percentage put into the project and move on. But that's just one perspective.

CHAIRMAN ANAYA: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Anaya, are you saying basically, yes, a lien. Right? We'll have a lien. Right now, I think the ordinance says 90 percent is - the buyer right up front gets 10 percent. As far as two years, you're saying in perpetuity? This lien would last for as long as the house -

MR. ANAYA: Mr. Chairman, Commissioner Campos, for whatever percentage. So if you had a \$200,000 and the buyer put in 100 and you assisted them with the \$100,000, then you'd get half the appreciation would go to the County and half would go to the buyer in perpetuity and you'd get back your \$100,000 lien that you put in as one example. Yes.

COMMISSIONER CAMPOS: And that's probably the simplest way to do it, right?

MR. ANAYA: Mr. Chairman, Commissioner Campos, in all honesty and all due respect for all the discussions to this point I think it is the simplest way to do it and I think it strikes a balance between the task force, comments from the Commission and comments from staff.

COMMISSIONER CAMPOS: And it ensures that there will be future monies for other folks that need affordable housing.

MR. ANAYA: Mr. Chairman, Commissioner Campos, yes.
COMMISSIONER CAMPOS: Yes. It will be circulating. Thank you, Mr.

Chairman.

CHAIRMAN ANAYA: Any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I guess the only other thing that I would add is I think a portion of that is a good idea and I see that in Option 2 where between the 10th and the 15th years the seller participates to the tune of 20 percent, 40 percent, 60 percent and then 100 percent. I think the only problem with day-one, starting with this pro rata percentage is that in all likelihood it will take every single affordable housing unit off the market. So the incentive will be to sell because you will participate in the appreciation. The County will get a lot of money or the trust fund will get a lot of money but the units will be taken off the market.

So then the question is can we keep up with units as fast as we're taking them off the market. And that's my concern. So I think that provision, some pro rata percentage is a good idea. It works in somewhere, but I think we have to have some baseline where we say if you're going to get into an affordable housing unit you've got to know for at least x-years that you're in for this. And then after that we prorate things. But to allow them to participate 50/50 whatever it is in the first year, I think that basically what we're going to do is lose that affordable stock.

CHAIRMAN ANAYA: What do recommend?

COMMISSIONER SULLIVAN: Well, I think we could tinker probably with Option 2 and work with that. Option 2 says between the 10th and the 15th year you have this proration. We could maybe widen that time period like say between the 5th and the 15th year. In other words, starting with the 5th year you would participate 10 percent, then the sixth year, 20 percent, and the seventh year 30 percent, on up to 15 year. So you would widen out that period. You would get them started earlier. Typically, your house is owned for seven years or so, so that would be within the average sale period of a house if they sold it after seven years they would participate in 20 percent of the appreciation and then the longer they stay, the more that goes from five to fifteen years. Just one suggestion, one alternative.

CHAIRMAN ANAYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I'd like to hear from Ms. Quarles on that comment made by Commissioner Sullivan.

MS. QUARLES: I think that's absolutely do-able. There are really three different criteria that you're trying to achieve. One is you want to generate funds for the trust fund. The other is you want to keep affordable affordable for whatever the target is, and thirdly you want the homeowner to receive some benefits. So it's really trying to create a balance in those three. I think one of the difficulties in allowing appreciation share up front is I think you're absolutely correct, Commissioner, is you're going to see people flipping the units fairly quickly and we're not going to achieve that middle one of long-term housing stock, of keeping affordable affordable.

But at the same time you don't want to cheat the homeowner. You want them to be able to gain appreciation because that is a benefit of home ownership. So we did it at ten years but five years may be much more appropriate because when you've been in the house for five years there's a lot of people that say, you know, maybe it's time to move up. We've got another kid, we're looking to move up into the market. I need to start getting some of that appreciation so I can move up. That's really the goal, is to allow them to earn some of that appreciation so that they can move up into the next higher market.

Ten years may be too long. Five years may be more appropriate, but if it's too early

you're going to see that unit flipping really quickly and there's going to be a windfall that people will be getting that I don't think you really intended to allow them to have, or to create.

COMMISSIONER CAMPOS: Mr. Loftin, do you have any comments?

MR. LOFTIN: Mr. Chairman, Commissioner Campos, I think you get into a flipping problem if people have an opportunity for a windfall profit. If there's enough financial incentive to do it, if you do the pro rata share of appreciation that Robert described you don't get that windfall to give an incentive. You're not going to have a flipping problem. And then this other way, so you get no appreciation for five years and then you start getting appreciation if you have to move within those five years then you're kind of taking a hit. And then the other problem I have with that is you have an equity issue in terms of - so let's say somebody's buying, paying \$150,000 for a house for that's worth \$180,000, right? Appraised value of \$180,000, and then somebody's paying \$150,000 for a house that's really worth \$300,000, twice that. Well, they have the same penalty on appreciation. It's not proportionate to the degree of subsidies that they got for that house. Whereas the pro rata thing, it makes it proportionate to the degree of subsidy and their appreciation is proportionate to their investment, which is why I like the pro rata system.

One thing that I hadn't thought of until now, which is a different issue, but if you take 90 percent of the appraised value to set the initial price, you do have an incentive for flipping in that, because if their house is appraised at \$300,000 you're getting 10 percent credit, you have \$30,000. And let's say you're paying \$150,000 for that house. Well, if your costs of selling that house are around eight percent, right? So there's an incentive - you only paid \$150,000 for it there's an incentive - you have \$30,000 in equity the day you moved in. And so you're going to have - I do worry. I hadn't thought about that before.

The Community College District is 95 percent of appraised value, and that five percent is not enough to give you an incentive because you're going to get it eaten up by transaction costs, right? So there's no incentive. You're going to pay more than five percent to sell it, to flip it. But you have five percent equity moving in. If you go to ten percent, I do worry about it because that shifts it because now there's enough incentive that you could get a flipping problem. We certainly don't want that to happen. We've just got to be careful of that. I just hadn't thought of it until now.

CHAIRMAN ANAYA: Robert.

MR. ANAYA: Mr. Chairman, Commissioners, 95 percent, five-year appreciation year after five years. I think where we're going. I think it's getting closer there. But just a point of information. In the Community College District where you have no appreciation share right now, we've had one unit that's come back. So you've only had one unit turn. So just information.

COMMISSIONER MONTOYA: That's in three years?

MR. ANAYA: In 3 1/2 years, four years. One unit. Because there were some units that were provided as affordable that the County accepted. So in four years you've have one turn-back that we've seen on the lien because we didn't have appreciation share.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Go ahead.

COMMISSIONER MONTOYA: I was talking to a realtor and they were saying that the houses are flipping at about every three years in this area. And if we're going to be looking at that, to me, the goal is long-term affordable housing stock. I think that's number one for me. Then looking at the other two are tangential benefits to the long-term affordable housing that I would like to see. So I think I prefer Option 2, and you're suggesting, Mike, maybe with some pro rata thrown in there?

MR. LOFTIN: Mr. Chairman, Commissioner Montoya, with Option 2, my only concern there is that if you're - for certain times, five years or ten years, whatever you chose, that option, the way I understand an option, the homebuyer gets no appreciation until they've lived in it five years and then they start getting appreciation and that just - that's the question there is do you want to have this five-year thing? The advantage of a pro rata system is they get appreciation the first year based on the proportion that they invested in the property. And I - not that I'm good at math but I like to see how clean that is mathematically, that basically, if I put \$150,000 into a house, if in the first year that house appreciated five percent I got a five percent appreciation in my first year.

The five years to me feels arbitrary. Because it is. You're picking a number. It's a trade-off. There's no right answer on any of this stuff, but basically, if you did the five year thing people are going to want to stay there for five years until they get through so they have appreciation thing and then people who have to move for whatever reason then they're going to take a hit. That's -

COMMISSIONER MONTOYA: But it keeps it in the affordable housing stock.

MR. LOFTIN: No, no. They could still sell it in five years. It just means they wouldn't get any appreciation.

COMMISSIONER MONTOYA: Right. Right. Exactly.

CHAIRMAN ANAYA: So, am I hearing Option 2, five to fifteen?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: With regard to the resale, if a buyer is not found within 120 days then the owner may sell the unit at market value. But the affordability lien must be repaid as well as any appreciation to the County. Does that mean that after 120 days, the affordable house will go into the market and no longer be affordable?

MS. QUARLES: Commissioner, that's generally correct. We have 120 days to find a ready and willing buyer, which - and again, we may partner with someone like the Housing Trust or HomeWise to qualify this eligible buyer and that's all going to be spelled out in the housing regs any way. I think that we would find an eligible buyer within 120 days. But if by chance we don't, we can't just say you can't sell the unit. It gives them the opportunity to sell at market rate. However, they would have to repay the lien, they would have to retire the lien, much as they would under Option 1 and any appreciation, they would capture that pro rata share whatever year they're in and the County would receive the remainder.

COMMISSIONER VIGIL: Mr. Chairman, just to underscore Commissioner Montoya's comments, there probably is a strong trend for homes turning over every three years and I think that has more to do with capital gains tax because you don't have to pay capital gains if you've lived in a house for three out of the first five years. And I'm not sure if the IRS code has changed with regards to that but that code has provided an incentive in and of itself when homeowners don't have to pay the capital gains tax to continue buying and buying up, theoretically.

I think it's really necessary that we do put some kind of a resale restriction and perhaps five years is the appropriate. I'm not real sure. But the problem we've had with affordable housing in the past is it seems to be affordable for the first time buyer and then after that it no longer is. So there has to be some mechanism to make this affordable and I don't know if we can go in perpetuity. I think in some cases there are so many factors to be considered that we probably can't. But I think there is a factor in here that after a certain amount of time the lien has no value. It would decrease in value so much so that it would cease to be a benefit, let's say, to the trust. But ultimately we have created a benefit to the buyer, because that buyer has

had an affordable housing unit for a longer period of time.

So you're dealing with so many possible facts here, my desire is to go with a resale restriction. I'm not real sure if five years would be appropriate. I've heard some benefits to it but I bet there's some drawbacks too and maybe some members of the audience might be able to address that. I don't know. But I would, if I were to make a selection go with that today, right now. Option 2.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I think if we were to do it with five years it would just flip over that much sooner that if we restrict it to ten and keep in longer. I kind of like the way that one was written.

CHAIRMAN ANAYA: Okay, Diane are you done with your presentation?

MS. QUARLES: I could just run through the rest of these fairly quickly or I could - if they were self-explanatory I don't even have to go into them.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I would really like to know more about this New Mexico Affordable Housing Act. The next thing on our list.

CHAIRMAN ANAYA: Robert, did you have a comment?

MR. ANAYA: Mr. Chairman, Commissioners, what would you like us to do on the lien provision as far as working? Would you like more options? A broader base of options? More comments?

MR. GONZALEZ: In other words, in what direction are you leaning?

CHAIRMAN ANAYA: What I was going to do, Robert, was finish this and then maybe hear some public comments and they might address some of this and then go back to the board.

COMMISSIONER SULLIVAN: Seven years.

CHAIRMAN ANAYA: So I wasn't going to leave you hanging on it. Go ahead.

MR. ANAYA: Mr. Chairman, could I just ask a few questions of a couple Commissioners just so I make sure I understand where their perspective is at.

CHAIRMAN ANAYA: Sure.

MR. ANAYA: Mr. Chairman, Commissioner Vigil, I have a question because I'm a little confused. Relative to what you said at the end was you wanted to see some term - we're not sure what that term is. But do you want to see the buyer get some share of the appreciation at any time they want to sell? Because I want to just clarify that Options 2 and 3 don't provide for any appreciation to go to the buyer at all. I just want to make sure that - in the first ten years. So in other words, if they buy the house and they sell it, they get no appreciation in the first ten years. And I just want to make sure that on 2 and 3, that the Commission recognizes that fact, that they get zero. And then after that is when they would get a share because based on what you said at the end of your comment was not only would you like to see a term but you followed up with a comment and said you'd like to see a second term that's at the end of some other period of time that there is no lien at all. And I just want to clarify -

COMMISSIONER VIGIL: What I said, Robert, was that the lien devalues itself to the point that it at some point in time that it may have very little value whatsoever. The benefit of that would be what that means is that the homeowner would be there for that longer period of time and it would remain in the affordable housing context.

MR. ANAYA: But that at some point, based on your perspective that there would be a time when it theoretically could go away? Because that is -

COMMISSIONER VIGIL: I don't know that.

MR. ANAYA: I just want to make sure as we're going through the options so that if that is a perspective that we're clear on it. That's not what's in any of these options.

CHAIRMAN ANAYA: Okay. Any other comments on this? Do we want to take action now or do we want to – do we want to pick one of these now? Or would you like to wait? Okay. Go ahead and finish.

MS. QUARLES: Beginning on three, actually three and four I think are related. We looked in more detail in the New Mexico Affordable Housing Act so in a strange kind of way those are actually incentives that we can offer now as part of the changes to the constitutional amendment and the enabling legislation. So Section 15 is actually a verbatim language that comes directly from the new state statute that offers us incentives to be able to donate land for construction of affordable housing or an existing building conversion of renovation into affordable housing or may provide or pay for the cost of infrastructure necessary to support affordable housing. That is on page 7 in the middle under Section 15.

That gives us, once the trust fund has funds available for those purposes, that has the potential to provide a considerable offset for potential costs to pay for affordable housing. I wanted to give you an example. It's actually in the pass-out that I gave you. These are the rules that are adopted. It's actually Attachment B. These are the rules that have been adopted by NMFA to implement the Affordable Housing Act and they create a definition for both infrastructure and infrastructure purposes. And they have broadly expanded what is the definition of infrastructure that we can use these funds to help offset the cost and participate in these particular items to underwrite the cost for affordable housing. So I really wanted you to be aware of that, that under this new Section 15 if you will, there is great potential to be able to partner in offsetting the costs for affordable housing under the definition of infrastructure improvements.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Is this the memo from Emilee Ford, Attachment B?

MS. QUARLES: It's where we did the chart, the estimated values of County affordable housing incentives is what was passed out today. *[Exhibit 3]* The last two items on this list under land donations and infrastructure costs deal specifically in what we are now allowed to donate or partner in cost offsets under the Act. Particularly under the cost of infrastructure beginning on 3.17 under Attachment B, all the way through the very top of page 5. You can see it, it includes what you would normally consider. Traffic control systems, areas for motor vehicle use for travel, trails and areas for pedestrian, equestrian, bicycles, parks, landscaping, drainage and flood control, sanitary sewer system, including collection, storage, treatment. So that would pick up something like a wastewater treatment plant. Again, it's been significantly broadened so we can actually participate in a much higher degree under the Act.

In going on with that, I'll try to wrap this up quickly. The estimated values for County affordable housing incentives, you all had asked – this is to try to put costs to some of these, and we have done that, looking at each of the incentives. You can see that they're very broad. Under the fee waivers, we tried to use averages, but the development fees, permit fees and fire fees are fairly calculatable, definable. The utility connection fees are very, very broad, depending on where you are, so we just used an average. We gave you the water right transfer valuation. We looked at a density bonus based on what we estimate to be a net profit per market rate unit. Water right transfer reduction, lot size reduction for affordable units – what

that would mean if you were to reduce it down, and then of course the land donation and infrastructure costs that I just covered.

Quickly going on to number 4, and this is also a significant change, the housing fund and trust language have been modified to accommodate the New Mexico affordable housing Act. We also expanded the language to allow other funding opportunities where it is possible. This may be that some or all of the funds could be managed and operated by the County Housing Authority, for example, to be used for purposes that are outside of the New Mexico Act. We wouldn't be as limited if that is something that would be necessary. So that's why that language is in there. It gives us a little bit more flexibility and more options made available to us to be able to move it possibly to the Authority.

The rest of this is fairly self-explanatory so if there are more questions on these two I'd be happy to answer it.

CHAIRMAN ANAYA: Questions? Okay, hearing none, I'm going to go ahead and have some public comment right now. So if one of you would like to come forward. Ike. And I'll give you all about three minutes each if that's enough.

IKE PINO: Thank you, Mr. Chairman. Mr. Chairman, in deference to the Commission and all the data and things that would normally be discussed in a presentation, we talked among ourselves and just wanted to make a couple of general comments going forward. Essentially, we want to continue to work with the County, either through the task force or the staff or both, with various considerations on the ordinance. This ordinance addresses new construction. That's what this one is about, really.

We as the developers and builders out in the county of new construction are every bit the stakeholders in this whole process, I think as the County is, as the people who would stand to benefit from this. And we have appreciated the long hours and the work that you've put into this ordinance. This is very reminiscent of the way the College District Ordinance unfolded over the last couple of months where there was a lot of changing and discussion prior to it being considered. What we don't find ourselves though is in the position of not having had a chance to sit down and discuss ideas or implications of various parts of the ordinance, or even some data on the night of the public hearing when it really is difficult to start amending an ordinance.

That's how the City does it and frankly I don't think the City does it right. I would prefer then that the Commission consider having the task force or the staff just visit with us over the next few days. And we're not talking about delays, months, anything like that. We're just talking about the next few days we're willing to sit down at any time, any place and talk about some of the various things in the ordinance, some of the changes in the ordinance, things around – we listed just a few for a presentation today but things about the incentives, options needed to make it work in tandem with the ordinance, alternative means of compliance, perhaps, and even just the effect on what we're doing to the market, the way we'd have to raise prices, given the way the ordinance is structured today. Just so all of that is considered.

However it comes out on the end of the process is going to be up to you all ultimately, but I think that the industry would feel better served if we at least had an opportunity to have as comprehensive a discussion as possible. Now, the staff, Ms. Quarles and Mike Loftin, Steve Ross, have all made themselves available. We spent a lot of time with them. We've spent time with you individually, but just to go over a concise review of the points we still feel need some addressing in some fashion, and then let the ordinance take its course.

I mentioned to Robert Anaya and to Mike coming in that we wanted to make this request to the Commission, simply for that purpose. Not to torpedo this. You notice that I've been very careful. We're not up here to say we disagree with the ordinance. We're not up here

to say we think 30 percent is incorrect. None of that is part of the discussion that we've been having. The discussion we're having is simply to examine all of the data, examine all of the impacts, maybe make some recommendations on how we can soften some of those impacts via incentives or other methods, and help make this ordinance actually work in some fashion.

That's what we would like to spend a little bit of time doing and if it comes out with a better ordinance then we're all better off for it. If it doesn't, well then at least we've made the attempt to get that taken care of.

CHAIRMAN ANAYA: Okay. I think Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I am in agreement.

Whatever input we could have that might improve this ordinance and I know staff has worked on it as much as they possibly can. Perhaps there is some information that we could gather from further interaction with those who feel directly impacted with this. But I was concerned about a statement you made that I'd like staff, either Mike or Diane to respond to. I heard that this is going to raise prices. What is your response to that?

MS. QUARLES: Commissioner, I think that there is going to be both a short-term and then a long-term effect. I think the short-term effect will probably be you'll see an increase of prices to absorb some of the offsets, but over time, one, as the trust fund becomes available and the County becomes more and more of a partner in providing funds for the offset of costs. In addition, as the markets makes adjustment to absorb some of those costs, both on the profit side and possibly on the pass-through to the consumer, the market is eventually going to absorb the difference and it will make those adjustments as it always does.

I don't disagree with Ike, obviously. There will be - in the short term there will have to be some immediate adjustment to take on these cost differences that get created, especially until the trust fund becomes available. But it will over time spread itself out and make some adjustments. The other thing we know from the economists that provided some information at the City side is over the long term we think that the cost of land will eventually go down as a response to the market differences and Mike can speak to that because he dealt that that particular.

MR. LOFTIN: Commissioner, I think one unintended consequence of an ordinance like this and this has been studied by economists and we actually had an economist look at this in Santa Fe County and how it might affect it. One clear thing is three places where the costs get absorbed. One is in profits, what you pay for the land and the other is what gets passed on to other homebuyers. So to say that you could - if this increases the cost based on this analysis of \$35,000 a house, say that you could pass that on no matter what to the next tier of buyers, it doesn't make sense. Because if you could pass that on now, you would. Because if you could make \$35,000 more per house you're going to do it.

Prices are set by what the market will bear, not based on cost plus profit. Real estate is different than consumer goods where you do have much more of a dynamic of what's my cost, what's my profit, here's what I charge, and everybody's affected by those same dynamics. In real estate you're not affected by those same dynamics because if you say, okay, I'm going to add \$35,000 to the price of my home that I'm building, but I can go buy the same existing home in Bellamah, say, for \$35,000 cheaper, there's no new cost there. That house is just there. That's what affects the real estate market. It's not just new construction; it's also what's out there in existing.

So you can't just pass it on willy-nilly. I think any economist would agree with that if the market's not willing to pay it, it's not going to pay it. So then the question is where does it come from. So you're going to pass it on to the extent you can, but you can't necessarily just do that willy-nilly. The other place you're going to do it is here's my profit margin, am I

going to accept a lower profit margin? The Beatty annexation that agreed voluntarily with the City to do 30 percent affordable, same price ranges, had their land costs locked in. What they ended up doing is said, okay, well, our profits will be less on this but it was still worth doing the project to do the 30 percent.

In other cases people are going to negotiate a different land price. So in one place it comes out of profit, the third place it's going to be what do you pay for land. And this is what I've seen in Rancho Viejo, we've seen this too is that someone in the Community College District, they're in a 60 percent home, renegotiated the price to the seller on that. So you're going to see that kind of thing. Now, that's not always - once you're in an agreement that's not always easy to do. But any developer who's looking at buying a piece of land and knows here's what my cost's going to be, here's what the market will bear. I can sell a home for x. And they're going to say, okay, well, I know what my construction costs are and I can't change that a lot. I know what my infrastructure costs are and I can't change that a lot. The only place to give is land costs and profit.

So then you're going to - so well, no, I can't pay you \$80,000 an acre. I've got to pay you something different an acre, less than that in order to have a reasonable profit. So it's not - I think it's true that it can affect - to the extent that you can pass costs along to other consumers you're going to try to do that, but it's not - to say that all of that cost gets passed on, I just don't think any economist would agree with that. That's not the way real estate markets work.

The other effect of it that I think could happen is that right now what you have is if you look in the MLS listings you have pretty much nothing listed below \$200,000. You might have a few homes. Not very much at all. Then you've got some more between \$250,000 on up. And what this ordinance does is create a new supply of housing below \$200,000. Right now, all those people who can afford a home below \$200,000 are buying up and spending 50 percent of their income on a home because the only place they can go is that \$200,000 to \$250,000 house. If we can increase the supply at the lower end of the market then what we're going to have is an effect of lessening the pressure on that next tier. You're not going to have people who really can truly afford \$160,000 home trying to buy a \$220,000 because there is no other option.

So you're really increasing the supply at the lower end of the market. I think the more likely place to the degree that costs are going to be passed on it's going to be at that higher end where there's a greater ability to absorb that cost. I'm not saying it doesn't affect it. I think the incentives and the offsets that the County provides are really important, providing water and permit fee waivers and density bonuses and any of those things that the public sector can provide is an important part. So I don't want to be cavalier about this and say it doesn't affect costs but I don't want to leave you with an impression, oh, all of that cost goes over to the buyer.

I think the biggest unintended consequence to this is it's going to create some downward pressure on what people pay for land, which some people would say is a good thing.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Pino, you basically stated you have some ideas you'd like to discuss. Can you discuss those with us, the basic core ideas of what you want to have a discussion with staff about?

[Audio difficulties]

We should be all sitting around a table where we're all pulling out our plat figures and everything else so we can make sure we understand what the rationale for house pricing is, for instance. That's certainly something that we want to discuss. Maybe we can be convinced otherwise but right at this point we don't feel that way.

We want to talk about the incentives. Now, there's been a lot of raw discussion about incentives and how they might accrue.

[Audio difficulties]

COMMISSIONER MONTOYA: I don't have it with me but weren't we given a handout that actually showed that what we have in what they've proposed right now actually has higher rates than are currently in existence in the city and I think the Community College District? This ordinance would increase that already, right?

MR. LOFTIN: Commissioner Montoya, right now in the Community College District the cheapest three-bedroom house is \$103,000. Under this it would \$115,000.

COMMISSIONER MONTOYA: It's pretty significant as I recall.

MR. LOFTIN: Then it goes up to \$180,000 under this one and the most expensive three-bedroom in the Community College District is like \$150,000 something. So you're talking a \$30,000 increase. \$140,000. So a little over a \$30,000 increase on that. So what the RPA task force did was do some new calculations on what should the affordable prices be and they actually came up higher, so it would cost less per unit to build one of these because the builder is receiving is higher.

The other important thing on this is that the Community College District uses for instance, four-bedroom I think the minimum square footage is 1500. This ordinance brings it down to 1350. It brings the square footage of a three-bedroom down from 1300 in the Community College District to 1150. So there will also be less square footage requirement.

COMMISSIONER MONTOYA: So less house, more money just off the bat.

MR. LOFTIN: That's right.

COMMISSIONER MONTOYA: Mr. Chairman, I would just offer my suggestion that we go with Option 2 on this. I would – what? Seven years?

COMMISSIONER SULLIVAN: Seven and a half.

CHAIRMAN ANAYA: Thank you, Ike.

COMMISSIONER SULLIVAN: Mr. Chairman, I think seven is good and I think the turnover in market housing is different in affordable housing. I think in market housing you have people that are at higher income levels buying houses and as Commissioner Vigil said, perhaps taking advantage of the capital gains tax provision. I think people who have been waiting for two years on the waiting list to get affordable housing, they keep it, as Robert has said, because it's a benefit that they've been waiting for all their lives. So I'm not too concerned that people are going to be itching to move in three years, but I don't know whether it would be five or seven or ten. I think any combination of that makes sense. If people were comfortable between the five and ten level maybe we just settle on seven as a compromise.

CHAIRMAN ANAYA: Okay.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. I think what I heard requested is that there be an opportunity for staff to meet with those people who would like to be able to meet with you to do some calculations and gather some data. I don't know if that process would impact Option 2, but I'm happy to go with Option 2 pending a follow-up report from staff based on their experience with this data calculation request.

Also, Mr. Chairman, if you don't mind, I'd like to ask if this Commission, if Sherron,

who is here with the affordable housing Trust organization, if has any glaring comments that she'd like to give us. She, Mr. Chairman, knows housing in this community and I know she's made recommendations throughout the task force. Sherron, is there anything you are compelled to tell us.

SHERRON WELSH: No, there are a few perspectives from the clients point of view. I was just thinking that it would be good if you went along with Mr. Pino's proposal, but what I would like to discuss with you, just from the client's perspective. Our goal is not necessarily just affordable housing, but to enable people to sustain themselves here in Santa Fe and prosper. So we looked at it from what's fair to the client perspective. No appreciation at all for any protracted period of time isn't appealing to me for the clients. You have to think of it from the other perspective. People stay longer if they have no alternative and if you are able to get into a nice two-bedroom house when you're a first-year teacher and fresh out of college, and five years later you're married with a family of three children, you don't sit in that two-bedroom anymore.

So I've worked with clients who fall into that, and they have no alternative. They're not a first-time homebuyer, qualified for programs anymore, and if they can't take their equity, their appreciation with them they're really kind of stuck and look at Rio Rancho or moving away kind of alternatives.

That's all. I didn't prepare for the meeting today and I'm sorry I wasn't aware. I should have been maybe but I've been out of town. So I would like to respond to you during that time as well.

COMMISSIONER VIGIL: Thank you, Sherron.

CHAIRMAN ANAYA: Thank you. Jim, Mr. Borrego, did you have some comment? I know you stood up there. Thank you, ma'am.

JIM BORREGO: Commissioners, staff, thank you for your hard work and all the attention you've given to this. I do know that affordable housing and even workforce housing has been disappearing in Santa Fe and it's getting worse. And basically the reason that I've been meeting with Mr. Pino and several other people in order to look at this ordinance is because there is – and I did some calculations based on my experience as a developer. You might pass these out for analysis. [Exhibit 4] The sheet here shows what a standard development of ten and 24-lot subdivision costs. With an affordable housing component it also shows what the shortfall is. Now we don't need to discuss the issues at this point in time but it becomes very apparent that what occurs is that you are artificially inflating a 10 percent market within a 30 percent component. That's all that new housing constitutes in the sale of housing in Santa Fe or in the Santa Fe area.

Ten percent out of all the thousands of houses sold, and you're focusing on a 30 percent portion of that. You're actually creating three percent of all the housing sold. In having this artificial inflation, because we as the developers, contractors, are going to pass this on to someone else. If I came to you and offered you ten dollars for your land you'd laugh at me. Construction costs are fixed by national chains. So the variable, the only variable is really the profit portion. That's the only real variable. And at some point that profit margin to we, the contractors and developers, when it becomes so skinny as compared to the risks it doesn't balance out any longer, so you no longer produce housing.

The point I'm trying to make is that by artificially inflating new housing by attaching the loss on the affordable lots or the affordable housing to market sales, you've artificially inflated that house. That house is tracked by appraisers. Those appraisers view it as a cost market. And when all your Bellamah, Casa Solana, all these other people go into resale of these houses, they go to appraisers. The appraiser pulls out the comps, which is part of the

new market, and all of a sudden, these people have bounced up from a house that might have been valued at \$150,000 to \$300,000 or \$400,000. It's an artificial inflation.

Right now this ordinance and the City's ordinance focuses on creating three percent of all house sales while encouraging the loss of all the existing affordable and workforce housing. They're actually encouraging that by giving these people windfall profits. I think that what we need to do is step back just a slight bit and look at it and say, okay. How are we going to take care of preserving the existing houses that we have, which is 90 percent of the market, and not just trying to create that 30 percent of a ten percent market.

Now, I've listed for the record here several other options. Transfer tax is one of them because basically, what I see is that we need to increase the funding or that source for helping out affordable housing. How you give an incentive to the northern part of the county or the southern part of the county, rather than just focusing on the central area where housing is disappearing, we've also got the same type of issues in both the north and south. So what do you use for a funding source to help out those areas?

Anyway, I think that I would mirror Mr. Pino's item and say, you know I would request that we sit down and do a little bit of analysis and possibly come up with something that is an ordinance that we can all pass on to those less fortunate.

CHAIRMAN ANAYA: Thank you, Mr. Borrego. So I guess what I'm hearing, and I'll do this second, Commissioner, is that I would like to see how the Commission feels. I would like to suggest that the Affordable Housing Task Force sit down with the developers or the Home Builders Association, have two meetings before we come back and have another meeting with the Commission. How does the Commission feel about that?

COMMISSIONER VIGIL: I don't know if two is necessary. I heard that they were willing to do it quickly. I think we defer to them and meet with them once and determine whether or not a second meeting is necessary.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think we want to meet as long as it's necessary to get the Commission comfortable that we've got a tight ordinance. I just want to be sure that everyone understands that the developers have been participating and the builders have been participating for a year in the task force and did participate. In fact the chairman of the task force is a builder. Well, not this chairman, but the BT Homes, Bob Gibbs. So I don't think this is something that the developers and builders are just suddenly seeing and need to have time to digest, but I think that as Commissioner Vigil says, one session, if that's what's necessary, and come back for another work session, as long as we set a specific time to do it.

CHAIRMAN ANAYA: Okay. So I suggested two, now I'm hearing one. Any other comments? Commissioner Campos.

COMMISSIONER CAMPOS: Just what time limit? A couple of weeks?

COMMISSIONER MONTOYA: How about three meetings?

COMMISSIONER SULLIVAN: Sure. One every three days is fine.

COMMISSIONER CAMPOS: So long as they can do it within two weeks.

CHAIRMAN ANAYA: So I guess I'll turn it back over to staff. Do you think you can handle it in one meeting? How do you all feel? Depends on how many people come forward and what issues they have.

MR. ANAYA: Mr. Chairman, whatever the pleasure of the Commission is we'll do.

COMMISSIONER VIGIL: Mr. Chairman, the reason why I said one and let it be determined that there be another if necessary, is staff is getting to the point of burning out on this too. They've worked really hard on this and I don't want to lose what we've worked on

so far to any level of a burn-out. So I'm thinking, let them meet once, see where they're going to go with the work and the input your getting, and if it's necessary let staff determine whether or not a second meeting is necessary. That's my recommendation.

CHAIRMAN ANAYA: Okay, so I'm hearing one meeting, and if staff thinks there needs to be another one we'll do another one. Is there consensus on that? I see one shaking, two, three. Okay, you've got it. And now we'll go back to this long-term affordability options.

COMMISSIONER SULLIVAN: Mr. Chairman, on that same issue. Is two weeks, is that a reasonable –

CHAIRMAN ANAYA: What day, Commissioner?

COMMISSIONER SULLIVAN: Well, today is the 18th. Two weeks would be, according to my Palm Pilot the first of November. This is new modern version of a Palm Pilot, the 2000 version.

CHAIRMAN ANAYA: I won't be here on the 1st.

COMMISSIONER SULLIVAN: Okay. The third is the Buckman Board. Do you want to do it before the Buckman Board.

CHAIRMAN ANAYA: What day is the 3rd?

COMMISSIONER SULLIVAN: That's a Thursday. This is to come back here. We either come back here for another work session and here that before we publish title and general summary and debate it as a part of the hearing, whichever the Commission wants to do.

COMMISSIONER MONTOYA: Is that enough time?

CHAIRMAN ANAYA: Okay, the third.

COMMISSIONER SULLIVAN: That's 2 ½ weeks.

COMMISSIONER CAMPOS: It gives some time to write something up and to circulate it so we can process it.

COMMISSIONER SULLIVAN: Perhaps it's 1:00 on the 3rd.

CHAIRMAN ANAYA: One on the 3rd.

MR. GONZALEZ: I just wanted to ask the members of the housing team, are we going to have an Affordable Housing Task Force meeting between now and then?

MS. QUARLES: We would have to try to schedule one in the next couple weeks. The other problem too with the 3rd is I think there's a legislative interim committee presentation at 4:00.

COMMISSIONER SULLIVAN: Oh, that's right. Up in Los Alamos.

MS. QUARLES: Yes.

COMMISSIONER SULLIVAN: So we'd have to do it in the morning. We could do it 11:00? 12:00?

CHAIRMAN ANAYA: Ten? Nine? Ten o'clock on the 3rd. How does that sound?

COMMISSIONER CAMPOS: I'm not fine with mornings though.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay. Ten o'clock on the 3rd. Now, Commissioner Montoya, back to the long-term affordability option. And then we've got to wrap it up here.

COMMISSIONER MONTOYA: Mr. Chairman, I would just suggest that we look at Option 2 as a basis, starting with that seven-year period as opposed to the ten. I think this is a good option again. My feeling is that the direction we should look at is long-term housing and that's on there. With trust fund generation, long-term housing and homeownership benefits. There's a balance there which I think we need to look at as well. I'm not saying one

outweighs the other. We may want to have bigger trust fund generation but it probably can't happen that way. So it's just give and take.

MS. QUARLES: Commissioner, I might suggest, and this is something I recommend to Robert. I know we worked with Option 2 and in the discussions over the next couple weeks, let us flesh Option 2 out and really get it completely defined working with the parameters that you've given us today and see if we can't actually bring back the language inside the ordinance itself, rather than outside the ordinance.

CHAIRMAN ANAYA: Okay, no comments. Just shake your head yes or no. Is that a yes? Okay. Thanks. Do you all have clear direction?

MR. GONZALEZ: No, Mr. Chairman. There is one issue that we need some follow-up direction on. I'm sorry, Commissioner. When Commissioner Vigil made her comments about being able to take advantage of the alternative means of compliance it wasn't clear to me as I was taking my notes whether she intended for us to look at allowing developers to take advantage of the alternative means of compliance and the incentives, or did she mean just do both the alternative means of compliance as a payment and providing land. That's one area where I wasn't clear.

COMMISSIONER VIGIL: I wanted for it not be so black and white, or an either/or situation, so that if a developer comes and has a certain plat or plats of land, but that doesn't calculate to the 30 percent affordable however we're going to calculate that, that a developer may possibly make up the difference in the in-lieu-of. Was that your understanding, Diane, from my comments?

MS. QUARLES: That's correct. The ordinance right now would accommodate that. It's where the incentives come into play it is black or white. If you do any alternative means of compliance then you lose all your incentives. My understanding was you want us to modify it so that if you are doing some onsite construction you still can take advantage of the incentives, it's just for any alternative means of compliance you would waive it for that portion.

COMMISSIONER VIGIL: Right. Just for that portion. It would be pro rata.

MR. GONZALEZ: As long as the Commission is in agreement, that's fine. I think we have direction.

COMMISSIONER CAMPOS: That's an idea. I don't have any input. I don't know if I agree with it or disagree with it.

COMMISSIONER VIGIL: Gerald, and perhaps as you flesh out this option we'll be able to make even more discovery as to whether or not we can get a little bit gray there, or if it has to stay either/or, black or white.

MR. GONZALEZ: We can probably both do A and B and see how they look.

CHAIRMAN ANAYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I just wanted to emphasize, and I appreciate the work, by the way that staff and Diane are really bringing this together, and it's getting tighter and tighter. We're getting down to some of the technical issues and some of the fun issues, actually, of really developing good policy. I want to again thank them. I think we want to bear in mind what we're trying to do here is level the playing field. The City already has 30 percent Affordable Housing Ordinance. We are considering a 30 percent with different provisions. What we want to do is to level the playing field so that we have that relief in these various tiers of housing, as Mike has said, so that that \$250,000 tier opens up and softens up. So we're providing the lower tier so those homeowners can afford it.

So leveling the playing field, not requiring Rancho Viejo to assume all the burden of affordable housing in Santa Fe County, which we're currently doing. And that's, I think, an

important feature of what we're working on here. I also want to congratulate Suncorps and Rancho Viejo. Suncorp is the parent corporation of Rancho Viejo. I noticed that in 2002 they had a net income of \$18.9 million and in 2004 they had a net income of \$44.7 million. So I want to congratulate them on that performance of their company. During 2004 Suncorps closed on 743 units, 112 of those were from Rancho Viejo. So we're I think doing our share. I think that when we look at all these factors that Mike talked about in terms of where the costs go, I think it does go in a variety of areas and that's where it needs to go.

CHAIRMAN ANAYA: Thank you, Commissioner. Good comments. Thank you, Gerald for bringing that up so that we're on the same page. I don't know if we cleared it up for you but at least you brought it up.

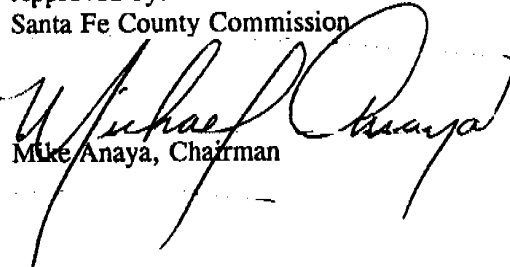
MR. GONZALEZ: We at least have two choices at this point. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: And thank the Affordable Housing Task Force and staff and the comments that we heard from the developers or builders and this meeting is now adjourned.

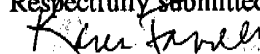
ADJOURNMENT

Having completed the agenda and with no further business to come before the Board, this meeting adjourned at approximately 5:00 p.m.

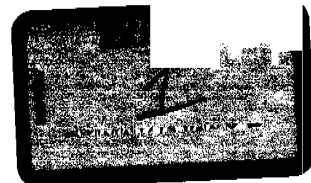
Approved by:
Santa Fe County Commission



Mike Anaya, Chairman

Respectfully submitted,

Karen Farrell, Wordswork





MEMORANDUM

TO: Santa Fe County Board of County Commissioners

VIA: Gerald Gonzalez, Santa Fe County Manager
Roman Abeyta, Santa Fe Deputy County Manager

FROM: Diane T. Quarles, Santa Fe County Strategic Planner

SUBJECT: Continued discussion (third study session) of the Draft Affordable Housing Ordinance

DATE: October 12, 2005

Background: The third affordable housing study session continues the discussion from September 29, 2005. The following summarizes the points raised at that meeting and any resulting changes to the ordinance (Attachment A):

1. **Several issues were raised regarding alternative means of compliance as to when and how it would be applied.** The following items were expanded or modified:
 - a. Section 16, Part A1 & 3, Alternative Means of Compliance (p.7): Alternative means could be considered within the unincorporated areas of the County. As a point of clarification, the language "...where the BCC has exclusive zoning and platting jurisdiction to consider such alternatives" was added. Where land or off-site construction is to be considered, the BCC has to have authority to consider it. The Board could not approve projects in another's jurisdiction. As part of the review process, the BCC retains full authority to consider these proposals according to the tests provided in Parts C and D.
 - b. Section 16, Part B, Alternative Means of Compliance (p.8): If off-site construction is proposed, there is potential that it will generate new development as a "receiving" project. This process was not intended to ensure approval of another project. In order to remove that conflict, preliminary review of an alternative means proposal is now treated as a concept review. If a new project is created, then both projects are to come forward and be reviewed together since the projects are joined.
 - c. Section 16, Part C and D, Alternative Means of Compliance (p.8): Two sets of tests are established—Part C. 1-7 apply to land dedication or off-site construction and Part D. 1-3 apply

to fee in lieu. All tests (“and”) must be satisfied in order to consider the alternative means proposal. The tests for land dedication and off-site construction include the following:

- i. The proposal cannot overly concentrate the number of affordable units in the surrounding area or within a project itself based on current or future conditions;
- ii. The proposal must be supportable by infrastructure including water, sewer and roads. The proposal must also demonstrate a commitment to serve the project with water and sewer through a service agreement or similar document. This way it is clear that the proposal will be served rather than it can be served;
- iii. The proposal must indicate a ready market and a clear need for the units in the location proposed;
- iv. The proposal must be compatible for residential use—it should be consistent with current zoning and appropriate for development. For example, it should not be floodplain or zoned for heavy industrial uses.
- v. Most importantly, the proposal should provide a higher public benefit than what would have been created if the units were built within the original project. The intent of the ordinance is to provide housing opportunity for a broad range of incomes within any given development and that should be considered the “bar” by which other means of compliance is measured.

The tests for cash payment in Part D. include the following:

- i. The cash payment shall at least be comparable to the cost value to construct the units. The value may be higher, but the actual method of calculation is reserved for the Housing Regulations.
 - ii. The cash payment shall not create a surplus in the housing trust or dedicated fund. This would be identified in the annual budget review of the fund. If the funds have not been sufficiently expended for the benefit of affordable housing, then the BCC may consider whether a cash payment is appropriate based on the status of the fund.
 - iii. As in the test for land dedication and off-site construction, the cash payment should provide a higher public benefit than if the units were built on-site.
- d. Section 16, Part F, Alternative Means of Compliance (p.9): A proposal for alternative means of compliance would not be eligible for incentives offered under the ordinance.

2. **The discussion on long-term affordability in Section 18 (pp.9-10) has focused on three issues: 1) use of an affordability lien, 2) affordability terms or resale restrictions and 3) appreciation share.** The Task Force has recommended that an affordability lien be applied but was unable to reach consensus on the second and third issues. Staff was directed to look at similar approaches by other jurisdictions, which is included in Attachment B. (Homewise has assisted staff in assembling this information.) Based on the information provided, the following is a summary of the issues and potential alternatives for the ordinance:

- a. Affordability liens would be applied to each unit as is currently included in the ordinance.
- b. In the Attachment B examples, there is usually a combination of resale restrictions ranging from 15 years to perpetuity with a graduated shared appreciation during that term. These formulas may be difficult to administer, therefore, it is suggested that a straightforward method be used. Staff will present several options for discussion at the study session using these examples.

3. **Incentives granted under the NM Affordable Housing Act have been included in a new Section 15 (p. 7).** These incentives may provide a considerable affordable housing subsidy or cost off-set if the County participates in these options. This section would tie to the housing dedicated fund or trust created under separate ordinance that would direct funds for these purposes. Staff is currently developing that ordinance in accordance with the Act.

Staff is also working on a valuation analysis of the incentive packages and will present them at the October 18th study session. In addition, Ike Pino, General Manager of Rancho Viejo, has prepared a separate cost of housing analysis specific to his project and has requested that this information be included under separate cover. This information is contained within Attachment C.

4. **The housing fund or trust language has been modified in Section 18 (p. 9)** to accommodate both the requirements of the Affordable Housing Act and to possibly expand on other funding opportunities where possible. The Act itself is very specific and somewhat limited and if there are other opportunities to direct funding to housing programs not covered under the Act, the Ordinance attempts to leave those options available.
5. **The applicability language has been modified to conform to code under Section 2 (p. 1).** The new language removes the preliminary plat from applicability, since the preliminary plat and the final plat are substantially the same. The land use department recommended this based on code and by general practice.
6. **Language was added in Section 4 (p. 3) to account for the fractional differences when calculating the number of units.** It provides for a rounding up (additional unit) or rounding down (residual fee) when determining the number of units.
7. **Section 6 (p. 4) states that the Affordable Housing Regulations shall be presented to the BCC at the time of consideration and review of the Ordinance.** Staff believes that once the ordinance is generally ready to publish, the regulations can be developed and completed within this reasonable time frame since the framework is provided by the ordinance.

Staff is requesting direction from the Commission in moving forward with the Affordable Housing Ordinance.

SANTA FE COUNTY ORDINANCE NO. 2005-_____

AN ORDINANCE REQUIRING AFFORDABLE HOUSING IN PROJECTS AND MINOR PROJECTS DEVELOPED WITHIN THE CENTRAL AREA OF THE COUNTY, CREATING THE POSITION OF AFFORDABLE HOUSING ADMINSTRATOR, PROVIDING FOR ENACTMENT OF AFFORDABLE HOUSING REGULATIONS, PROVIDING FOR INCENTIVES TO AMELIORATE THE COST OF PROVIDING AFFORDABLE HOUSING, ENSURING LONG-TERM AFFORDABILITY, PROVIDING FOR ALTERNATE MEANS OF COMPLIANCE AND MEANS TO ADDRESS HARDSHIP SITUATIONS, AMENDING ORDINANCES NO. _____, AND REPEALING ORDINANCES NO. _____.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

Section One. Purpose and Intent. The purpose of this Ordinance is to provide increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County. The intent is to encourage new development to achieve a reasonable balance between market rate housing and Affordable Housing through the use of incentives and other means to help offset potential costs.

Section Two. Applicability. This Ordinance shall apply to each Project and Minor Project within the unincorporated areas of central Santa Fe County shown in Attachment A not governed by the Santa Fe County Exterritorial Zoning Ordinance, Ordinance No. _____ -_____, and the Santa Fe County Extraterritorial Subdivision Regulations. This Ordinance shall apply to existing approved master plans or preliminary development plans or preliminary plats, and shall apply to pending applications for approval of master plans, preliminary development plans or preliminary plats submitted for review after the effective date of this Ordinance.

Section Three. Definitions. For purposes of this Ordinance, the following definitions shall apply:

A. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer, where the Eligible Housing Unit is occupied by the Eligible Buyer as a primary residence.

B. "Affordable Housing Administrator" means the County employee charged with administering this Ordinance, making recommendations and taking other actions as set forth in this Ordinance.

C. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this Ordinance, and which specifies the general location, number and types of Affordable Housing Units that will be built.

D. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.

E. "Affordable Rental Unit" means an Affordable Housing Unit that is developed for rental purposes only.

F. "Affordable Unit" means an Affordable Housing unit.

G. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

H. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

I. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

J. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.

K. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

L. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:

1. Income Range 1: 0% to 65% of the Area Median Income.
2. Income Range 2: 66% to 80% of the Area Median Income.
3. Income Range 3: 81% to 100% of the Area Median Income.
4. Income Range 4: 101% to 120% of the Area Medium Income.

M. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements of this Ordinance. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and the Maximum Target Housing Prices shall be amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of \$2,000 in total.

N. "Minor Project" means subdivision of a parcel or parcels into between five (5) and up to ten (10) lots or parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

O. "Service Level" means the type of water and wastewater system proposed to serve a Project or Minor Project. Service types are further categorized as centralized (public or publicly-regulated integrated water distribution and/or wastewater collection systems), or non-centralized (private water and/or wastewater systems provided on-site). Categories of Service Levels are as follows:

1. Service Level I: Community Water System and Community Liquid Waste Disposal System; water service provided by the Santa Fe County Water Resources Department;
2. Service Level II: Centralized water and wastewater; water service is provided by a public utility other than Santa Fe County Water Resources Department;
3. Service Level III: Centralized water and non-centralized wastewater;
4. Service Level IV: Community wells and non-centralized wastewater; and
5. Service level V: Individual or shared wells and non-centralized wastewater.

P. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

Section Four. Affordable Housing Requirements.

A. Of the total housing permitted in any Project, no less than thirty percent (30%) shall be Affordable Housing as defined herein.

B. The Affordable Housing provided in connection with a Project shall be provided equally to Eligible Buyers in Income Range 1 (10%), Income Range 2 (10%) and Income Range 3 (10%).

C. If a fractional portion of an Affordable Unit remains when determining the required number of Units, the following requirements apply:

1. Where the fractional remainder is greater than 0.5, an additional unit shall be required.
2. Where the fractional remainder is 0.5 or less, a residual fee shall be required in accordance with the Housing Regulations.

CD. Affordable Housing shall be integrated into the overall design and layout of the Project, and the Affordable Units shall be reasonably dispersed within the Project. An appropriate mix of housing types and sizes may be included in the Project so long as it otherwise complies with this Ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure, and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the Affordable Units shall be identified in the Affordable Housing Agreement.

DE. Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Housing Units to be offered within all phases of the Project.

EF. An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project. The Affordable Housing Plan shall describe, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance, and shall specify whether alternative means of compliance or hardship conditions will be claimed and, if so, the grounds for doing so. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

EG. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County.

Section Five. Affordable Housing Requirements for Minor Development.

The Affordable Housing provided in connection with a Minor Project shall be provided, as follows:

A. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.

B. For a Minor Project that creates between seven (7) housing units and ten (10) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2.

Section Six. Affordable Housing Regulations.

A. Within ninety (90) days of the effective date adoption of this Ordinance, the Affordable Housing Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations at the time of consideration and review of this Ordinance.

B. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

1. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance, the requirements governing the Affordable Housing Plan and Affordable Housing Agreement.

2. The form of the Affordable Housing Agreement including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement

describe the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units, and shall describe how Affordable Units will be marketed and sold to eligible buyers, and shall specify that the Affordable Housing Agreement shall be filed and recorded with the Final Plat;

3. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;

4. Reasonable fees to be charged for certification of Eligible Buyers;

5. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;

6. A Maximum Target Housing Price for each income range;

7. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;

8. Green building standards, adjusted Maximum Target Housing Prices for green building Affordable Units, and green building certification requirements;

~~8.9.~~ The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range;

~~9-10.~~ Method for determining fees associated with this Ordinance, including cash payments as an alternative means of compliance and residual fees; and

11. Any other matter deemed necessary by the Board of County Commissioners.

C. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended from time to time as deemed necessary and to account for changes in indices used to make calculations required by this Ordinance and the Affordable Housing Regulations.

Section Seven. Rental of Affordable Units. An Eligible Buyer shall not lease an Affordable Housing Unit provided pursuant to this Ordinance unless the proposed tenant is an immediate family member of the Eligible Buyer, the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, and the proposed lease of the premises is approved in writing by the Affordable Housing Administrator.

Section Eight. Water for Affordable Housing. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe Land Development Code and Ordinance No. 2005-____ (Master Plan Procedures), or any Resolution governing operations of the Santa Fe County Water Resources Department, a Project that provides Service Level I shall not be required to transfer water rights to the County for up to thirty percent (30%)

of the Affordable Units provided within the Project pursuant to this Ordinance, and may not be required to transfer water rights to the County for up to an additional ten percent (10%) of any Affordable Housing provided in Income Range IV, so long as at the time of application the County holds adequate water rights to supply the Affordable Units, and is otherwise capable of supplying the Affordable Units.

Section Nine. Density Bonus for Affordable Housing.

A. A Project that provides Service Level I or II may receive increased density to accommodate the Affordable Units provided pursuant to the requirements contained within this Ordinance, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of fifteen percent attributable to the Project in total.

B. A Project that provides additional Affordable Housing Units within Income Range 4 amounting to an increase of ten percent (10%) more than the Project would otherwise have to provide, may receive an additional five percent (5%) density bonus, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of twenty percent (20%) attributable to the Project as a whole.

C. The affordability requirements for a Project shall be determined prior to applying any density bonus.

D. Density bonuses of more than twenty percent (20%) attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal.

Section Ten. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ___, Section ___ of the Ordinance No. ___ - ___, the Santa Fe County Land Development Code and Article ___ Section ___ of the Santa Fe County Fire Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Project.

Section Eleven. Relief From Development Fees. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe County Land Development Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Project.

Section Twelve. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ___, Section ___ of Resolution No. ___ - ___, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter.

Section Thirteen. Reduction of Lot Size for Affordable Units. A Project that provides Service Level III, IV or V, or a Minor Project that is not eligible for a water rights transfer waiver (Section ____, herein) or a water allocation or density bonus (Section ____, herein), may reduce the lot area for each Affordable Unit to the minimum permitted by applicable Regulations of the New Mexico Environmental Department, so long as the Affordable Units whose lot sizes are reduced pursuant to this Section are reasonably dispersed throughout the Project. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code."

Section Fourteen. Water Rights Transfer Reduction. A Project that provides Service Level III, IV or IV, or a Minor Project that is not eligible for a water rights transfer waiver pursuant to Section ____ herein or a density bonus pursuant to Section ____, herein may nevertheless be eligible to reduce the water budget for the Affordable Housing Units within the Project to the estimated actual usage attributable to the Affordable Units, notwithstanding the provisions of Article ____, Section ____ of the Land Development Code.

Section Fifteen. Other Incentives Authorized by Article 27, New Mexico Affordable Housing Act. The County may donate land for construction of affordable housing or an existing building for conversion or renovation into affordable housing or may provide or pay the costs of infrastructure necessary to support affordable housing projects if enacted by separate ordinance pursuant to the requirements set forth in NMSA 1978, Section 6-27-1 et seq.

Section Fifteen Sixteen. Alternate Means of Compliance.

A. A Project or a Minor Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

1. providing Affordable Units outside the Project but within the unincorporated areas of Santa Fe County where the Board of County Commissioners has exclusive zoning and platting jurisdiction to consider such alternatives;
2. making a cash payment of equal or greater value than would be required if the Project had constructed or created Affordable Units as provided in this Ordinance;
3. dedicating property suitable for construction of Affordable Units within the unincorporated areas of Santa Fe County where the Board of County Commissioners has exclusive zoning and platting jurisdiction to consider such alternatives whose value is equivalent or of greater value than would be otherwise be required if the Project had constructed or created Affordable Units as provided in this Ordinance; or
4. a maximum five-percent (5%) reduction_ in the total number of Affordable Units (where a thirty percent (30%) affordability is required), which is to be distributed equally among each of the three Income Ranges, for Complying with the Green Building Construction Standards as it applies to the entire Project shall allow for

an adjusted Maximum Target Housing Prices for each Income Range as set forth in the Affordable Housing Regulations.

B. Review of a proposal to use an alternative means of compliance provided by this Section shall be conducted during the review of application for approval of the master plan, preliminary plat or development plan, as appropriate. Alternatively, a person desiring to develop a Project may apply for concept approval of a proposed Affordable Housing Plan prior to applying for approval of a Project, in which case the application shall be processed in the same manner as an application for a [master plan] is processed. Concept approval of an alternative means of compliance does not imply nor commit to an approval for future development. An alternative means of compliance shall receive final approval as it is considered and approved under the Housing Plan as part of the normal development review process specific to that project. If off-site construction is proposed as an alternative means of compliance, the sending and receiving projects must be considered together in order to determine overall compliance with this Ordinance.

C. In deciding whether to accept a proposed alternative means of compliance for off-site construction or land dedications with the requirements of this Ordinance, the County shall consider the following where applicable:

1. whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area or within the proposed project where such a concentration would be inappropriate given present or future conditions;

2. if the proposal involves providing Affordable Units outside the Project area, whether there is adequate existing infrastructure, including water systems, liquid waste facilities and transportation systems to support the Affordable Units in the proposed location so long as it is demonstrated by a service agreement that such infrastructure for water and liquid waste disposal systems can and shall serve the proposed alternative site or project;

3. if the proposal involves providing Affordable Units outside the Project area, whether there is a specific need or market for Affordable Units in the location where proposed; ~~or~~

4. if the proposal involves providing Affordable Units outside the Project area, whether the property where the Affordable Units are proposed to be located is suitable for residential use and residential development; and

5. if the proposal provides an overall higher public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

D. In deciding whether to accept a proposed alternative means of compliance for cash payment in lieu of on-site construction, the County shall consider the following where applicable:

1. The cash payment shall be, at a minimum, commensurate with the total value equal to or greater than the cost to construct comparable Affordable Units within the Project or Minor Project;

2. A cash payment shall not create a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose; and

3. The cash payment shall provide an overall higher public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

~~D~~E. The method for determining the whether total cash payment amount proposed as an alternative means of compliance pursuant to this Section is sufficient shall be established in the Affordable Housing Regulations.

F. Affordable housing incentives provided under Sections Eight through Fourteen shall not apply where an alternative means of compliance is used to meet the obligations of this Ordinance."

Section Sixteen Seventeen. Hardship Conditions.

A. The Board of County Commissioners or, if a Board of Adjustment is created by the Board of County Commissioners of Santa Fe County, then the Board of Adjustment, may waive one or more of the requirements set forth in this Ordinance if a condition of hardship exists as set forth in this Section.

B. A condition of hardship shall exist for purposes of this Section, as follows:

1. For a Project providing Service Level I or II, a condition of hardship exists where the Project fails to qualify for any incentive set forth herein, where the Project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this Ordinance would result in economic infeasibility of the Project, and where complying with the requirements of this Ordinance would deprive a property owner of substantially all economically viable use of the subject property taken as a whole contrary to the Constitution of the United States or the Constitution of the State of New Mexico.

2. For a Project providing Service Level III, IV or V, or for Minor Projects, a condition of hardship exists when an Affordable Unit (or lot created for an Affordable Unit) cannot be sold within a reasonable period of time without causing a loss on the Project or Minor Project taken as a whole."

Section Seventeen Eighteen. Long-term Affordability.

A. Each Affordable Housing Agreement shall include a form of deed restriction, restrictive covenant or other legal instrument that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument will create a lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety percent of the appraised value of the Affordable Unit. The form of the instrument and the methodology for determining initial market value of the Affordable Unit shall be specified in the Affordable Housing Regulations.

B. The proceeds of the liens imposed in the previous paragraph shall be deposited into a fund created in the County treasury or separate trust whose sole purpose shall be to support Affordable Housing within Santa Fe County or be transferred to the Santa Fe County Housing Services Division to support Affordable Housing within Santa Fe County. The fund or trust shall may be governed by rules and requirements set forth

in be used to support affordable housing within Santa Fe County separate Ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq.

C. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer and avoid application of the provisions of this Section.

D. Where the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, the Unearned Appreciation may be accelerated or the affordability lien may be released.

Section Eighteen Nineteen. Affordable Housing Administrator. The position of Affordable Housing Administrator is established within the Housing Department. The Affordable Housing Administrator shall administer the Affordable Housing Ordinance, manage the fund or trust established pursuant to Section 17(B) of this Ordinance, act as an ombudsman to the development review process, and have other responsibilities set forth in this Ordinance. The salary and benefits of the Affordable Housing Administrator shall be paid from proceeds collected pursuant to Paragraph 17(B) of this Ordinance, to the extent permitted by law.

Section Nineteen Twenty. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficiencies. In the report, the Affordable Housing Administrator shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented every three years annually thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part.

PASSED AND ENACTED THIS ____ DAY OF ____, 2005.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

By
Michael D. Anaya, Chair

ATTEST:

Valerie Espinoza, County Clerk

To: Diane Quarles
From: Emilee Ford, Homewise
RE: Long Term Affordability Provisions in other jurisdictions
Date: October 7, 2005

Here are some examples of long term affordability provisions in other inclusionary housing ordinances, with the actual language on the attached pages:

City of Boulder, Colorado

The City of Boulder requires permanent affordability. The resale price charged by any owner of a permanently affordable unit may not exceed the initial sales price, plus an inflationary factor. Provisions are also included to allow for closing costs and commissions as well as capital improvements to be added onto the sales price. These restrictions run in perpetuity.

County of Monterey, California

County of Monterey utilizes permanent affordability restrictions. The resale price of affordable homes is restricted in perpetuity. The initial price is increased by the same increase in AMI, plus an additional 10% to account for possible improvements. The resale price may be lowered if the County sees that the home has depreciated because of deficient or deferred maintenance. The affordability provision also provides for a price increase if the owner has lawfully added on an additional bedroom.

City of Salinas, California

The City of Salinas ordinance imposes resale price restrictions on the initial buyer and any subsequent buyers for a total of 30 years from the date of initial sale. During that time period, the home's sale price must follow the ordinance's affordability formula, which is the same formula used to establish the initial sales price.

County of Sacramento, California

The County of Sacramento also requires a 30 year affordability term, but uses a combination of resale restriction and subsidy recapture. During that 30 year period, any owner (whether the initial owner or subsequent owner) wishing to sell must give notice to the County. The County then has 90 days to either exercise the right of first refusal or to refer to the seller an income-eligible and qualified buyer. If the County refers a buyer, the seller must sell to that buyer and the resale price is restricted.

If the County does not either purchase the unit or refer a buyer, the seller may sell to any buyer at market rate and the affordability restriction is lifted for the new buyer. The County recaptures the subsidy. The County receives the initial subsidy (the difference between the appraised value and the effective sales price -- what Santa Fe is calling the initial lien) plus a share in appreciation. The County's share of appreciation decreases for each year that the

ATTACHMENT B

buyer is in the home. At the end of the 30 year affordability term, the owner receives all of the appreciation (but the County still recaptures the initial subsidy).

City of San Diego

The City of San Diego's requirement is similar to the County of Sacramento's, with a phased appreciation sharing schedule. The affordability term is 15 years instead of 30.

City of Denver

City of Denver also uses a combination of restricting the sales price and appreciation sharing. The formula seems a bit complicated but is based on the amount of appreciation and the number of years the owner is in the home. The maximum appreciation the buyer can realize is capped and the resale price is also capped to maintain affordability.

Also, refer to the report *Inclusionary Housing in California: 30 Years of Innovation* by California Coalition for Rural Housing and Non-Profit Housing Association of Northern California for a discussion on long term affordability provisions. Appendix B contains a list of all the jurisdictions with IH ordinances and a very brief description of the long-term affordability term.

<http://www.calruralhousing.org/Publications/Inclusionary30Years.pdf>

City of Boulder (<http://www.ci.boulder.co.us/cao/brc/965.html>)

g) Resale Restrictions Applicable to Permanently Affordable Units: All permanently affordable ownership units developed under this chapter shall be subject to the following resale restrictions:

(1) Approved Purchasers for Resale of Permanently Affordable Units: A seller of a permanently affordable unit must select a low-income purchaser by a method that complies with the good faith marketing and selection process approved by the city manager. At the request of an applicant, the city will provide the seller with the description of a process that meets this requirement. Upon request, the city may provide a potential seller of a permanently affordable unit with a list of households certified by the city as eligible to purchase the unit. All purchasers of permanently affordable units shall be part of income eligible households.

(2) Resale Price for Permanently Affordable Units: The resale price of any permanently affordable unit shall not exceed the purchase price paid by the owner of that unit with the following exceptions:

(A) Customary closing costs and costs of sale;

(B) Costs of real estate commissions paid by the seller if a licensed real estate agent is employed and if that agent charges commissions at a rate customary in Boulder County;

(C) Consideration of permanent capital improvements installed by the seller; and

(D) The resale price may include an inflationary factor or shared appreciation factor as applied to the original sale price pursuant to rules as may be established by the city manager to provide for such consideration. In developing rules, the city manager shall consider the purposes of this chapter, common private, non-profit, and governmental lending practices, as well as any applicable rules or guidelines issued by federal or state agencies affecting the provision or management of affordable housing. In the event that the city has not adopted rules that contemplate a particular arrangement for the use of an inflationary factor or shared appreciation factor, the city manager is authorized to approve a resale price formula that is consistent with the purposes of this chapter, common private, non-profit, and governmental lending practices, as well as any applicable rules or guidelines issued by federal or state agencies affecting the provision or management of affordable housing.

(3) No Special Fees Permitted: The seller of a permanently affordable unit shall not levy or charge any additional fees or any finder's fee nor demand any other monetary consideration other than provided in this chapter.

(4) Deed Restriction Required: No person offering a permanently affordable unit for sale shall fail to lawfully reference in the Grant Deed conveying title of any such unit, and

record with the county recorder, a covenant or Declaration of Restrictions in a form approved by the city. Such covenant or Declaration of Restrictions shall reference applicable contractual arrangements, restrictive covenants, and resale restrictions as are necessary to carry out the purposes of this chapter.

County of Monterey, California
(<http://municipalcodes.lexisnexis.com/codes/montereyco/>)

18.40.110 Occupancy and continuing availability of units.

The occupancy and continuing availability of inclusionary units shall be provided for in the following manner:

A. Rental Inclusionary Units. For rental inclusionary units, eight percent of the total units in the residential development shall be set aside for moderate income households, six percent of the total units in the development shall be set aside for low income households and an additional six percent of the total units in the development shall be set aside for very low income households. On-site rental inclusionary units shall be rented only to eligible households, and off-site inclusionary units only to very low income households, at affordable rents for the relevant income category, and pursuant to further requirements set forth in any applicable inclusionary housing agreement, regulatory agreement and/or other documents in effect pursuant to this Chapter. Where the number of required very low income units is not a whole number, the fractional units required shall be added to the number of low income inclusionary units required. If the resultant number of low income units is not a whole number, the fractional units required shall be added to the number of moderate units required. Where (after any addition of fractional units under the preceding sentences) the number of moderate income inclusionary units required is not a whole number, the applicant shall include the next higher whole number of moderate inclusionary units, or may elect to pay a fractional unit in-lieu fee for the fractional unit in the amount provided in Section 18.40.090 of this Chapter. All leases or rental agreements for rental inclusionary units shall require annual certification by the Director of tenant household income and shall contain a provision prohibiting subletting or assignment of the inclusionary unit to an unqualified tenant.

B. For Sale Inclusionary Units.

1. For for-sale inclusionary units, eight percent of the total units in the development shall be set aside for moderate income households, six percent of the total units in the development shall be set aside for low income households and an additional six percent of the total units in the development, shall be set aside for very low income households. On-site for-sale inclusionary units shall be sold only to eligible households and off-site inclusionary units only to low income households, at prices affordable to such households, and pursuant to further requirements of resale restrictions, a promissory note, second deed of trust naming the County of Monterey as beneficiary, deed restrictions, and/or other documents pursuant to this Chapter. Where the number of required very low income units is not a whole number, the fractional units required shall be added to the number of low income inclusionary units required. If the resultant number of low income units is not a whole number, the fractional units required shall be added to the number of moderate income inclusionary units required. Where (after any addition of fractional units under the preceding sentences) the number of moderate income inclusionary units required is not a whole number, the applicant shall include the next higher whole number of moderate income inclusionary units, or may elect to pay a fractional unit in-lieu fee in the amount provided in Section 18.40.090 of this Chapter. The initial maximum sale price of the inclusionary unit to the first purchaser shall be determined by the Director, pursuant to a method set forth in the administrative manual. Similar restrictions shall be required of subsequent owners at the time they acquire the unit.

2. The maximum resale price shall be determined under the approved documents, consistent with the administrative manual and the following:
 - a. The maximum permitted resale price shall be the initial sale price of the inclusionary unit, increased at the same rate as the median income has increased, with the following modifications.
 - b. The otherwise allowable maximum resale price shall be increased by ten (10) percent of the initial sale price of the unit as an allowance for improvements made by the selling owners during their ownership. This allowance shall not be increased or decreased based on the value of improvements actually made to a particular home, provided that the allowance shall be reduced to the extent the unit has been adversely affected in value by deficient or deferred maintenance. To facilitate a determination by the Director concerning maintenance prior to sale, the seller shall comply with any applicable requirements in the administrative manual.
 - c. Where an owner has lawfully added a bedroom to a for-sale inclusionary unit, the maximum resale price of the unit shall be calculated based on an assumed household size corresponding to the total number of bedrooms, including the added bedroom.
 - d. The administrative manual and/or approved documents may provide for a ceiling which limits the resale price increases resulting from the modifications in Subsections b and c.
 3. Transfer of a for-sale inclusionary unit to a child or step-child upon the death of one or more of the prior owners shall be permitted without payment of any amount otherwise due to the County based on the sales price or appreciation of the unit, and without regard to any otherwise applicable preferences or waiting list priority for successor owners, if, but only if, the household of the child or step-child would be eligible based on income to purchase the unit and will occupy the unit. A child or step-child, whether or not his or her household is income eligible or will occupy the unit and regardless of any otherwise applicable preferences or waiting list priority, shall be entitled to own and/or occupy a for-sale inclusionary unit after the death of the prior parent owner, for a period not to exceed one year, without regard to otherwise applicable resale requirements of this Chapter, but subject to any applicable provisions of the administrative manual or county documents regulating the project. Not later than the expiration of said one-year period, the unit shall be transferred to the child or step-child (if the household is eligible and wishes to keep the unit) or shall be offered for sale in conformance with this Chapter, with appropriate documents recorded against the unit under this Chapter for the County's benefit.
 4. All resale restrictions shall authorize the County or its designee to purchase any affordable for-sale inclusionary unit at the maximum resale price which could be charged to a purchaser household (less an allowance for the real estate commission avoided by the County's purchase), at any time the owner proposes sale, prior to any sale to another party.
 5. For sale inclusionary units may be refinanced or used as security for additional financing, to the extent provided in the administrative manual.
 6. Resale restriction documents may prohibit or limit leasing of inclusionary units.
- C. Terms of Affordability; New and Existing Inclusionary Units. For both for sale and rental inclusionary units, affordability and occupancy restrictions shall remain in effect in perpetuity and shall apply to any replacement structure or structures constructed if a structure containing an inclusionary unit or units is demolished or destroyed, provided that if demolition or destruction of a structure containing inclusionary units occurs fifty-five (55) years or more after recording of the restrictions and said demolition or destruction was unintentional, restrictions on the units in the structure shall terminate on demolition or destruction. For-sale and rental inclusionary units approved before an amendment to this Chapter shall remain subject to the terms of this Chapter at the time the units were approved, and for-sale and rental inclusionary units in pending developments shall remain subject to the terms of this Chapter at the time the pending development application was deemed complete, subject in all cases to Section 18.40.100D of this Chapter and further provided that, where a for-sale inclusionary unit is transferred and the new owner is required to enter into new regulatory documents under this Chapter, the new regulatory documents will provide for affordability in perpetuity.

City of Salinas (<http://municipalcodes.lexisnexis.com/codes/salinas/>)

Sec. 17-12. Maintenance of affordable housing costs.

(a) To enforce the project's affordable housing plan, the project developer shall execute a covenant ensuring that all inclusionary units shall continue to be provided at an affordable housing cost for a minimum of thirty years from the date of first occupancy of each unit. Affordability shall be maintained by a covenant on the project approved by the city and recorded in the county recorder's office, and by individual covenants contained in the grant deeds of each owner-occupied affordable housing unit, as applicable, except that the affordability may be extended if a longer period of time is required by the construction or mortgage financing assistance program, mortgage insurance program or rental subsidy program.

(b) Prior to issuance of any building permit, the project developer shall enter into a contractual agreement with the city or its designee to ensure compliance with this article, the affordable housing plan, and inclusionary housing program guidelines. A fee for the administration and monitoring of the inclusionary units shall be established as part of this agreement. (Ord. No. 2178 (NCS), § 1.)

County of Sacramento (http://municipalcodes.lexisnexis.com/codes/sacramento_co/)

22.35.120 Affordability.

In addition to the requirements of Section 22.35.140, an affordable housing plan submitted in conjunction with an application for any development subject to this Chapter which includes on-site or off-site construction of affordable units shall ensure the following:

A. Rental. Rental affordable units shall remain affordable for a period of no less than fifty-five (55) years from recordation of the notice of completion for the rental units.

B. For-Sale. For-sale affordable units shall remain affordable for a period of not less than thirty (30) years from the first sale of an individual property and from the date of any resale to an income-eligible buyer made at a time the affordable unit is subject to affordability restrictions under this Chapter.

1. Affordability. For-sale affordable units shall be sold to income-eligible initial owners at an affordable price. The affordable housing plan, in order to ensure initial and subsequent affordability, may provide that the initial sale and any subsequent sale to an income-eligible purchaser shall be subject to the recordation of legal documents by SHRA to enforce the affordability, resale, and recapture requirements described in this Section. Legal documents may include an interest-bearing note, a deed of trust, and a regulatory agreement or other affordability covenant. To the extent possible, affordability and resale requirements shall be designed to be compatible with conventional mortgage financing programs, including secondary market requirements.

2. Resale Procedure.

a. If the initial owner or any subsequent owner of a for-sale affordable unit intends to sell the unit at a time that the unit is subject to affordability restrictions, the owner shall notify SHRA in writing of the intent to sell, prior to initiating discussions with a real estate professional or taking any other steps to sell the unit. Upon receipt of notice from the owner, SHRA or its assignee shall have ninety (90) days to either (a) identify, qualify as income eligible, and

refer to the seller an income-eligible buyer; or (b) give notice to the seller that SHRA or its assignee will acquire the unit. If SHRA or its assignee gives notice of intent to acquire the unit, it shall complete the transaction to purchase the property within thirty (30) days from the date it provides the notice of intent.

b. If the owner receives either a referral of an income-eligible buyer or a notice of intent to acquire from SHRA or its assignee, the owner shall sell the unit to the referred buyer or to SHRA or its assignee, at the resale price established by SHRA as provided in subsection (B)(3) of this Section.

c. If, within the timeframes specified, SHRA or its assignee (a) does not refer an income-eligible buyer to owner and (b) does not give notice of intent to acquire or does not complete the purchase of the unit, the affordable unit may be sold to a non-income eligible buyer. The sale to a non-income eligible buyer shall be subject to the recapture provisions of subsection (B)(4) of this Section. Thereafter, affordability restrictions applicable to the unit shall terminate. SHRA shall apply all funds recaptured at resale to subsidize other housing units for first-time homebuyers. SHRA shall adopt guidelines to further detail this process, and these guidelines shall be updated as needed to meet market conditions.

3. Resale Price. SHRA shall establish the resale price for affordable units at the lesser of (a) its market value, as established by a licensed appraiser approved by SHRA, or (b) the new affordable price as established by SHRA for the income level of the buyer.

4. Equity Sharing and Recapture Provisions.

a. SHRA shall recapture the difference between the original affordable sales price and the original market value (the initial developer subsidy), or maintain that subsidy in the unit in the case of a sale to another income-eligible homebuyer.

b. The homeowner's share of the home's appreciation over its original market value shall be determined by SHRA as follows: each year, the owner will receive an increasing percentage of the home's appreciation over its initial market value, and SHRA shall receive a decreasing percentage so that by the end of the regulatory term, the owner will receive all market appreciation over the home's original market value. SHRA's guidelines shall specify the equity sharing formula.

5. Hold Harmless Protections. In the event of an open market sale, should the current resale price be less than the original market value of the unit, or should the resale price be insufficient to ensure that the seller receives his or her original investment in the unit as well as reasonable and customary closing costs and capital improvements determined eligible by SHRA, SHRA shall decrease its recapture amount by the sum of the difference in sales price plus such closing costs and capital improvements. In the case of a resale to an income-eligible buyer, SHRA will pay such sum directly to the seller.

6. Use of Recaptured Funds. SHRA shall apply all funds recaptured at resale to subsidize other housing units for first-time homebuyers. (SCC 1291 § 1 (part), 2005)

City of San Diego

(http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800ae877)

(e) Affordability Levels and Restrictions--For Sale Units

(1) The units shall be occupied by *targeted ownership households*, subject to Section 142.1308(e)(3).

(2) The sales price for each unit shall not exceed an amount that is affordable to *targeted ownership households*. The amount affordable to *targeted ownership households* shall be no greater than 35% of the AMI, adjusted for household size, determined as of the date of the close of escrow and shall not exceed an annual payment for all housing costs, including mortgage principal and interests, taxes,

insurance, assessments, and five percent (5%) down payment, subject to Section 142.1308(e)(3).

Ch. Art. Div.

14 2 13

San Diego Municipal Code Chapter 14: General Regulations

(3-2004)

(3) The equity in the affordable unit shall be shared as follows:

(A) Equity for purposes of this Division is measured by the difference in the original unrestricted fair market value of the affordable unit at the time of the acquisition of the affordable unit and the unrestricted fair market value of the affordable unit on the date of the first resale, and each and every transfer, lease or refinancing as determined by an appraisal approved by the City.

(B) Upon the first resale of the affordable unit during the first 15 years from the date of issuance of the certificate of occupancy, the City and owner of the affordable unit shall share the equity in accordance with the provisions of Table 142-13B.

(C) Upon each transfer, lease and or refinancing during the first 15 years from the date of issuance of the certificate of occupancy, the City and the Owner shall share the equity in the affordable unit based upon an appraisal of the affordable unit in accordance with the provisions of Table 142-13B.

(D) Upon any sale or any transfer, whenever it occurs the City shall also receive that sum which is calculated as the difference between the original fair market value of the affordable unit and the restricted value of the affordable unit at the time of the original sale, as determined by an appraisal as approved by the City.

(4) All funds collected shall be deposited in the Inclusionary Housing Fund.

(5) The unit shall be sold at no less than fair market value.

(6) The City of San Diego shall be entitled to the first right of refusal on any "for sale" unit upon its sale.

Table 142-13B

Length of Ownership at
the Time of Resale,
Refinance, or Transfer
Share of Equity to
Household

Months 0-12 15%

Year 2 21

Year 3 27

Year 4 33

Ch. Art. Div.

14 2 13

San Diego Municipal Code Chapter 14: General Regulations

(3-2004)

- Year 5 39
- Year 6 45
- Year 7 51
- Year 8 57
- Year 9 63
- Year 10 69
- Year 11 75
- Year 12 81
- Year 13 87
- Year 14 93
- Year 15 or after 100%

(f) In accordance with Section 142.1311, each affordable unit shall have recorded against it a Declaration of Covenants, Conditions and Restrictions in favor of the City of San Diego.

(Added 6-3-2003 by O-19189 N.S.)

City of Denver (<http://www.denvergov.org/forms/Final%20Rules%20Adopted%207-31-03.pdf>)

8. Documentation Required to Approve Purchasers on Resale of MPDUs

Prior to purchasing a MPDU, a prospective buyer shall be required to submit to the Housing Manager a completed Eligibility Application Form with required attachments in order to verify that the prospective purchaser’s income qualifies them to purchase a particular MPDU and that the purchase price does not exceed the maximum sales price determined by CPD.

All required documentation submitted to verify household income shall be kept confidential and is not subject to public disclosure except as required by law.

9. Maximum Allowable Resale Prices

The maximum allowable resale price shall be calculated using an appreciation formula. Each selling owner shall pay for an appraisal of the MPDU at the time it is to be marketed. Such appraisal may be done without consideration of the restrictive covenant. The initial or original homeowner’s appraised value shall be the base price from which calculation is made.

The maximum sales price is calculated using the following formula:

Maximum Sales Price = (Prior Purchase Price + Owner’s Share of Appreciation in Market Value).

The shared appreciation factor is pre-determined based on the length of ownership up to a maximum of 40% of the appreciation in market value. The following table shows the applicable shared application factor based on time of ownership of the MPDU.

Time of Ownership (Years)	Shared Appreciation Factor
---------------------------	----------------------------

Less than One Year	0.0%
One Year to Less than Two Years	10.0%
Two Years to Less than Three Years	15.0%
Three Years to Less than Four Years	20.0%
Four Years to Less than Five Years	25.0%
Five Years to Less than Ten Years	35.0%
More than Ten Years	40.0%

The following table shows an example calculation for maximum sales price:

Maximum Resale Price Within Control Period	
Prior Purchase Date	1/1/2002
Proposed Sale Date	12/31/2006
Years of Ownership	4 Years
Shared Appreciation Factor	25%
Current Appraised Value	\$120,000
(-) Prior Appraised Value	\$100,000
(=) Appreciation in Market Value	\$20,000
(+) Owner's Share of Appreciation	\$5,000
(=) Maximum Resale Price	\$105,000

It is anticipated that market conditions may, from time to time, cause a MPDU to be sold for less than the maximum allowable resale price. Under no circumstances shall the sales price exceed being affordable to households earning no more than 80% of AMI as calculated in then current chart published by CPD.

10. Final MPDU Sale/Payment

Any applicant or owner planning the first sale of an MPDU within ten years after the end of the control period shall provide 30 days notice to CPD of the proposed offering and the date on which the owner is ready to offer the property for sale. The notice shall contain statements asserting that the property is offered at fair market value with no extraordinary terms of sale, and that it is offered as a single property for sale. In addition, the notice shall set forth the following:

- Pricing of MPDU offered
- Bedroom type and unit size of MPDU
- Description of amenities offered

Within 30 days of the receipt of such notice, CPD shall provide written notice to the owner of the City's intent to purchase and maintain the property as affordable housing, and shall close within 60 days of the notice of intent to purchase. If there is no intent to purchase, the owner may proceed to sell the MPDU provided that: For the first sale after the end of the control period, the owner shall make a "final payment" to the City's Housing Incentive Program Fund an amount equal to one half of the "final gain," which is calculated as follows:

ATTACHMENT B

Final Gain = (Current Sale Price – (Prior Purchase Price + Cost of Living Factor + Sales Commission + Fair Market Value of documented capital improvements))
 In the event that the “final gain” is less than \$20,000, the “final payment amount” to the revenue fund shall be adjusted so that the owner/seller will retain \$10,000 or the entire amount of the final gain, whichever is less. The following table shows examples for determining the final MPDU sale, owner’s share of profits, and payment to the Housing Incentive Program Fund:

CALCULATION OF OWNER’S SHARE OF EXCESS PROFIT BASED ON FINAL SALE

	Less than \$10,000	Between \$10,000 And \$20,000	Over \$20,000
Prior Acquisition Price	\$100,000	\$100,000	\$100,000
Change In CPI-U	0.1%	0.1%	0.1%
Cost of Living Factor/Adjustment	\$100,100	\$100,100	\$100,100
Authorized Improvements	\$1,500	\$1,500	\$1,500
Real Estate Commission	\$6,000	\$6,000	\$6,000
Recording Fees	\$500	\$500	\$500
Other Fees (List)	\$500	\$500	\$500
Adjusted Base Value of MPDU	\$108,600	\$108,600	\$108,600
Final/Current Sale Price	\$110,000	\$120,000	\$130,000
Profit From Final Sale	\$1,400	\$11,400	\$21,400
Owner's Share of Excess Profit	\$1,400	\$10,000	\$10,700
Payment to Housing Incentive Program Fund ¹	\$0	\$1,400	\$10,700

¹ The calculation of payment to Housing Incentive Program Fund is based on the fund receiving 50% of the total excess profit on the sale after an adjustment that will allow the seller to retain at least \$10,000 of the excess profit when such amount of excess profit exists.

ATTACHMENT B



October 13, 2005

Gerald Gonzalez, Manager
Santa Fe County
P.O. Box 276
Santa Fe, NM 87504-0276

Re: Presentation for Affordable Housing BCC Work Session – October 18, 2005

Dear Mr. Gonzalez:

We have had the opportunity to continue meeting with members of your staff to work on the proposed Affordable Housing Ordinance. Most recently, Rancho Viejo Inc. provided information regarding the economic impacts and costs as they could develop if the ordinance were passed in its current form. We believe that a “real time” discussion about these matters provides a realistic understanding of some of the potential financial and social costs that could result from the adoption of the ordinance.

A group of people involved in the community development business in Santa Fe County have been meeting with one of our purposes being that of providing a technical and legal analysis of the proposed ordinance. Inasmuch as more than one County Commissioner has publicly expressed a desire to hear from those involved in the community development business, our group requests time to present our findings during the work session planned for the BCC on October 18. Attached to this letter are some spread sheets that will serve as a basis for a portion of the discussion. It is our intent to be succinct and informative in our presentation.

You can contact me at 983-6921 or Rosanna Vasquez at 820-6400 if there are any questions to let us know when our presentation might be made. Thank you for your consideration and help.

Sincerely,

Isaac J. Pino

Isaac J. Pino, PE
Vice President and General Manager
Rancho Viejo de Santa Fe Inc.

XC: Steve Ross – Santa Fe County
Diane Quarels – Santa Fe County

Windmill Ridge Unit 4

Unit Count	Description	Total Sales without Affordable Ordinance		Total Sales with Construction Cost Increases (approx. 10% per year)		Sales Prices if Market Rate		Sales Prices per Current 15% Affordable Ordinance		Total Sales with 15% Affordable Ordinance		Current Deficit		Deficit with Construction Cost Increases	
		Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance
14	0-60% Rios (2 to 4 bedrooms)	\$ 221,740	\$ 3,104,360	\$ 236,740	\$ 3,314,360	\$ 236,740	\$ 3,104,360	\$ 103,385	\$ 1,447,390	\$ 142,550	\$ 1,853,150				
13	61-80% Rios (2 to 4 bedrooms)	\$ 221,740	\$ 2,882,620	\$ 236,740	\$ 3,077,620	\$ 236,740	\$ 2,882,620	\$ 142,550	\$ 1,853,150	\$ 142,550	\$ 1,853,150				
1	61-80% Pueblos (2 bedrooms)	\$ 236,240	\$ 236,240	\$ 251,240	\$ 251,240	\$ 251,240	\$ 236,240	\$ 126,750	\$ 126,750	\$ 126,750	\$ 126,750				
8	81-100% Rios (2 to 4 bedrooms)	\$ 221,740	\$ 1,773,920	\$ 236,740	\$ 1,893,920	\$ 236,740	\$ 1,773,920	\$ 163,020	\$ 1,304,160	\$ 163,020	\$ 1,304,160				
6	81-100% Pueblos (2 bedrooms)	\$ 236,240	\$ 1,417,440	\$ 251,240	\$ 1,507,440	\$ 251,240	\$ 1,417,440	\$ 137,280	\$ 823,680	\$ 137,280	\$ 823,680				
42 of 269			\$ 9,414,580		\$ 10,044,580						\$ 5,555,130				\$ (3,859,450) \$ (4,489,450)

Future Development

Unit Count	Description	Total Sales without Affordable Ordinance		Total Sales with Construction Cost Increases (approx. 10% per year)		Sales Prices if Market Rate		Proposed Sales Prices for new 30% Affordable Ordinance		Total Sales with 15% Affordable Ordinance		Deficit with 30% Affordable		Deficit with Affordable and Construction Cost Increases	
		Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance	Market Rate	Ordinance
28	0-60% Rios (2 to 4 bedrooms)	\$ 221,740	\$ 6,208,720	\$ 236,740	\$ 6,628,720	\$ 236,740	\$ 6,208,720	115,000	\$ 3,220,000	115,000	\$ 3,220,000				
26	61-80% Rios (2 to 4 bedrooms)	\$ 221,740	\$ 5,765,240	\$ 236,740	\$ 6,155,240	\$ 236,740	\$ 5,765,240	145,000	\$ 3,770,000	145,000	\$ 3,770,000				
2	61-80% Pueblos (2 bedrooms)	\$ 236,240	\$ 472,480	\$ 251,240	\$ 502,480	\$ 251,240	\$ 472,480	145,000	\$ 290,000	145,000	\$ 290,000				
16	81-100% Rios (2 to 4 bedrooms)	\$ 221,740	\$ 3,547,840	\$ 236,740	\$ 3,787,840	\$ 236,740	\$ 3,547,840	180,000	\$ 2,880,000	180,000	\$ 2,880,000				
12	81-100% Pueblos (2 bedrooms)	\$ 236,240	\$ 2,834,880	\$ 251,240	\$ 3,014,880	\$ 251,240	\$ 2,834,880	180,000	\$ 2,160,000	180,000	\$ 2,160,000				
84 of 269			\$ 18,829,160		\$ 20,089,160						\$ 12,320,000				\$ (6,509,160) \$ (7,769,160)

Market Rate Sales Prices WITHOUT Construction Cost Increases

Amount added to all Market Rate Homes to Cover Deficit \$ 17,002

Amount added to all Market Rate Homes to Cover Deficit \$ 35,185

Amount added to all Market Rate Homes to Cover Deficit \$ 19,777

Amount added to all Market Rate Homes to Cover Deficit \$ 41,995

Market Rate Sales Prices WITH Construction Cost Increases

Amount added to all Market Rate Homes to Cover Deficit \$ 19,777

Amount added to all Market Rate Homes to Cover Deficit \$ 41,995

Amount added to all Market Rate Homes to Cover Deficit \$ 19,777

Amount added to all Market Rate Homes to Cover Deficit \$ 41,995

Affordable Home - Subcontractor contribution

Based on Windmill Ridge Unit 4

Current requirement of 15% affordable

278 lots * 15% = 42

	# of homes in each pricing category	Total reduction in cost from Rancho Viejo Subcontractors	Total amount subcontractors forfeit to build for Rancho Viejo
0 - 60%	14	\$ 3,750	52,500
61 - 80%	14	\$ 3,750	52,500
81 - 100%	14	-	-
Total Contribution by Contractors			105,000

Proposed requirement of 30% affordable

278 lots * 30% = 84

	# of homes in each pricing category	Total reduction in cost from Rancho Viejo Subcontractors	Total amount subcontractors forfeit to build for Rancho Viejo
0 - 60%	28	\$ 3,750	105,000
61 - 80%	28	\$ 3,750	105,000
81 - 100%	28	-	-
Total Contribution by Contractors			210,000

Difference between 15% and 30% affordable Contribution \$ 105,000

Affordable Home - Gross Receipts Tax

If no affordables - GRT would be:

Unit Count	Product Type	Sales Price	Non-taxable land value	6.250% GRT per house	Total GRT
0	0-60% Rios	103,385	85,000	1,081	-
0	61-80% Rios	142,550	85,000	3,385	-
0	61-80% Pueblos	126,750	60,000	3,926	-
0	81-100% Rios	163,020	85,000	4,589	-
0	81-100% Pueblos	137,280	60,000	4,546	-
34	Pueblos	256,740	60,000	11,573	393,480
71	Rios	243,490	85,000	9,323	661,929
75	Sierras	290,190	85,000	12,070	905,250
32	Gardens	295,656	95,000	11,803	377,705
33	Courtyards	382,240	95,000	16,896	557,584
16	Vistas	487,740	125,000	21,338	341,402
8	Conservation Vistas	542,740	150,000	23,102	184,819
269	Total GRT Due NM Tax and Revenue				\$ 3,422,169

Current requirement of 15% affordable

Unit Count	Product Type	Sales Price	Non-taxable land value	6.250% GRT per house	Total GRT
14	0-60% Rios	103,385	85,000	1,081	15,141
13	61-80% Rios	142,550	85,000	3,385	44,009
1	61-80% Pueblos	126,750	60,000	3,926	3,926
8	81-100% Rios	163,020	85,000	4,589	36,715
6	81-100% Pueblos	137,280	60,000	4,546	27,275
27	Pueblos	256,740	60,000	11,573	312,469
36	Rios	243,490	85,000	9,323	335,626
75	Sierras	290,190	85,000	12,070	905,250
32	Gardens	295,656	95,000	11,803	377,705
33	Courtyards	382,240	95,000	16,896	557,584
16	Vistas	487,740	125,000	21,338	341,402
8	Conservation Vistas	542,740	150,000	23,102	184,819
269	Total GRT Due NM Tax and Revenue				\$ 3,141,922

Proposed requirement of 30% affordable

Unit Count	Product Type	Sales Price	Non-taxable land value	6.250% GRT per house	Total GRT
28	0-60% Rios	103,385	85,000	1,081	30,281
26	61-80% Rios	142,550	85,000	3,385	88,018
2	61-80% Pueblos	126,750	60,000	3,926	7,853
16	81-100% Rios	163,020	85,000	4,589	73,431
12	81-100% Pueblos	137,280	60,000	4,546	54,551
27	Pueblos	256,740	60,000	11,573	312,469
24	Rios	243,490	85,000	9,323	223,751
64	Sierras	290,190	85,000	12,070	772,480
23	Gardens	295,656	95,000	11,803	271,476
23	Courtyards	382,240	95,000	16,896	388,619
16	Vistas	487,740	125,000	21,338	341,402
8	Conservation Vistas	542,740	150,000	23,102	184,819
269	Total GRT Due NM Tax and Revenue				\$ 2,749,149

Difference in GRT between 15% and 30% affordables \$ 392,773

Affordable Home - Home Owner Association Dues

Rancho Viejo pays a portion of the HOA dues for affordable buyers for three years.

CURRENT: 15% AFFORDABLE

Windmill Ridge Unit 4

Unit Count	Average HOA dues paid by Rancho Viejo per lot	Total HOA dues paid
14 0-60% Rios	864	12,096
13 61-80% Rios	432	5,616
1 61-80% Pueblos	2,040	2,040
8 81-100% Rios	-	-
6 81-100% Pueblos	2,040	12,242
27 Pueblos	-	-
36 Rios	-	-
75 Sierras	-	-
32 Gardens	-	-
33 Courtyards	-	-
16 Vistas	-	-
8 Conservation Vistas	-	-
269 Total HOA Dues	\$ 5,377	\$ 31,994

FUTURE: 30% AFFORDABLE

Future development of same size as Windmill Ridge Unit 4

Unit Count	Average HOA dues paid by Rancho Viejo per lot	Total HOA dues paid
28 0-60% Rios	864	24,192
26 61-80% Rios	432	11,232
2 61-80% Pueblos	2,040	4,081
16 81-100% Rios	-	-
12 81-100% Pueblos	2,040	24,484
27 Pueblos	-	-
24 Rios	-	-
64 Sierras	-	-
23 Gardens	-	-
23 Courtyards	-	-
16 Vistas	-	-
8 Conservation Vistas	-	-
269 Total HOA Dues	\$ 5,377	\$ 63,988

Difference between HOA Dues paid by Rancho Viejo from 15% to 30% affordable	31,994
--	--------



Long-Term Affordability Options

Option #1: *Affordability lien with no resale restriction or appreciation share (as is currently reflected in the Ordinance).* A lien is applied and held by the County or its agent based on the difference between the appraisal and the sales price. Upon sale of the property, the buyer must either transfer the lien to another eligible buyer, keeping the unit affordable, or they must pay off the lien and the unit is no longer affordably restricted. Appreciation (on the lien portion) goes to the homebuyer.

Option #2: *Affordability lien with resale restriction of 15 years with appreciation going to the homebuyer beginning in the 10th year.* This option is modeled after the City of San Diego. If an owner wishes to sell an affordable unit before the 15th year, they would notify the County. The County, working through its agents or its affordable housing staff (whoever qualifies eligible buyers), would refer a buyer for purchase under the continued resale restrictions whereby the unit remains affordable. If a buyer could not be found within a reasonable period (120 days), then the owner may sell the unit at market value, but the affordability lien must be repaid as well as any appreciation due the County. Beginning in year 10, the seller would be eligible to share in the appreciation based on 20% per year and at the end of the 15th year, the resale restrictions would be released and the unit sold at market value with full appreciation going to the seller. The County would receive the proceeds of the original affordability lien.

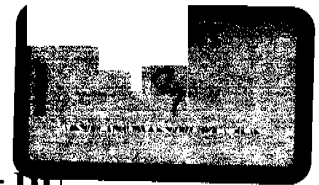
Option #3: *Affordability lien with resale restrictions of 10 years with shared appreciation at the end of the term.* Similar conditions as above, but with a shorter term and 50/50 shared appreciation at the end of the term. Prior to the end of 10 years, the County would receive the proceeds of the lien and the appreciation. After 10 years, the County would receive the lien proceeds and the homeowner would receive half the appreciation.

Option #4: *Affordability lien with resale restrictions of 30 years where the lien and the appreciation are retired and the proceeds of both go to the homebuyer.* This is similar to Habitat for Humanity and keeps a unit affordable for a longer period of time; however, limited funds would be raised for the trust fund.

Benefits of each Option

	Trust funds generation	Long term housing stock	Homeownership benefits
#1	√		√√
#2	√	√	√
#3	√√		√
#4		√√	√√

ALL options require monitoring, tracking and follow up!



Estimated “Values” of County Affordable Housing Incentives¹ per DU

Fee Waiver Valuation (Attachment A)

- | | |
|---|---------|
| 1. Total Development Fee (avg.) | \$230 |
| 2. Total Permit Fees (avg.) | \$275 |
| 3. Total Fire Fees (avg.) | \$425 |
| 4. Total Utility Connection Fees (avg.) | \$3,450 |

Total Average Fee Value **\$4,380**

Water Rights Transfer Valuation²

- | | |
|--|----------------|
| 1. Acre-foot value of \$10,000 @ .33 AF per DU average | \$3,330 |
|--|----------------|

Density Bonus

- | | |
|---|---------------------------|
| 1. Based on net profit estimate of 4% - 8% | \$7,800 - \$15,600 |
| for market rate housing at \$390,000 per ½ DU (50% bonus) | |

Water Rights Transfer Reduction³

- | | |
|--|----------------|
| 1. Assuming a reduction in rights from .33 to .16AF per DU | \$1,700 |
|--|----------------|

Lot size Reduction for Affordable Units

- | | |
|--|-------------------------------|
| 1. Reduction from average 2.5 acres to 1.0 acre | \$10,000 - \$25,000+/- |
| for aff. units (Assumes a lot value of \$75,000 for 2.5 ac.) | |

Land Donation (NM Affordable Housing Act)

- | | |
|---|-------------------------------|
| 1. Range in estimated lot value (undeveloped) | \$15,000 to \$50,000+ |
| 2. Range in estimated lot value (developed) | \$60,000 to \$250,000+ |

Infrastructure Costs (off-sets) (NM Affordable Housing Act)

- | | |
|--|--------------------------------------|
| 1. Range in infrastructure contribution | Varies by infrastructure type |
| (see Attachment B of eligible infrastructure under AffHsg Act) | |

¹ These figures represent the estimated average or ranges of value of potential fee waivers and cost off-sets based on current practices and fee schedules. Note that the utility connection charges vary greatly depending on the area of connection—the average value is represented here. Other costs vary by area, location, terrain, development types, etc... Off-sets associated with the NM AffHsg Act depend of amount available from the Housing Trust Fund.

² This value does not include associated attorney’s fees and transfer application fees and assumes a 1:1 transfer ratio.

³ This would be based on the amount of actual water savings demonstrated by conservation measures by project.

Estimated Development and Permit Fees and Utility Expansion Charges for Affordable Housing in Santa Fe County

Affordable Housing Type (1)	Est. Housing Cost	Application Fee	Development Permit Fee (Const. Cost)	Fire Impact Fee (\$2750/sf)	Fire Review Fees (2)	Driveway Permit	Dev. Permit Inspection Fee	Grading & Clearing (3)	Road const. Permit (3)	Utilities Authorization	Development Fees per lot (4)	Utility Connection Charges (6)	Total Dev. Fees	Total Permit Fee	Total Fire Fee	Total Utility Fee (Max.)	Total Fees and Charges per DU
A (1000 sf, 2 bd) up to 80% AMI up to 100% AMI	\$82,000	\$15.00	\$48.60	\$275.00	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$202.10	\$276.00	\$350.00	\$6,561.95	\$13,880
	\$127,000	\$25.00	\$62.20	\$275.00	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$225.70	\$276.00	\$350.00	\$6,561.95	\$13,914
	\$137,500	\$25.00	\$66.50	\$275.00	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$230.00	\$276.00	\$350.00	\$6,561.95	\$13,918
B (1300 sf, 3 bd) up to 80% AMI up to 100% AMI	\$103,500	\$25.00	\$53.25	\$357.50	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$216.75	\$276.00	\$432.50	\$6,561.95	\$13,987
	\$142,500	\$25.00	\$68.05	\$357.50	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$231.55	\$276.00	\$432.50	\$6,561.95	\$14,002
	\$154,500	\$25.00	\$73.15	\$357.50	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$236.35	\$276.00	\$432.50	\$6,561.95	\$14,007
C (1500 sf, 4 bd) up to 80% AMI up to 100% AMI	\$115,000	\$25.00	\$57.55	\$412.50	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$221.05	\$276.00	\$487.50	\$6,561.95	\$14,047
	\$156,500	\$25.00	\$74.70	\$412.50	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$238.20	\$276.00	\$487.50	\$6,561.95	\$14,064
	\$172,000	\$25.00	\$79.75	\$412.50	\$75.00	\$15.00	\$45.00	\$80.50	\$138.50	\$61.95	\$138.50	\$6.50	\$243.25	\$276.00	\$487.50	\$6,561.95	\$14,069
											\$138.50	\$6,500.00	\$227.25	\$276.00	\$423.33	\$6,561.95	

Notes:
 (1) The Housing Types and Max. Prices are those for the Community College District. The prices recommended by the RPA vary slightly.
 (2) Fire Review Fees include Res. Dev. Plan and Inspection fee per lot and/or structure; fees may be higher for Urban Wildland or structures requiring sprinklers
 (3) Grading & Clearing and Road const. Permits assume an average cost of \$30,000 per lot for each function plus \$15 application fee plus inspection fees. I have assumed 2 road inspections, but fees might be spread over a number of lots in some cases.
 (4) Development fees assume a 100 ac. Development with 40 lots or units - these have been averaged in to the individual unit fees above along with the \$60 per lot Subdivision fee
 (5) Water hook-up fees not included and depend on the utility providing service, if any.
 (6) Water utility charges vary depending on the location. The figures presented here represent the highest connection charge in the western district. The figure does not include the \$300 for the meter.

ATTACHMENT B

3.6 “Affordable Housing Projects” shall mean any work or undertaking, whether new construction, acquisition of existing residential housing, remodeling, improvement, Rehabilitation or conversion approved by the Governmental Entity and/or the MFA for the primary purposes as allowed by the Act.

3.7 “Applicant” shall mean an individual, a governmental housing agency, regional housing authority, tribal housing agency, for-profit organization, including a corporation, limited liability company, partnership, joint venture, syndicate, or association or a nonprofit organization meeting the appropriate criteria of the Governmental Entity and/or the MFA.

3.8 “Application” shall mean an application to participate in one or more Affordable Housing Projects or programs under the Act submitted by an Applicant to the Governmental Entity and/or the MFA.

3.9 “Builder” shall mean a person or entity licensed as a general contractor to construct Residential Housing in the state which has been approved by the Governmental Entity and/or the MFA to participate in an MFA program and/or a program under the Act.

3.10 “Building” shall mean a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land donated for use in connection with an Affordable Housing Project.

3.11 “Congregate Housing Facility” shall mean Residential Housing designed for occupancy by more than four Persons of low or Moderate Income living independently of each other. The facility may contain group dining, recreational, health care or other communal living facilities and each unit in a Congregate Housing Facility shall contain at least its own living, sleeping, and bathing facilities.

3.12 “Federal Government” shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

3.13 “Governmental Entity” shall mean a state, county, or municipality.

3.14 “Household” shall mean one or more persons occupying a housing unit.

3.15 “Housing Assistance Grant” means the donation by a Governmental Entity of:

A. Land for construction of an Affordable Housing Project;

B. An existing Building for conversion or renovation as Affordable Housing;
or

C. The costs of Infrastructure necessary to support Affordable Housing.

3.16 “HUD” shall mean the United States Department of Housing and Urban Development.

3.17 “Infrastructure” shall mean Infrastructure Improvements and Infrastructure Purposes.



3.18 “Infrastructure Improvement” includes, but is not limited to:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) areas for motor vehicle use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;

(6) parks, recreational facilities and open space areas for the use of residents for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;

(8) electrical transmission and distribution facilities;

(9) natural gas distribution facilities;

(10) lighting systems;

(11) cable or other telecommunications lines and related equipment;

(12) traffic control systems and devices, including signals, controls, markings and signs;

(13) inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and

(14) heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements, that are affixed to real property.

3.19 “Infrastructure Purpose” shall mean:

(1) planning, design, engineering, construction, acquisition or installation of Infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the Infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for Infrastructure, including facilities owned, leased or installed by the owner;

(3) acquiring interests in real property or water rights for Infrastructure, including interests of the owner; and

(4) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection.

3.20 “MFA” shall mean the New Mexico Mortgage Finance Authority.

3.21 “MFA Act” shall mean the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being Sections 58-18-1 through 58-18-27, inclusive, N.M.S.A. (1978), as amended).

3.22 “Mortgage” shall mean a mortgage, mortgage deed, deed of trust or other instrument creating a lien, subject only to title exceptions as may be acceptable to the Governmental Entity and/or the MFA, on a fee interest in real property located within the state or on a leasehold interest that has a remaining term at the time of computation that exceeds or is renewable at the option of the lessee until after the maturity day of the Mortgage Loan or an instrument creating a lien on a mobile home.

3.23 “Mortgage Lender” shall mean any bank or trust company, mortgage company, mortgage banker, national banking association, savings bank, savings and loan association, credit union, building and loan association and any other lending institution; *provided that the mortgage lender maintains an office in New Mexico, is authorized to make mortgage loans in the state and is approved by the Governmental Entity and/or the MFA and either the FHA, VA, FNMA (now known as Fannie Mae), or FHLMC (the Federal Home Loan Mortgage Corporation).*²

3.24 “Mortgage Loan” shall mean a financial obligation secured by a Mortgage, including a project Mortgage Loan.

3.25 “Multiple Family Housing Project” shall mean Residential Housing that is designed for occupancy by more than four persons or families living independently of each other or living in a Congregate Housing Facility, at least sixty percent (60%) of whom are Persons of Low or Moderate Income, including without limitation Persons of Low or Moderate Income who are elderly and handicapped as determined by the Governmental Entity and/or the MFA, provided that the percentage of low-income persons and families shall be at least the minimum, if any, required by federal tax law.

3.26 “Multi-Family Housing Program” shall mean a program involving a Congregate Housing Facility, a Multiple Family Housing Project or a Transitional Housing Facility.

3.27 “Municipality” shall mean an incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties all as set forth in the Act.

3.28 “Oversight Committee” shall mean the MFA’s Legislative Oversight Committee created by, and appointed in accordance with, the MFA Act.

² Definition of “Mortgage Lender” was amended (as italicized) per 1999 legislative action and was subsequently approved by the MFA Board of Directors and was reviewed by the Oversight Committee for use in the MFA’s internal Rules and Regulations. The language, which has been underlined, was added to be consistent with the Act and these Rules.

SANTA FE COUNTY		ASSUME ACCESS TO UTILITIES				
DEVELOPMENT SIZE	10 EA					
ZONING	R-5	+/- 5200 FT2 LOTS				
TOTAL DEVELOPMENT AREA	2 AC					
SUB TOT.						
RAW LAND COST						
APPRaisal	87,120 FT2	\$	3.00	\$	261,360	
DEVELOPMENT COST					\$	26,136
PLANNING & ENGINEERING	10 DEV.				\$	1,000
CONSTRUCTION COST	10 DEV.	AVERAGE COST			\$	35,000
SOFT COST	10 DEV.				\$	5,000
ACCOUNTING						
LEGAL						
FINANCING						
MARKETING						
REALTOR--LAND	10.00%				\$	9,534
GROSS TAX	7.00%				\$	6,237
COST OF DEVELOPMENT						\$
OVERHEAD & PROFIT						\$
VALUE OF DEVELOPMENT						\$
SF COUNTY	2	10 EA	AVERAGE--SALES PRICE OF EACH MARKET LOT			\$
						\$
						\$
						\$

RESIDENTIAL LOT COST--WITH AFFORDABLE HOUSING

2

BASIS--PROPOSED--SANTA FE COUNTY ORDINANCE		ASSUME ACCESS TO UTILITIES				
DEVELOPMENT SIZE	10 EA					
ZONING	R-5					
TOTAL DEVELOPMENT AREA	2 AC					
30% AFFORDABLE HOUSING	3 EA					
MARKET LOTS AVAILABLE FOR SALE	7 EA					
RAW LAND COST						
APPRaisal	ATTACHMENT 'A'	87,120 FT2	\$	3.00	\$	261,360
DEVELOPMENT COST					\$	26,136
PLANNING & ENGINEERING	10 DEV.				\$	1,000
CONSTRUCTION COST	ATTACHMENT 'B'	10 DEV.	AVERAGE COST			\$
SOFT COST	10 DEV.				\$	5,000
ACCOUNTING						
LEGAL						
FINANCING						
MARKETING						
REALTOR	7	10.00%	INCREASE DUE TO INCREASED LOT PRICE			\$
GROSS TAX		7.00%	INCREASE DUE TO INCREASE IN REALTOR FEE			\$
COST OF DEVELOPMENT						\$
OVERHEAD & PROFIT						\$
VALUE OF DEVELOPMENT WITH AFFORDABLE						\$
						\$

LOT COST						\$	100,388
AFFORDABLE HOUSE COST	1,200 FT2	\$	120.00 /FT2			\$	144,000
INCOME FROM AFFORDABLE HOUSING							
INCENTIVES							
AVERAGE SALE OF EACH AFFORDABLE HOUSE					UNKNOWN ESTIMATED	\$	126,000
COST--AFFORDABLE HOUSE--PROFIT/LOSS EACH						\$	(118,388)
ADD LOSS OF AFFORDABLE TO BALANCE OF MKT LOT SALES X							3
AMOUNT OF AFFORDABLE HOUSE LOSS ADDED TO -EACH- MARKET LOT						\$	50,738
VALUE OF DEVELOPMENT						\$	1,359,043

SF COUNTY	2	7 EA	AVERAGE--SALES PRICE OF EACH MARKET LOT			\$	194,149
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MARKET LOT INCREASE DUE TO AFFORDABLE HOUSING COMPONENT \$ 98,805

COMPARISON OF A DEVELOPMENT WITH NO AFFORDABLE HOUSING TO A DEVELOPMENT WITH AFFORDABLE HOUSING

TYPICAL RESIDENTIAL LOT COST

3

SANTA FE COUNTY				SEPTIC TANKS			
DEVELOPMENT SIZE		24 EA		SHARED WELLS BY DEVELOPER, WATER TO LOT			
ZONING	2.5 AC	R-1		FIRE PROTECTION TANKS			
TOTAL DEVELOPMENT AREA		75 AC		PAVED ROADS			
				SUB TOT.	COST EA.	DEVELOPMENT TOT.COST	
RAW LAND COST							
APPRAISAL		75 AC		\$ 20,000.00	\$ 1,500,000	\$ 62,500	\$ 1,500,000
DEVELOPMENT COST							
PLANNING & ENGINEERING		24 DEV.		\$ 90,000	\$ 3,750	\$ 714,000	
CONSTRUCTION COST	ATTACHMENT "B"	24 DEV.		AVG COST	\$ 22,000		
SOFT COST		24 DEV.			\$ 4,000		
ACCOUNTING							
LEGAL							
FINANCING							
MARKETING							
REALTOR--LAND		10.00%				\$ 314,424	
GROSS TAX		7.00%				\$ 205,698	
				SUB TOT		\$ 2,734,122	
		15.00%		OVERHEAD, PROFIT		\$ 410,118	
				VALUE OF DEVELOPMENT		\$ 3,144,240	

SF COUNTY 3 24 EA AVERAGE SALES PRICE OF EACH MARKET LOT \$ 131,010

RESIDENTIAL LOT COST--WITH AFFORDABLE HOUSING

3

BASIS--PROPOSED--SANTA FE COUNTY ORDINANCE				NO ACCESS TO PUBLIC WATER OR SEWER			
DEVELOPMENT SIZE		24 EA		NO DENSITY INCREASE			
DENSITY INCENTIVE	15.00%	3 EA					
TOTAL DEVELOPMENT SIZE		27 EA					
ZONING		R-1					
TOTAL DEVELOPMENT AREA		75 AC					
30% AFFORDABLE HOUSING		8 EA					
				SUB TOT.	COST EA.	DEVELOPMENT TOT.COST	
RAW LAND COST							
APPRAISAL		75 AC		\$ 20,000.00	\$ 1,500,000	\$ 20,000	\$ 1,500,000
DEVELOPMENT COST							
PLANNING & ENGINEERING		24 DEV.		\$ 90,000	\$ 3,750	\$ 803,250	
CONSTRUCTION COST		24 DEV.		AVG COST	\$ 22,000		
SOFT COST		24 DEV.			\$ 4,000		
ACCOUNTING							
LEGAL							
FINANCING							
MARKETING							
REALTOR--LAND		19 10.00%		INCREASE DUE TO INCREASED LOT PRICE		\$ 459,811	
GROSS TAX		7.00%		INCREASE DUE TO INCREASE IN REALTOR FEE		\$ 224,787	
				SUB TOT		\$ 2,987,847	
DEVELOPMENT		15.00%		OVERHEAD, PROFIT		\$ 448,177	
				DEVELOPMENT VALUE WITH AFFORDABLE		\$ 3,436,024	
LOT COST						\$ 127,260	
AFFORDABLE HOUSE COST		1,200 FT2		\$ 120.00 /FT2		\$ 144,000	
INCOME FROM AFFORDABLE HOUSING INCENTIVES				UNKNOWN ESTIMATED		\$ 126,000	
AVERAGE SALE OF EACH AFFORDABLE HOUSE				COST--AFFORDABLE HOUSE--PROFIT/LOSS EACH		\$ (145,260)	
				ADD LOSS OF AFFORDABLE TO BALANCE OF MKT LOT SALES X		8 \$ 1,162,081	
				AMOUNT OF AFFORDABLE HOUSE LOSS ADDED TO EACH MARKET LOT		\$ 145,260	
				VALUE OF DEVELOPMENT		\$ 4,598,106	

SF COUNTY 3 19 EA AVERAGE SALES PRICE OF EACH MARKET LOT \$ 242,006

MARKET LOT INCREASE DUE TO AFFORDABLE HOUSING COMPONENT \$ 110,996

COMPARISON OF A DEVELOPMENT WITH NO AFFORDABLE HOUSING TO A DEVELOPMENT WITH AFFORDABLE HOUSING

CURRENT INCENTIVES

PROPOSED

SANTA FE CITY:

DEVELOPMENT REVIEW FEE WAIVED
 BUILDING FEE WAIVED
 CAPITAL IMPACT FEES
 UTILITY EXPANSION FEE WAIVED ON AFFORDABLE HOUSE
 BUILDING PERMIT FEES WAIVED

AT PERMIT APPLICATION
 AT PERMIT APPLICATION
 REQUEST REIMBURSEMENT
 AT WATER CONTRACT (\$1,200)
 REQUEST REIMBURSEMENT DIFFICULT

SANTA FE COUNTY:

DENSITY INCREASE OFFERED
 DEVELOPMENT REVIEW & BUILDING FEES WAIVED
 CAPITAL IMPACT FEES, UTILITY EXPANSIONS CHARGES WAIVED
 BUILDING PERMIT FEES WAIVED
 COUNTY UTILITY FEES WAIVED ON AFFORDABLE HOUSING

POLITICAL PROBLEM
 MINIMAL
 FIRE, MINIMAL
 MINIMAL
 ???

ISSUES

- 1 OFFERED INCENTIVES OF INCREASED DENSITY, DO NOT OCCUR DUE TO NEIGHBORHOOD PRESSURE AT DEVELOPMENT APPROVAL (PUBLIC PRESSURE ON POLITICAL) PROCESS SUGGESTING EXCESSIVE WATER USE, TRAFFIC, ETC.
- 2 FINANCIAL SHORT-FALL BETWEEN AFFORDABLE HOUSE COST (LOT COST & HOUSE CONSTRUCTION) AND HOUSE SALE PRICE INCREASES THE COST OF MARKET RATE LOTS (MKT RATE LOT + 50% OF LOSS ON AFFORDABLE). MOST TIMES DEVELOPER
- 3 MOST TIME DEVELOPER IS NOT A CONTRACTOR AND IS REQUIRED TO HIRE A CONTRACTOR WHO CHARGES STANDARD RATES FOR HOUSE CONSTRUCTION.
- 4 THE ADDITION OF AFFORDABLE HOUSING COST (LOSS) TO MARKET RATE LOT CREATES AN ARTIFICIAL INFLATION ON NEW MARKET SALEOF LOTS AND HOUSING.
- 5 REAL ESTATE APPRAISERS TRACK RELATIVE HOUSING VALUES BASED ON THE SALES PRICE OF NEW HOUSING DUE TO AVAILABLE DATA. THE PROCESS OF USING COMPARABLE VALUES FROM NEW HOUSE SALES TO ESTABLISH APPRAISALS ON EXISTING HOUSING HAS SKEWED THE SALES MARKET AS A RESULT OF ARTIFICIALLY INFLATING NEW HOUSING (MKT RATE LOT + 50% OF LOSS ON AFFORDABLE HOUSING) IN DEVELOPMENTS WITH AFFORDABLE HOUSING COMPONENTS.
- 6 THE APPRAISAL OF EXISTING HOUSING FOLLOWS THE SALES PRICE OF NEW HOUSING, WHERE AS ARTIFIALLLY INCREASING THE VALUE OF OLDER/EXISTING HOUSING.
- 7 THE ARTIFICIAL INCREASE IN APPRAISALS OF EXISTING HOUSING FUELS A SELL OFF OF OLDER HOUSING WHICH USED TO BE THE AFFORDABLE AND WORK FORCE HOUSING. WHERE-AS ELIMINATING OLDER AFFORDABLE HOUSING.
- 8 OLDER AND EXISTING HOUSING AFFORDABLE HOUSING ARE NOT ENCUMBERED BY THE HOP ORDINANCE ALLOWING FOR SPECULATIVE BUYING OF HOUSING.
- 9 THE PROPOSED HOP ORDINANCE PROGRAM FOCUSES ON CREATING 30% OF A 10% HOUSING MARKET (NEW CONSTRUCTION), WHILE ENCOURAGING THE ELIMINATION OF OLDER EXISTING HOMES TO BE SOLD AT ARTIFICIALLY INFLATED RATES.
- 10 OLDER PRIVATELY OWNED HOUSING IS FACED WITH INCREASING PROPERTY TAXES AT THE SANTA FE COUNTY ASSESSORS OFFICE DUE TO THE REPORTING OF SALES, THERE BY ESTABLISHING THE PROPERTY VALUE IN HOUSING NEIGHBORHOODS. AS RELATING TO TO CURRENT SALES.

TRANSFER TAX

DEVELOPMENT ASSUMPTIONS

APPLIED ON SALES OF ALL HOUSING IN SANTA FE URBAN BOUNDARY ---ABOVE \$390,000 (1)

NUMBER OF SALES ABOVE \$390,000 1144 EA.
SANTA FE URBAN BOUNDARY (1/1/05-8/31/05)

VALUE OF SALES (ABOVE MEDIAN SALES PRICE \$390,000) \$ 770,220,983 SALES
SANTA FE URBAN BOUNDARY (1/1/05-8/31/05)

**SALES INFORMATION SOURCE SANTA FE REALTORS ASSOCIATION.

0.50% TRANSFER TAX ON HOUSING ABOVE MEDIAN SALES PRICE

ESTIMATED **GENERATED TAX** \$ 3,851,105

A. ACCUMULATED TAX TO BE DEPOSITED INTO SEPARATE ACCOUNT (AUDIT QUARTERLY, BY INDEPENDENT CONTRACTOR)
B. TAX TO BE ADMINISTERED BY SF COUNTY/CITY HOUSING (SFCCH) INDEPENDENT OVERSIGHT COMMISSION

1 STAFFING AND FACILITIES PAID FOR BY TRANSFER TAX FUNDING
2 SALES VERIFIED WITH SF COUNTY ASSESSOR (ALL SALES CURRENTLY TRACKED BY SF ASSESSOR)
C. INDEPENDENT OVERSIGHT COMMISSION---12 MEMBER

- 1 (SFCCH)--APPOINTED BY EACH COUNCILOR, COMMISSIONER, MAYOR
- 2 (SFCCH)--ELECT CHAIR PERSON FROM WITHIN COMMISSION
- 3 (SFCCH)--DUTIES
 - a. CREATE POLICY
 - b. MONITOR FINANCIAL STATUS OF HOUSING FUND
 - c. APPROVE FUNDING EXPENDITURES

D. LIEN ENCUMBRANCE ON ASSISTED HOUSING EXPENDITURES.

E. TRANSFER TAX EXPENDITURES TO BE SPENT PROPORTIONALLY, BETWEEN CITY/COUNTY BASED ON SALES AT CITY, COUNTY.

F. TRANSFER TAX FUNDS TO BE USED ON THE FOLLOWING:

- 1 PURCHASE-- DOWN PAYMENT ASSISTANCE, REIMBURSEMENT TO SFCCH AT PROPORTIONAL SHARING AT SALE
- a. SHARING OF SALES EQUITY & REIMBURSEMENT TO SFCCH PROPORTIONAL AT SALE.

EXAMPLE: A	\$ 100,000	10% DWN PMT REQUIRED	RE-SALE IN 5 YEARS
	1 DWN PYMT: \$ 10,000	BUYER DOWN PAYMENT	2.00% \$ 2,000
	2 (SFCCH)--ASSISTANCE	(SFCCH)--ASSISTANCE	8.00% \$ 8,000
	3 MO. PRINCIPLE PYMT: BUYER 6.00%	BUYER 60 MONTHS	\$ 6,000
	4 RE-SALE VALUE AT 5 YEARS INCREASE		\$ 120,000

ELECTRICAL
GAS
PHONE
TV

B. INFRASTRUCTURE QUANTITIES/COSTS ARE CURRENTLY REVIEWED BY CITY/COUNTY STAFF.

I. ELDERLY HOUSING

A. NEW ELDERLY HOUSING

1 RETIREMENT HOMES--ELDERLY ONLY

B. ELDERLY LOW INCOME ASSISTANCE

- 1 EMERGENCY HOUSING RELATED FUNDING
- 2 UTILITY ASSISTANCE
- 3 PROPERTY TAX ASSISTANCE
- 4 HOUSEHOLD MEMBERS WHO ARE CAPABLE OF EMPLOYMENT MUST BE EMPLOYED

J. YOUTH HOMELESS SHELTERS

A. NEW HOUSING

B. EXPANSION OF EXISTING HOUSING

C. FUNDING FOR STAFFING AND OPERATING EXPENSES

D. EDUCATIONAL PROGRAMS AND COUNSELING

H. EDUCATIONAL ASSISTANCE

A. CREATE EDUCATIONAL LOCATIONS (TEACHING CENTERS) (POSSIBLE PARTNERSHIP WITH SCHOOL DISTRICTS, SHARE EXPENSES)

B. TEACHER SALARY

1 TUTORING PROGRAMS (PAY TEACHER SALARIES AFTER SCHOOL, SUMMER)

C. MAINTENANCE COSTS OF EDUCATIONAL COMPLEXES (POSSIBLE PARTNERSHIP WITH SCHOOL DISTRICT SHARE EXPENSES)

I. ISSUES

1 REVISE HOUSING REQUIREMENTS LEVELS

(0-68% INCOME-7.5% HOUSING, 66%-80% INCOME-7.5% HOUSING, 81%-100% INCOME-7.5% HOUSING, 101%-120% INCOME-7.5% HOUSING)

2 TAX FUNDING OF INFRASTRUCTURE WOULD ENCOURAGE AFFORDABLE HOUSING BY MINIMIZING DEVELOPER/CONTRACTOR LOSS.

3 TAX FUNDING PROVIDES FOR INCREASED AFFORDABLE HOUSING INCENTIVES.

4 TAX FUNDING ASSISTANCE WOULD PROVIDE ABILITY FOR OLDER HOMES TO REMAIN AS AFFORDABLE OR WORKFORCE.

5 TAX FUNDING WOULD PROVIDE ASSISTANCE FUNDING FOR VERY LOW INCOME HOUSING.

6 TAX FUNDING WOULD PROVIDE FUNDS FOR SHELTER ISSUES.

7 TAX FUNDING ASSISTANCE FOR DEVELOPMENT INFRASTRUCTURE ASSISTANCE ON AFFORDABLE HOUSING WOULD REDUCE ARTIFICIAL INFLATION ON MARKET SALE LOTS DUE TO THE BELOW COST SALE OF AFFORDABLE HOUSING.

8 TRANSFER TAX COULD BE SPENT IN AREAS OF SANTA FE COUNTY WHICH ARE NOT IN AS HIGH DEMAND AS THE CENTRAL PART OF THE COUNTY.

- a. EXPENDITURES FOR AFFORDABLE HOUSING AND ASSISTANCE ARE RELATIVE TO THE REAL-ESTATE MARKET IN THE NORTH AND SOUTH PART OF THE COUNTY. (IE. LOWER LAND COSTS, AVAILABLE WATER)