

August 4, 2009

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Conceptual Approval of Draft Amendments to the County Housing Element and Related General Plan Amendments, and Draft Non- Coastal Zoning, Coastal Zoning and Subdivision Ordinance Amendments; Approval of Sites for Further Evaluation for Re-zoning to Residential High Density (RHD) Zone; Determination of Lower-Income Housing Requirements for the Proposed RHD Zone; and Approval of Draft Scope-of-Work for Environmental Review – Countywide (July 14, 2009 Board of Supervisors Agenda Item #33 – Continued to August 4, 2009)

Recommendations:

As provided in Board Letter dated July 14, 2009 including staff's amendment at the July 14, 2009 hearing to Recommendation 1 to delete revisions to policy 3.1.2-11 of the *Goals, Policies, and Programs* (Exhibit 2)

Statement of Matter for Board Consideration:

On July 14, 2009, the Board continued this item to August 4, 2009. Six public comment letters were received on July 13 and 14, 2009 regarding the subject item. One additional letter was received on July 28, 2009. This Board letter provides Planning Division staff's responses to those letters and to the oral comments of Mr. David Alpern.

Discussion:

Two of the comment letters received (Exhibits 11 and 13) raised many similar issues and are summarized together below. Most of the other comments received relate to some aspect of our proposed re-zoning program and are summarized separately.



Comment letters from Barbara Macri-Ortiz and Donald K. Perry, Directing Attorney for the California Rural Legal Assistance (CRLA) dated July 13, 2009 (Exhibits 11 and 13)

1. Monthly Mortgage Payment Estimates and Income and Housing Payment Affordability (Exhibit 1, Land Use Appendix, pgs. 6 - 7; Figures 3.3.3-5 and 3.3.3-6)

Ms. Macri-Ortiz contends that, "... the data contained in these charts is inaccurate and should be corrected," because they do not account for costs of insurance, taxes, and utilities.

Staff has reviewed the text and data in the two figures in question and has verified that the data in the charts is in fact correct. They were prepared based on the State's guidelines for the preparation of the General Plan Annual Report, as well as Section 50052.5 of the California Health and Safety Code. The draft Land Use Appendix (LUA) text explains that the figures do not include the expense of home insurance, property taxes, or private mortgage insurance, utilities, etc.

The practical effect of adding home insurance, property taxes, or private mortgage insurance to the affordability calculations is limited - there are very few single-family dwellings that are currently affordable for lower-income households in Ventura County. Adding these additional costs to housing prices that are already unaffordable to lower-income households doesn't change the county's inventory of currently constructed or future housing.

Additionally, Planning Division staff could find no reference in State housing law requiring the inclusion of utility expenses when calculating affordability. CA Government Code Section 65589.5 (h)(3) and (4) references monthly housing costs that do not exceed 30 percent adjusted solely for household size. Moreover, while it is true that the CA Department of Housing and Community Development (HCD) has guidance on its web site referencing the inclusion of utilities, these guidelines provide no definition of which utilities should be included (e.g., cable, telephone, gas, electric). Moreover, there is a wide range of utility rates for different utility providers and geographic locations, and the utility costs will be different for each household. Incorporating utility costs is extremely difficult to determine and would require an additional set of gross assumptions.

Planning Division staff is recommending that all eight potential re-zoning sites be evaluated in the environmental document not only to help prioritize the development feasibility of the sites, but also to allow flexibility for accommodating additional lower income units should HCD not agree with all of the current assumptions.

2. 2006-2008 Housing Completions for Unincorporated Ventura County (Exhibit 1, Land Use Appendix, page 15; Figure 3.3.5-7)

Ms. Macri-Ortiz refutes the data collected and reported by staff regarding second units and does not agree that these units are available to extremely low and very low income households. She argues that "It does not follow that by virtue of the fact that an extremely low income household lives in a particular unit, that the unit is actually being rented at a rate that is affordable to the extremely low income household."

Mr. Perry also states that this information is not accurate. His argument is that "...the documentation ... appears to show that a certain percentage of the County's second dwelling units are (arguably) affordable to Low Income households, rather than Very Low Income households (which include Extremely Low Income households)." Mr. Perry goes on to state that "In fact, many of the second dwelling units are affordable to moderate or upper income households, according to the Craig's List data."

The data collected by staff shows that the units classified as affordable to extremely low income households are generally being occupied by elderly or disabled adults who are not paying rent. If the unit is being offered for free, then it follows that the unit is affordable at the extremely low-income category. Whether or not these units are occupied by members of the immediate or extended family or the occupant of the primary unit, as argued by Ms. Macri-Ortiz, is not relevant. The units are serving as housing for extremely low income households that would otherwise need to live elsewhere if they are to maintain a separate household. In addition, it is reasonable to assume that some of the elderly and disabled occupants require assistance that can be provided by immediate family members residing in the primary units. This scenario gets to the crux of the second unit law that was designed for facilitating the development of second units to provide housing for elderly and other lower-income households. (CA Government Code Section 65852.150)

Staff further contends that one reason there are no listings on Craig's List offered at a rental rate for very low-income households is because the units that are available at the lower rates are most likely occupied and do not require advertisement. Only the rentals that are not occupied need advertisement and the units that are left are the more expensive ones. Finally, staff believes that the survey responses offer additional information about a different, yet real segment of the population that requires such housing units, but would not necessarily be using Craig's List as a means to find housing.

3. *Residential High Density Zone with Lower Income Housing Requirements (Exhibit 2; Program 3.3.3-5(11))*

Ms. Macri-Ortiz concurs with staff's recommendations for the Residential High Density zone and Option 1 for ensuring affordability.

Mr. Perry explains that due to the way second unit affordability was calculated, the rezoning program should, "include the rezoning to accommodate ... planning for 66 lower income units instead of 28."

Although staff is confident that the second unit analysis is accurate, even if the units were affordable to only low-income households instead of very low- or extremely low-income households, they are still within the overall lower-income category. Therefore, the number of units that need to be planned for still remains at 28 units. Nonetheless, staff recommends that all eight of the potential re-zoning sites be included in the upcoming environmental review for reasons stated in the Board letter dated July 14, 2009.

4. *General Plan and Non-Coastal Zoning Ordinance to allow for the creation of parcels less than 40 acres in the AE zone for Farm Worker Housing Complexes. (Exhibit 2; Program 3.3.3.5(8))*

Ms. Macri-Ortiz states that, "We have two specific objections to the proposed ordinance Sec. 8103-2.7 – Parcels for Farm Worker Housing Complexes: (1) parcels in the OS zone are not included within the scope of the ordinance; and (2) the ordinance requires that the remaining non-farmworker housing complexes parcel is a minimum of 40 acres."

Similarly, Mr. Perry states that, "...the primary difficulties with the proposed program appear to be the failure to include parcels in the OS zone and the requirement that the remainder of any parcel used for the development of a farmworker housing complex have a minimum of 40 acres."

With regard to (1) above, preliminary estimates indicate that over 200 assessor parcels of 15 acres or more are zoned OS and located within or adjacent to a city sphere of influence. The majority of these parcels are located in proximity to Santa Paula, Simi Valley, Thousand Oaks and Ventura. Planning Division staff does not have any objections to including parcels in the OS zone since farmworker complexes are allowed in both the AE and OS zones. Expanding the draft ordinance language to include land in the OS zone could be considered.

With regard to (2) above, staff included a minimum parcel size for the residual non-farmworker parcel based on General Plan goal 3.2.1-4(3), which states: "Maintain agricultural lands in parcel sizes which will assure that viable farming units are retained", and policy 3.2.2-4(2), which prescribes 40 acres as the smallest minimum parcel size. Nonetheless, your Board may wish to consider the testimony received from the Agricultural Commissioner and Farm Bureau regarding agriculture viability on smaller parcels. However, given current ordinance restrictions related to conservation parcel remainders (minimum 10 acres) and the goals of the AE zone as defined in the General Plan, staff recommends a minimum lot size of 10 acres be required for the remainder parcel. Likewise, staff would recommend a minimum lot size of 10 acres be required for the remainder parcel if your Board decides to include OS zone in the exemption for farmworker housing complexes.

Comment Letter from Paul H. McDaniel, Secretary, Strickland Mutual Water Company dated July 13, 2009 (Exhibit 14)

This letter was addressed by staff at the public hearing on July 14, 2009, but responses are reiterated here for your convenience. Mr. McDaniel states that "...Strickland Mutual Water Company has not been formally contacted as to whether we could or would provide water to such a new development." While it is true that they were not "formally" contacted, staff spoke with Mr. Paul Wilvert on March 20, 2009, who was listed as the contact person for Strickland Mutual Water Company in the Ventura County Inventory of Public and Private Water Purveyors in Ventura County. Mr. Wilvert indicated that he was the correct contact at that time and that Strickland Mutual could serve the site, but some upgrades to the existing system would most likely be required. No formal "will

serve" letter is required at this stage as there is no pending or approved project. There are new Board members at the Water Company who have submitted this comment letter.

Mr. McDaniel also states "...we cannot at this point provide the County an assurance that Strickland Mutual Water Co. would provide water for new development of the type contemplated." The intent is that this issue would be investigated in more detail in the environmental impact report (EIR).

Finally, Mr. McDaniel states "...it does not appear that the County gave proper notice to persons potentially affected by the proposed change, as residents of Strickland Drive did not receive notice by mail." While it was intended to provide the adjacent property owners with direct mail notice, unfortunately, this batch of notices were inadvertently not printed and mailed. Direct mail notice is not required at this time as there is no approval being considered; however the hearing was legally noticed in the Ventura County Star on July 3, 2009.

Comment Letter from Barbara Johnson dated July 14, 2009 (Exhibit 15)

Ms. Johnson comments regarding potential re-zoning of properties located in the Santa Susana Knolls area. She states the item "... is a proposed amendment that could have extremely negative effects on the surrounding community, involving safety, traffic, incompatible land use, and noise impacts." Her letter goes on to elaborate on each of these potential issues. Staff intends to address each of these issues in the EIR and will use her comment letter in that effort. We also encourage Ms. Johnson to attend the EIR scoping meeting once the environmental review process moves forward.

Comment Letter from Janet Bergamo, Piru Neighborhood Council dated July 13, 2009 (Exhibit 16)

Ms. Bergamo's concern is with potential re-zoning of the two sites located in the Piru Community. She cites specific problems with each of the two sites including community character, flooding, agricultural-urban interface issues, and traffic issues. Although several of these issues were addressed in the Piru Area Plan update EIR that was approved in December 2008, staff intends to further evaluate these issues in conjunction with the environmental review for this re-zoning program. Ms. Bergamo also expresses her concern over the seemingly "...disproportionate amount of low income housing..." in the Piru Community. Staff is recommending further evaluation of eight potential re-zoning sites in four different geographic areas of the county, including the Piru Community.

Comment Letter from Lovie Bolsinger dated July 14, 2009 (Exhibit 17)

Ms. Bolsinger's primary concern is with traffic issues and the potential effect of re-zoning to high density residential on the Santa Susana Pass Road.

Staff is intending to evaluate traffic and other issues in conjunction with the environmental review for this re-zoning program. We encourage Ms. Bolsinger to attend the EIR scoping meeting once the environmental review process moves forward.

Comment Letter from Nikolai Safavi dated July 28, 2009 (Exhibit 19)

Mr. Safavi comments on "...low income and farm housing". He states "I would like to present several argument (sic) in favor of urgent development of farm-labor housing, and to counter points that were raised by several people during your meeting." He argues that, "Demand for housing far exceeds the 28 units needed, per your recent evaluation of inventory levels...you will need close to 400 units, if not more." There is no explanation of how the Mr. Savafi's 400 units estimate was reached making it difficult to respond to his comment. The assumptions used in staff's analysis are included in the LUA.

Mr. Savafi also argues against points made by public commentators at the July 14, 2009 public hearing. He expresses his support of using the OS zoned properties. Staff assumes the OS zoned parcels is in reference to creation of substandard sized parcels for Farmworker Housing Complexes and the issues raised by Barbara Macri-Oritz and CRLA that are discussed and responded to above.

Public Testimony Received from David Alpern on July 14, 2009

Public comment was received from Mr. Alpern regarding resolution of access issues on potential re-zoning site 14 in the Santa Susana Knolls area. Staff did not recommend further consideration of this site for several reasons stated in the July 14, 2009 Board letter (Exhibit 8), the most significant of which involved an unresolved access issue. On July 14, 2009, Mr. Alpern stated that the access issue had been resolved and that they were in possession of the documentation the County Planning Division requested with reference to their pending discretionary application. As of your July 14, 2009 hearing the Planning Division had no written or verbal correspondence confirming his statement.

Representatives from Colton Lee Communities subsequently met on with County Planning Division staff and presented documents related to the pending access issue. A copy of these documents was submitted to the County Surveyor's office for review and verification. As of the date of this writing, that review is not complete. However, if the County Surveyor is satisfied that sufficient right-of-way exists, then the Planning Division recommends that this site, (Site 14) be added to the sites that will be evaluated in the EIR for possible rezoning to RHD.

This Board item has been reviewed by County Executive Office and County Counsel. If you have any questions regarding this item, please contact me at 805-654-2481, or Bruce Smith at 805-654-2497.


Kim L. Rodriguez
Planning Director

Attachments:

- Exhibit 1 – Draft Amendments to the *Land Use Appendix* of the General Plan
- Exhibit 2 – Draft Amendments to the *Goals, Policies and Programs* of the General Plan
- Exhibit 3 – Draft Amendments to the Non-Coastal Zoning Ordinance:
 - Exhibit 3-1– Draft Special Needs Housing, Emergency Shelters, and Reasonable Accommodation Ordinance Amendments
 - Exhibit 3-2 – Draft Farmworker Housing Complex Ordinance Amendments
 - Exhibit 3-3 – Draft Second Dwelling Unit Ordinance Amendments
 - Exhibit 3-4 – Draft High Density Residential (RHD) Zoning Amendments
- Exhibit 4 – Draft Amendments to the Coastal Zoning Ordinance
- Exhibit 5 – Draft Amendments to the Subdivision Ordinance
- Exhibit 6 – Map Depicting Potential Emergency Shelter Sites
- Exhibit 7 – Map of Potential Farmworker Complex Sites
- Exhibit 8 – Potential Sites for Re-zoning to 20 Dwelling Units per Acre
- Exhibit 9 – Options for Lower-Income Housing Requirements in the Residential High Density Zone
- Exhibit 10 – Preliminary Scope of Work, Cost Estimate and Timeline for EIR
- Exhibit 11 – Letter from Barbara Macri-Ortiz (received July 13, 2009)
- Exhibit 12 – Power Point Presentation (presented July 14, 2009)
- Exhibit 13 – Letter from Ronald Perry - California Rural Legal Assistance (received July 13, 2009)
- Exhibit 14 – Letter from Paul H. McDaniel (received July 14, 2009)
- Exhibit 15 – Letter from Barbara Johnson (received July 14, 2009)
- Exhibit 16 – Letter from Janet Bergamo - Piru Neighborhood Council (received July 14, 2009)
- Exhibit 17 – Letter from Lovie Bolsinger (received July 14, 2009)
- Exhibit 18 – Proposed 135 Low Income Housing Units in Piru – Petition (received July 14, 2009)
- Exhibit 19 – Letter from Nikolai Safavi (received July 28, 2009)