



Meeting Date: 07/11/2006

| ACTION | TYPE OF ITEM |
|--|--|
| <input type="checkbox"/> Approved Recommendation | <input type="checkbox"/> Info/Consent |
| <input type="checkbox"/> Ord. No(s). _____ | <input checked="" type="checkbox"/> Report |
| <input type="checkbox"/> Res. No(s). _____ | <input type="checkbox"/> Public Hearing (Info/consent) |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Other _____ |

Prepared By: Ernest Whitaker Agenda Item No. 0-1

Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Other (Specify) _____

DATE: June 28, 2006

TO: City Council
Community Development Commission

FROM: Sal Gonzalez, Housing Director
Housing Department [Signature]

SUBJECT: Affordable Housing and In-Lieu Fee Ordinance and Resolution

RECOMMENDATION

1. That City Council approve the first reading by title only and subsequent adoption of an ordinance amending and restating Ordinance No. 2615 regarding affordable housing inclusionary requirements and in-lieu fees.
2. That the Community Development Commission adopt a resolution amending and restating Resolution No. 85, regarding affordable housing inclusionary requirements and in-lieu fees.

DISCUSSION

On March 28, 2006, staff presented to City Council a proposed amendment to the City's Ordinance No. 2615 concerning affordable housing inclusionary requirements and in-lieu fees. Staff proposed, among other things, increasing the amount of in-lieu fees.

A summary of the amendments proposed on March 28, 2006 is as follows:

- A minimum in-lieu fee of \$5,000 for units selling for \$500,000 or less.
- For units over \$500,000, a fee of 1% of the sales price.
- A fee of \$4,675 for apartments, to be adjusted every twelve months, starting in January 2007, based on the Consumer Price Index (CPI).
- The City Council could allow a developer to either pay the 1% in-lieu fee or require the construction of the affordable units.

At the March 28, 2006 meeting, City Council indicated that it desires that the ordinance provide flexibility for negotiating an in-lieu fee higher than 1%. Since the March 28, 2006 meeting, staff has

Subject/In-Lieu Fee Ordinance and Resolution

June 29, 2006

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worked on revisions to ordinance No. 2615 to accomplish this goal. It has also met on several occasions with representatives of the Building Industry Association ("BIA") to discuss BIA's concerns with the amendment and other concerns relating to Ordinance No. 2615.

As a result of these discussions, staff is presenting a restated ordinance which will replace Ordinance No. 2615. In most respects, the restated ordinance is identical to Ordinance No. 2615. The restated ordinance combines several amendments which previously have been made to Ordinance No. 2615 as well as amendments proposed and suggested at the March 28, 2006 meeting into one ordinance.

The restated ordinance contains the following provisions:

- The minimum in-lieu fee is established at \$5,000 for units \$500,000 or less.
- The fee for units over \$500,000 is 1% of the estimated sales price, in increments of \$50,000.
- The fee for apartments is \$4,675 per unit, to be adjusted every twelve (12) months.
- The City Council may require a developer to pay a greater fee than 1% based on factors set forth in the ordinance.
- The City Council may require a developer to pay a combination of a fee and also to provide other affordable housing benefits.
- The City Council will make its decisions during the pre-application process.

In addition, changes have been made in Part 7, of the restated ordinance at the request of BIA. The changes establish more flexibility for a homebuilder in the design and location of the affordable units when built on site.

A further change is set forth in Part 12. Existing Ordinance No. 2594 allows a developer to appeal the application of Ordinance No. 2615 to a project to the City Council. This provision is now included in the restated ordinance.

The final change is in Part 14. A previous amendment to Ordinance No. 2615 made the ordinance applicable to projects to which the City's density bonus ordinance applies. Part 14 adds these provisions to the restated ordinance.

The Resolution of the Community Development Commission follows the terms of the City ordinance and the criteria will be applicable to redevelopment areas.

The proposed ordinance has been developed by staff members from City Attorney, Finance, Planning, Development Services and Housing. Staff of BIA and Paragon Communities participated in the process and provided suggestions, some of which have been incorporated in the ordinance.

FINANCIAL IMPACT

Any increase in revenue will be placed in the affordable housing in-lieu fee fund balance and used for affordable housing programs as designated by City Council.

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(EW/em)

Attachment #1 - Proposed Ordinance
#2 - Proposed Resolution

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, CONCERNING AFFORDABLE HOUSING REQUIREMENTS FOR NEW DEVELOPMENTS AND IN-LIEU AFFORDABLE HOUSING PAYMENTS

WHEREAS, the State of California has declared that the provision of affordable housing in all communities for all segments of the population is a matter of statewide importance and concern; and

WHEREAS, the State of California requires all cities and counties to adopt and implement a general plan which governs many of the overall land use and planning issues for the local agency to use as a guideline for future development, including affordable housing; and

WHEREAS, the City of Oxnard adopted the 2020 General Plan which includes several specific elements, including the Growth Management Element, the Land Use Element, and a Housing Element, which all contain certain goals, objectives and policies concerning affordable housing; and

WHEREAS, the 2020 General Plan Growth Management Element encourages the adoption of implementation measures which would promote a match between the price of housing and the household income of all Oxnard residents; and

WHEREAS, the 2020 General Plan Land Use Element requires a balanced community that meets the housing needs of all segments of the community and also provides for a balance between jobs and housing within the community; and

WHEREAS, the 2020 General Plan Housing Element contains a requirement that the City provide for a variety of housing types throughout the City which meet the needs of all economic segments of the community, including affordable housing units; and

WHEREAS, State law provides that legal actions may be brought to prohibit new residential housing if the 2020 General Plan Housing Element is not complied with; and

WHEREAS, the City Council has received an affordable housing report which found that low and very low income families, especially large and farm worker families, in the community are experiencing a housing shortage; and

WHEREAS, the City Council has stated in the 2020 General Plan and the Housing and Land Use Elements, that one of the major goals of the City is to achieve a balanced community with housing available for households of all income levels, so that the low and very low income families may have housing available at an affordable cost; and

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WHEREAS, the affordable housing report further found that low and very low income families are living within the community in severely overcrowded housing and/or in housing that is not decent, safe and sanitary; and

WHEREAS, the affordable housing report further found that federal and state housing subsidy programs are not sufficient by themselves to satisfy all of the housing needs of low and very low income households, which has further exacerbated the availability of affordable housing; and

WHEREAS, the affordable housing report found that the housing shortage of new housing affordable to low and very low income families is detrimental to the public health, safety and welfare and that the City is required by California public policy to make available an adequate supply of housing for persons of all economic segments of the community, including low and very low income families; and

WHEREAS, the City Council finds that new residential development enjoys the benefits of public resources and City facilities and must participate in protecting and enhancing the public welfare by helping to meet the goals and objectives for affordable housing set out in the 2020 General Plan and its various elements; and

WHEREAS, the City Council finds that new residential development that does not include affordable housing on site reduces the limited inventory of real property in the city that may be used to develop affordable housing; and

WHEREAS, the City Council desires to establish a policy for the provision of affordable housing on a City-wide basis for all new development; and

WHEREAS, the City Council desires that a program exist to allow new residential development to provide an in-lieu affordable housing payment in place of providing affordable housing units on site, which in-lieu payment would allow other affordable housing goals and objectives to be met throughout the City; and

WHEREAS, based on the foregoing recitals, on April 20, 1999, the City Council adopted Resolution No. 11,570, establishing affordable housing requirements and in-lieu fees; and

WHEREAS, on October 5, 1999, the City Council adopted Resolution No. 11,645, amending Resolution No. 11,570, and on October 19, 1999, adopted Resolution No. 11,651, repealing Resolution No. 11,645; and

WHEREAS, on October 19, 1999, the City Council adopted Resolution No. 11,652, amending Resolution No. 11,570 to exempt certain projects there from; and

WHEREAS, on October 26, 1999, the City Council adopted Ordinance No. 2506, establishing the affordable housing requirements contained in Resolution Nos. 11,570 and 11,652 by ordinance; and

WHEREAS, on December 5, 2000, the City Council adopted Ordinance No. 2545, making certain adjustments to Ordinance No. 2506; and

WHEREAS, on March 5, 2002, the City Council adopted Ordinance No. 2594, providing a procedure to appeal application of Ordinance No. 2545, and any successor ordinance, on the basis that its application to a specific project was unconstitutional; and

WHEREAS, December 3, 2002, the City Council adopted Ordinance No. 2615, replacing Ordinance No. 2545; and

WHEREAS, on June 28, 2005, the City Council adopted Ordinance No. 2688, making adjustments to Ordinance No. 2615; and

WHEREAS, the City Council now desires to amend Part 10 of Ordinance No. 2615 and make other minor adjustments thereto and reenact Ordinance No. 2615 as amended; and

WHEREAS, as this ordinance does not establish a new affordable housing program, but only makes certain adjustments to Ordinance No. 2615, the City Council finds that there is no possibility that adoption of this ordinance may have a significant effect on the environment; that the in-lieu Affordable Housing Payments adopted by this ordinance create government funding mechanisms that do not involve any commitment to any specific project and thus do not constitute a project, as defined by Section 15378(b)(4) of the State California Environmental Quality Act (CEQA) Guidelines; and that consequently adoption of this ordinance is not subject to CEQA.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part 1. All recitals set forth hereinabove are found and determined to be true and correct and are incorporated into this ordinance by this reference.

Part 2. The findings and references to affordable housing that are contained in the 2020 General Plan, as set out in Attachment 1 to the staff agenda report on affordable housing, dated April 8, 1999, and the staff reports considered at the City Council meetings held on November 14, 2000, in connection with the adoption of Ordinance No. 2545, the staff report considered on January 29, 2002 in connection with the report of the ad hoc affordable housing committee, and the staff report dated July 20, 2004, all on file with the City Clerk, are incorporated by reference as findings in support of the affordable housing requirements set out in this ordinance.

Part 3. All new residential projects containing ten or more dwelling units to be offered for sale shall include a number of dwelling units equal to not less than 10% of the total number of dwelling units offered for sale in the project that shall be sold at an affordable housing cost to persons and families of lower income, as defined in California Health and Safety Code Section 50079.5. Each such affordable dwelling unit shall have at least three bedrooms, provided that if a project contains at least ten two bedroom units, two bedroom affordable units may be provided in the same percentage ratio to all affordable units as the percentage ratio of two bedroom market rate units bears to the total number of market rate units in the project. For purposes of this

ordinance, the term "units offered for sale" includes units classified as condominium units under California law.

Part 4. All new residential projects containing ten or more dwelling units to be offered for rent shall include a number of dwelling units equal to not less than 5% of the total number of dwelling units in the project offered for rent that shall be rented at an affordable rent to persons and families of very low income, as defined in California Health and Safety Code section 50105, and shall include an additional number of dwelling units equal to not less than 5% of the total number of dwelling units in the project offered for rent at an affordable rent to persons and families of lower income, as defined in California Health and Safety Code section 50079.5. If the number of bedrooms per unit varies within a project, the number of low and very low income units of each bedroom numbers must meet the requirements of this part 4, i.e., affordable units shall be proportionately distributed throughout the project by bedroom size.

Part 5. As used in this ordinance, the term "housing cost" includes the costs described in 25 California Code of Regulations section 6920, except that in determining housing cost under this ordinance the amount paid for maintenance and utilities will not be included. For purposes of calculating mortgage loan cost, a prevailing market interest rate for a fixed interest rate loan will be used. As used in this ordinance, the word "rent" has the meaning ascribed to such word in 25 California Code of Regulations section 6918. For purposes of this ordinance, "affordable housing cost or rent" shall mean:

- (a) With respect to a low income person or family, rent or housing cost not in excess of 30% of 80% of the Area Median Income for the Ventura County Metropolitan Statistical Area, adjusted for family size appropriate for the unit in question, as set forth in Section 6932 of Title 25 of the California Code of Regulations; and
- (b) With respect to a very low income person or family, rent or housing cost not in excess of 30% of 50% of the Area Median Income for the Ventura County Metropolitan Statistical Area, adjusted for family size appropriate for the unit in question, as set forth in Section 6932 of the Title 25 of the California Code of Regulations.

Prior to offering for sale or rental the first unit which the developer intends to qualify as an affordable unit under Part 3 or Part 4 of this ordinance, the developer shall submit to the City's Housing Director the proposed sale price or rental amount for all the affordable units and the dates upon which the affordable units will be offered for sale or rental, and thereafter, any other information requested by the City's Housing Director. The Housing Director shall review the information submitted, and within 30 days of receipt of all requested information, shall determine whether the sales price or rental amount is affordable as provided in Parts 3 and 4. Thereafter, if the developer desires to increase the sales price or initial rental amount for any for sale affordable units, the developer must obtain the approval of the Housing Director. A developer may appeal a decision of the Housing Director made pursuant to this Part 5 within the time and following the procedures (including payment of the fee) set forth in the Oxnard City

Code section 16-545 et seq. for appeal of a decision of the Planning Commission denying a special use permit.

Part 6. Not later than the date of application for the first building permit for a project that is subject to Part 3 or 4 of this ordinance, the developer shall cause to be recorded in the office of the Ventura County Recorder covenants approved in form and substance by the Housing Director. Such covenants shall identify the affordable dwelling units, restrict the qualifying income of purchasers and tenants of such units, specify the maximum housing cost for such units, and require that such units remain affordable for at least 20 years. The covenants shall provide that the developer shall require any purchaser of an affordable unit or project to execute a resale restriction agreement in form and substance satisfactory to the City's Housing Director, which resale restriction agreement shall provide for continuing affordability in the sale or rental of units for at least 20 years. The covenants shall run with the land. If the original developer or a subsequent owner complies with the covenants and/or resale restriction agreement by conveying the project or unit only to an eligible low or very low income transferee at an affordable cost as provided in this ordinance, the developer or such owner shall not be responsible for any violation of such covenants or resale restriction agreement by future transferees.

Part 7. Such affordable units shall be designed and constructed so as to be architecturally consistent with and qualitatively similar to other (unrestricted) units in the project. Generally, affordable units shall be dispersed throughout the project. As part of the developer's application for any land use approvals required for the project and prior to the date upon which the application is deemed complete, the developer shall submit to the City planning staff such documents and plans as planning staff determines are necessary and appropriate for the City to determine that the requirements of this ordinance have been met and that the design and placement of the affordable units will not affect the quality of the project or the affordable units, and will not result in discrimination on any legally prohibited basis. The City Council, Planning Commission, or other decision making person or body with final approval over the project shall make such determination. The determination of such decision making body shall be made exercising its sole, good faith, discretion.

Part 8. As part of the developer's application for land use approvals required for the project and prior to the date upon which the application is deemed complete, the developer of a project that is subject to this ordinance may request in writing that instead of providing such affordable housing within the proposed project, the developer shall provide such affordable housing on specified off-site land. The request shall be presented to the City Council, which shall determine in its sole discretion whether the land is suitable for affordable housing. If the City Council determines that the land is suitable, the developer shall enter into an agreement with the City to provide affordable housing on such land. The agreement shall provide for affordable units in a number not less than the number of on-site units required by this ordinance for the project. The agreement shall contain conditions and provisions requiring the construction of such affordable units prior to or concurrent with construction of the project, unless the City Council determines in its sole discretion that such a condition is not necessary to ensure that the affordable units are constructed. The agreement may contain such other terms and conditions as the City Council determines are necessary or appropriate.

Part 9. The developer shall establish and at all times maintain a written list of Oxnard residents qualified to purchase or rent each of the affordable units. The developer shall offer the affordable units to qualified Oxnard resident buyers or renters on the waiting list first and give preference to them until there are no qualified Oxnard residents on the waiting list. At such time, the developer may make units available to all other prospective buyers or renters meeting the income limitations for such units.

10. A developer may, following the procedure set forth in this Part 10, make a written request that instead of providing such affordable housing units within the proposed project or off site, the developer make an in-lieu Affordable Housing Payment ("Payment") to the City's Affordable Housing Trust Fund.

(a) All projects for which the developer makes a request to make a Payment shall be subject to the City's pre-application process. During the pre-application process, the City Council shall determine whether a Payment may be made and the amount and nature of the Payment.

The City Council shall consider the following factors in determining whether to grant a request:

- a. the size, type and nature of the lots and homes and/or apartment buildings and units proposed for the development;
- b. the prices for which the developer plans to sell the market rate homes or rent market rate apartment units;
- c. the extent to which the proposed development may be designed or redesigned to allow the production of quality units at lower costs; and
- d. the extent to which City is meeting the affordable housing goals of its 2020 General Plan.

(b) If the request is granted, the developer shall, at a minimum and unless the City Council determines that a greater payment is appropriate pursuant to the provisions of Part 10(d) below, make a Payment of 1% of the sales price of each for sale unit in the project, as set out in Parts 10(c) and (d) below, with a minimum Payment of \$5,000 for each for sale unit, and a Payment of \$4590 for each rental unit. Payment for each rental unit shall be made when the developer applies for a building permit for that unit.

(c) With regard to for sale units, the developer shall make the Payment based on the developer's good faith estimate of the sales price of the unit. The minimum Payment referenced in Part 10(b) shall be \$5,000 for a unit for which the estimated sales price is \$500,000 or less. If the estimated sales price is over \$500,000, the minimum Payment shall be 1% of the estimated sales price, based on increments of \$50,000. For example, the minimum Payment shall be \$5500 for a unit for which the estimated sales price is between \$500,000.01 and \$550,000.00, and the

minimum Payment shall be \$6,000 for a unit for which the estimated sales price is between \$550,000.01 and \$600,000.00, and so forth.

(d) The City Council may, in its discretion, based upon the criteria set forth in Part 10(a) herein above and/or upon such other criteria as relate to the appropriateness of the amount of the Payment, determine as part of the process described in Part 10(a) above that a Payment greater than 1% of the sale price of each for sale unit in the project is an appropriate Payment or that a combination of 1% or more of a unit's sale price with other affordable housing related benefits, which may be suggested by or within the ability of the developer to provide, is an appropriate Payment. No Payment or Payment with other affordable housing related benefits, however, shall exceed the estimated current cost of producing an affordable housing unit, as determined by the Housing Director.

(e) If the City Council makes the determination as set forth in Part 10(d), the City Council shall inform the developer of the amount and nature of Payment which will be imposed if the developer's application is granted. The developer shall then have the right to accept the Payment amount immediately or withdraw its request prior to commencing the application process for land use entitlements. If the developer does not withdraw its application, the Payment shall be in the amount determined by the City Council.

(f) With regard to for sale units, including model units, the Payment shall be made at the time the developer applies for building permits. If the actual sales price is less than the estimated sales price, the developer may, within 30 days of closing the sale of the last unit in the tract in which the unit is located, provide information sufficient to verify the actual sales price to the Development Services Manager. If the actual sales price is less than the estimated sales price by an amount which places the unit in a lower \$50,000 increment, the City shall within 30 days of receipt of verification of such actual sales price, refund to the developer the difference between a Payment made on the estimated sales price and the Payment due on the actual sales price. If the actual sales price exceeds the estimated sales price so as to place the unit in a higher \$50,000 increment, the developer shall, within 30 days of the close of escrow on the last unit in the tract in which the unit is located, provide to the Development Services Manager evidence reasonably sufficient to verify the actual sales price of the unit, and the developer shall pay the difference between the Payment made on the estimated sales price and the Payment due on the actual sales price. The sales price shall be the base price of the units with standard amenities offered by the developer, and shall not include upgrades which may be ordered at an additional cost to the purchaser.

(g) The developer's failure to timely pay the difference between the Payment made on the estimated sales price and the actual sales price shall subject the developer to the fines and penalties set out in City Code section 1-10.

(h) With regard to rental units, beginning on July 1, 2006, and every six months thereafter, the Housing Director shall adjust the Payment by the percentage increase or decrease for the previous six months as determined by the Los Angeles Riverside-Orange County Consumer Price Index for All Urban Consumers.

Part 11. If a developer's request to make a Payment is granted, the developer shall make the Payment for each unit before the date of issuance of the first building permit for the project. Within 60 days after a developer's request to make a Payment is granted, the developer may request in writing that the City allow the developer to satisfy all or part of the Payment by dedicating specified off-site land to the City. With such request, the developer shall submit a written M.A.I. appraisal of the land. The City may require that the developer pay for an additional M.A.I. appraisal obtained by the City. The City Council shall determine the market value of the land, based on the appraisals provided or paid for by the developer and any other reliable data. The City Council shall also determine whether the land is suitable for affordable housing and meets the City's needs for sites for affordable housing. If the City Council so determines and the Mayor executes a certificate of acceptance for the land, the City shall apply the market value of the land to the Payment owed. If the market value of the land is less than the Payment, the developer shall pay the difference. If the market value of the land is more than the Payment, dedication of the land shall be deemed the equivalent of making the Payment, and the developer shall not be entitled to any payment for the excess market value. The developer shall deed to the City land so accepted before the developer applies for the first building permit for the project.

Part 12. As provided by Ordinance No. 2594, a developer may appeal to the City Council a decision of the Planning Commission requiring compliance with this ordinance, on the ground that such application of this ordinance to the developer's project results in an unconstitutional taking of property or that there is no reasonable relationship between the impact of the project and such requirements.

Part 13. All in-lieu Affordable Housing Payments shall be deposited in the City's Affordable Housing Trust Fund and used exclusively to provide affordable housing and affordable housing assistance to persons and families of lower and very low income.

Part 14. This ordinance does not apply to the following new residential projects of ten or more dwelling units:

- (a) Projects located in areas that are subject to a specific plan adopted by the City that requires such projects to provide as many or more affordable units for lower and very low income persons and families as does this ordinance.
- (b) Projects located in areas that are subject to a redevelopment plan adopted by the Oxnard Community Development Commission.

Part 15. In a project that receives a density bonus pursuant to Government Code section 65915 or 65915.5, the calculation pursuant to Part 3 or Part 4 of this ordinance of the number of dwelling units to be offered for sale or rent shall be based on the number of units before the density bonus is applied. Affordable units provided pursuant to this ordinance shall not be included in the calculation of affordable units provided pursuant to density bonus statutes, ordinances or resolutions.

Part 16. This ordinance shall be uncodified.

Part 17. This ordinance shall apply to applications for land use approvals that are filed on or after the effective date of this ordinance and to applications for land use approvals that have been filed but have not been accepted as complete as of the effective date of this ordinance.

Part 18. This ordinance replaces Ordinance No. 2615 as to applications for land use approvals described in Part 17. However, Ordinance No. 2615 is not repealed. If all or any part of this ordinance be declared invalid by the courts, and Ordinance No. 2615 be not declared invalid, Ordinance No. 2615 shall apply to the subjects addressed by the portions of this ordinance declared invalid, or, if this ordinance is declared invalid in its entirety, shall supplant this ordinance.

Part 19. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City. Ordinance No. _____ was first read on _____, 2006, and finally adopted on _____, 2006, to become effective sixty days thereafter.

AYES:

NOES:

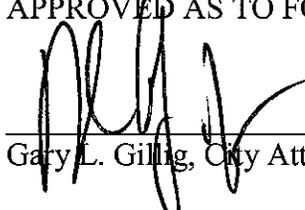
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Gary L. Gillig, City Attorney

COMMUNITY DEVELOPMENT COMMISSION
OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE COMMUNITY DEVELOPMENT COMMISSION CONCERNING
AFFORDABLE HOUSING AND IN LIEU FEE PAYMENT
REQUIREMENTS IN REDEVELOPMENT AREAS

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (the Community Redevelopment Law) set forth at California Health and Safety Code Section 3300 et seq., the City Council of the City of Oxnard has adopted redevelopment plans (the "Redevelopment Plans") for each of the following redevelopment projects (collectively referred to as the "Redevelopment Project Areas"): R-108 Project; Central City Revitalization Project; Southwinds; Ormond Beach; and Historic Enhancement and Revitalization of Oxnard; and

WHEREAS, the Community Development Commission of the City of Oxnard (the "Commission") is engaged in activities necessary to carry out and implement the respective Redevelopment Plans for the Redevelopment Project Areas in accordance with the Community Redevelopment Law; and

WHEREAS, the California State Legislature has found and declared in California Health and Safety Code Section 33070 that decent housing opportunities for all the people of this state are vital to the state's future peace and prosperity, for the reason that hazardous, congested, and unsanitary housing debilitates occupants' health to the point of impairing motivation and achievement, and that unfit housing and lack of employment opportunity depend on each other to perpetuate a system of dependency and hopelessness which drains the state of its valuable financial and human resources; and

WHEREAS, the California State Legislature has further found and declared in California Health and Safety Code Section 33071 that a fundamental purpose of redevelopment is to expand the supply of low-income and moderate-income housing; and

WHEREAS, the California State Legislature has further found and declared in California Health and Safety Code Section 33334.6 that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary housing affordable to persons and families of low or moderate income, as defined by California Health and Safety Code Section 50093, threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight; and

WHEREAS, Section 33413 of the Community Redevelopment Law requires that at least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area under the jurisdiction of a redevelopment agency by public or private entities or persons other than the redevelopment agency shall be available at affordable housing cost to persons and families of low

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or moderate income and that not less than 40 percent of such dwelling units shall be available at affordable housing cost to very low income households; and

WHEREAS, Section 33413 of the Community Redevelopment Law provides that to satisfy the foregoing requirement, the redevelopment agency may cause by regulation the acquisition of long-term affordability covenants on multifamily units that restrict the cost of renting or purchasing those units, and that such covenants shall be required to be maintained on dwelling units at affordable housing costs for not less than 45 years for owner occupied units and 55 years for rental units and that such purchasers and tenants occupy such units; and

WHEREAS, the Commission has established a policy for the inclusion of affordable housing within the Redevelopment Project Areas, in order to ensure compliance with the requirements of California Health and Safety Code Section 33413; and

WHEREAS, the Commission has established a program that allows a development project subject to the Commission's inclusionary housing requirements to provide an in-lieu affordable housing payment in place of providing affordable housing units within a specific project, which in-lieu payment is used by the Commission to further compliance with the requirements of California Health and Safety Code Section 33413 and also provide affordable housing units throughout the City of Oxnard; and

WHEREAS, the Commission finds that new residential development that does not provide affordable housing on site reduces the inventory of real property in the City that may be used to develop affordable housing; and

WHEREAS, on October 19, 1999, the Commission adopted Resolution No. 47, establishing certain affordable housing requirements in Redevelopment Project Areas; and

WHEREAS, on December 5, 2000, the Commission adopted Resolution No. 64, making certain adjustments of the requirements of Resolution No. 47; and

WHEREAS, on March 19, 2002, the Commission adopted Resolution No. 74, establishing an appeal procedure for Planning Commission decisions applying affordable housing requirements to a project, on the ground that such application results in an unconstitutional taking of property or that there is no reasonable relationship between the impact of the project and such requirements; and

WHEREAS, on June 10, 2003, the Commission adopted Resolution No. 85, making certain adjustments to the affordable housing requirements; and

WHEREAS, the Commission now desires to amend part 10 of Resolution No. 85 and to reenact Resolution No. 85 as amended to date; and

WHEREAS, as this resolution does not establish a new affordable housing program, but only makes certain adjustments to and restatements of Resolutions No. 85, the Commission finds that there is no possibility that adoption of this resolution may have a significant effect on the environment; that the in-lieu Affordable Housing Payments adopted by this resolution create government funding mechanisms that do not involve any commitment to any specific project and thus do not constitute a project, as defined by Section 15378(b)(4) of the State California Environmental Quality Act (CEQA) Guidelines; and that consequently, adoption of this resolution is not subject to CEQA.

NOW, THEREFORE, the Community Development Commission of the City of Oxnard resolves:

1. All recitals set forth hereinabove are found and determined to be true and correct and are incorporated into this resolution by this reference.
2. The findings and references to affordable housing that are contained in the Community Redevelopment Law and in the staff reports and resolutions or ordinances referenced in the recitals set forth hereinabove, as well as the staff report on affordable housing to the City Council dated July 20, 2004, which staff reports and resolutions and ordinances are on file with the City Clerk, are incorporated herein as findings in support of the affordable housing requirements set forth in this resolution.
3. All new residential projects containing ten or more dwelling units to be offered for sale shall include a number of dwelling units equal to not less than 15% of the total number of dwelling units offered for sale in the project that shall be sold at an affordable housing cost to persons and families of lower or moderate income, as defined in California Health and Safety Code Section 50093. Not less than 40% of such dwelling units required to be sold at an affordable housing cost shall be sold at an affordable housing cost to persons and families of very low income as defined in California Health and Safety Code §50105. Each such affordable dwelling unit shall have at least three bedrooms, provided that if a project contains at least ten two bedroom units, two bedroom affordable units may be provided in the same percentage ratio to all affordable units as the percentage ratio of two bedroom market rate units bears to the total number of market rate units in the project. For purposes of this ordinance, the term "units offered for sale" includes units classified as condominium units under California law.
4. All new residential projects containing ten or more dwelling units to be offered for rent shall include a number of dwelling units equal to not less than 15% of the total number of dwelling units in the project offered for rent that shall be rented at an affordable rent to persons and families of lower income and moderate income, as defined in California Health and Safety Code section 50093. Not less than 40% of the total number of such affordable dwelling units in the project shall be offered for rent at an affordable rent to persons and families of very low income, as defined in California Health and Safety Code section 50105. If the number of bedrooms per unit varies

within a project, the number of moderate and very low income units of each bedroom numbers must meet the requirements of this part 4, i.e., affordable units shall be proportionately distributed throughout the project by bedroom size.

5. As used in this resolution, the term "housing cost" includes the costs described in 25 California Code of Regulations section 6920. For purposes of calculating mortgage loan cost, a prevailing market interest rate for a fixed interest rate loan will be used. As used in this resolution, the word "rent" has the meaning ascribed to such word in 25 California Code of Regulations section 6918. For purposes of this resolution, "affordable housing cost or rent" shall mean:

- (a) With respect to a low income person or family, rent or housing cost not in excess of 30% of 80% of the Area Median Income for the Ventura County Metropolitan Statistical Area, adjusted for family size appropriate for the unit in question, as set forth in Section 6932 of Title 25 of the California Code of Regulations; and
- (b) With respect to a very low income person or family, rent or housing cost not in excess of 30% of 50% of the Area Median Income for the Ventura County Metropolitan Statistical Area, adjusted for family size appropriate for the unit in question, as set forth in Section 6932 of the Title 25 of the California Code of Regulations; and
- (c) With respect to a moderate income family, rent or housing cost not in excess of 30% of 120% of the Area Median Income for the Ventura County Metropolitan Statistical Area, adjusted for family size appropriate for the unit in question, as set forth in Section 6932 of Title 25 of the California Code of Regulations.

Prior to offering for sale or rental the first unit which the developer intends to qualify as an affordable unit under Part 3 or Part 4 of this resolution, the developer shall submit to the Executive Director of the Commission ("Director") the proposed sale price or rental amount for all the affordable units and the dates upon which the affordable units will be offered for sale or rental, and thereafter, any other information requested by the Director. The Director shall review the information submitted, and within 30 days of receipt of all requested information, shall determine whether the sales price or rental amount is affordable as provided in Parts 3 and 4. Thereafter, if the developer desires to increase the initial rent amount for any affordable rental units or the sales price for any for sale affordable units, the developer must obtain the approval of the Director. A developer may appeal a decision of the Director made pursuant to this Part 5 within the time and following the procedures (including payment of the fee) set forth in the Oxnard City Code section 16-545 et seq. for appeal of a decision of the Planning Commission denying a special use permit.

- 6. Not later than the date of application for the first building permit for a project that is

subject to Part 3 or 4 of this resolution, the developer shall cause to be recorded in the office of the Ventura County Recorder covenants approved in form and substance by the Director. Such covenants shall identify the affordable dwelling units, restrict the qualifying income of purchasers and tenants of such units, specify the maximum housing cost for such units, and require that for sale units remain affordable for at least 45 years, require that rental units remain affordable for at least 55 years, and require that such units be occupied by the purchasers or tenants. The covenants shall provide that the developer shall require any purchaser of an affordable unit or project to execute a resale restriction agreement in form and substance satisfactory to the Director, which resale restriction agreement shall provide for continuing affordability in the sale or rental of units for the time periods herein specified. The covenants shall run with the land. If the original developer or a subsequent owner complies with the covenants and/or resale restriction agreement by conveying the project or unit only to an eligible moderate, low or very low income transferee at an affordable cost as provided in this ordinance, the developer or such owner shall not be responsible for any violation of such covenants or resale restriction agreement by future transferees.

7. Such affordable units shall be designed and constructed so as to be architecturally consistent with and qualitatively similar to other (unrestricted) units in the project. Affordable units shall be designed to be consistent with the overall design of the project, and generally, affordable units shall be dispersed throughout the project. As part of the developer's application for any land use approvals required for the project and prior to the date upon which the application is deemed complete, the developer shall submit to the City planning staff such documents and plans as planning staff determines are necessary and appropriate for the City to determine that the requirements of this ordinance have been met. The developer may, as part of such submission, request modification of the requirement of this resolution that affordable units be uniformly dispersed throughout the project and be substantially similar in lot and building size. The City Council, Planning Commission, or other decision making person or body that the design and placement of the affordable units will not affect the quality of the project or the affordable units, and will not result in discrimination on any legally prohibited basis. The determination of such decision making body shall be made exercising its sole, good faith, discretion.

8. As part of the developer's application for land use approvals required for the project and prior to the date upon which the application is deemed complete, the developer of a project that is subject to this resolution may request in writing that instead of providing such affordable housing within the proposed project, the developer shall provide such affordable housing on specified off-site land. The request shall be presented to the Commission, which shall determine in its sole discretion whether the land is suitable for affordable housing. If the Commission determines that the land is suitable, the developer shall enter into an agreement with the City to provide affordable housing on such land. The agreement shall provide for affordable units in a number not less than the number of on-site units required by this resolution for the project. The agreement shall contain conditions and provisions requiring the construction of such affordable units prior to or concurrent with construction of the project, unless the Commission determines in its sole discretion that such a condition is not

necessary to ensure that the affordable units are constructed. The agreement may contain such other terms and conditions as the Commission determines are necessary or appropriate.

9. The developer shall establish and at all times maintain a written list of Oxnard residents qualified to purchase or rent each of the affordable units. The developer shall offer the affordable units to qualified Oxnard resident buyers or renters on the waiting list first and give preference to them until there are no qualified Oxnard residents on the waiting list. At such time, the developer may make units available to all other prospective buyers or renters meeting the income limitations for such units.

10. A developer may, following the procedure set forth in this Part 10, make a written request that instead of providing such affordable housing units within the proposed project or off site, the developer make an in-lieu Affordable Housing Payment ("Payment") to the City's Affordable Housing Trust Fund.

(a) All projects for which the developer makes a request to make a Payment shall be subject to the City's pre-application process. During the pre-application process, the Commission shall determine whether a Payment may be made and the amount and nature of the Payment.

The Commission shall consider the following factors in determining whether to grant a request:

- a. the size, type and nature of the lots and homes and/or apartment buildings and units proposed for the development;
- b. the prices for which the developer plans to sell the market rate homes or rent market rate apartment units;
- c. the extent to which the proposed development may be designed or redesigned to allow the production of quality units at lower costs; and
- d. the extent to which City is meeting the affordable housing goals of its 2020 General Plan.

(b) If the request is granted, the developer shall, at a minimum and unless the Commission determines that a greater payment is appropriate pursuant to the provisions of Part 10(d) below, make a Payment of 1% of the sales price of each for sale unit in the project, as set out in Parts 10(c) and (d) below, with a minimum Payment of \$5,000 for each for sale unit, and a Payment of \$4590 for each rental unit. Payment for each rental unit shall be made when the developer applies for a building permit for that unit.

(c) With regard to for sale units, the developer shall make the Payment based on the developer's good faith estimate of the sales price of the unit. The minimum Payment referenced in Part 10(b) shall be \$5,000 for a unit for which the estimated sales price is \$500,000 or less. If the estimated sales price is over \$500,000, the minimum Payment shall be 1% of the estimated sales price, based on increments of \$50,000. For example, the minimum Payment shall be \$5500 for a unit for which the estimated sales price is between \$500,000.01 and \$550,000.00, and the minimum Payment shall be \$6,000 for a unit for which the estimated sales price is between \$550,000.01 and \$600,000.00, and so forth.

(d) The Commission may, in its discretion, based upon the criteria set forth in Part 10(a) herein above and/or upon such other criteria as relate to the appropriateness of the amount of the Payment, determine as part of the process described in Part 10(a) above that a Payment greater than 1% of the sale price of each for sale unit in the project is an appropriate Payment or that a combination of 1% or more of a unit's sale price with other affordable housing related benefits, which may be suggested by or within the ability of the developer to provide, is an appropriate Payment. No Payment or Payment with other affordable housing related benefits, however, shall exceed the estimated current cost of producing an affordable housing unit, as determined by the Housing Director.

(e) If the Commission makes the determination as set forth in Part 10(d), the Commission shall inform the developer of the amount and nature of Payment which will be imposed if the developer's application is granted. The developer shall then have the right to accept the Payment amount immediately or withdraw its request prior to commencing the application process for land use entitlements. If the developer does not withdraw its application, the Payment shall be in the amount determined by the Commission.

(f) With regard to for sale units, including model units, the Payment shall be made at the time the developer applies for building permits. If the actual sales price is less than the estimated sales price, the developer may, within 30 days of closing the sale of the last unit in the tract in which the unit is located, provide information sufficient to verify the actual sales price to the Development Services Manager. If the actual sales price is less than the estimated sales price by an amount which places the unit in a lower \$50,000 increment, the City shall within 30 days of receipt of verification of such actual sales price, refund to the developer the difference between a Payment made on the estimated sales price and the Payment due on the actual sales price. If the actual sales price exceeds the estimated sales price so as to place the unit in a higher \$50,000 increment, the developer shall, within 30 days of the close of escrow on the last unit in the tract in which the unit is located, provide to the Development Services Manager evidence reasonably sufficient to verify the actual sales price of the unit, and the developer shall pay the difference between the Payment made on the estimated sales price and the Payment due on the actual sales price. The sales price shall be the base price of the units with standard amenities offered by the developer, and shall not include upgrades which may be ordered at an additional cost to the purchaser.

(g) The developer's failure to timely pay the difference between the Payment made on the estimated sales price and the actual sales price shall subject the developer to the fines and penalties set out in City Code section 1-10.

(h) With regard to rental units, beginning on July 1, 2006, and every six months thereafter, the Housing Director shall adjust the Payment by the percentage increase or decrease for the previous six months as determined by the Los Angeles Riverside-Orange County Consumer Price Index for All Urban Consumers.

11. If a developer's request to make a Payment is granted, the developer shall make the Payment for each unit before the date of issuance of the first building permit for the project. Within 60 days after a developer's request to make a Payment is granted, the developer may request in writing that the Commission allow the developer to satisfy all or part of the Payment by dedicating specified off-site land to the Commission. With such request, the developer shall submit a written M.A.I. appraisal of the land. The Commission may require that the developer pay for an additional M.A.I. appraisal obtained by the Commission. The Commissioners shall determine the market value of the land, based on the appraisals provided or paid for by the developer and any other reliable data. The Commissioners shall also determine whether the land is suitable for affordable housing and meets the Commission's needs for sites for affordable housing. If the Commissioners so determine and the Chairman executes a certificate of acceptance for the land, the Commission shall apply the market value of the land to the Payment owed. If the market value of the land is less than the Payment, the developer shall pay the difference. If the market value of the land is more than the Payment, dedication of the land shall be deemed the equivalent of making the Payment, and the developer shall not be entitled to any payment for the excess market value. The developer shall deed to the Commission land so accepted before the developer applies for the first building permit for the project.

12. All Payments shall be used exclusively to provide affordable housing and affordable housing assistance to persons and families of moderate, lower and very low income.

13. A developer required by a decision of the Planning Commission to comply with this resolution may appeal that decision to the City Council on the ground that strict application of the requirements of this resolution to the project that is the subject of the Planning Commission's decision results in an unconstitutional taking of the property or that there is no reasonable relationship between the impact of the project and such requirements. The appeal shall be filed in accordance with the procedures in the City Code for appeal of the Planning Commission decision in question. The developer shall accompany the appeal with a statement of the grounds for appeal, an explanation of the facts that support such grounds, and the fee applicable to an appeal of the Planning Commission decision in question. The City Council shall hear the appeal in accordance with the procedures in the City Code for hearing an appeal from the Planning Commission decision in question. The City Council may uphold the strict

application of the requirements of this resolution or may reduce, adjust or waive such requirements in order to avoid the unconstitutional application of this resolution. The City Council's decision shall be final.

14. In a project that receives a density bonus pursuant to Government Code section 65915.5, the calculation pursuant to Part 3 or Part 4 of this resolution of the number of dwelling units to be offered for sale or rent shall be based on the number of units before the density bonus is applied. Affordable units provided pursuant to this resolution shall not be included in the calculation of affordable units provided pursuant to density bonus statutes, ordinances or resolutions.

15. This resolution shall apply to applications for land use approvals that are filed on or after the effective date of this resolution and to applications for land use approvals that have been filed but have not been accepted as complete as of the effective date of this resolution.

16. This resolution shall become effective on the date that City Council Ordinance No. _____ becomes effective. This resolution replaces Commission Resolution No. 85 as to applications for land use approvals described in Part 16. However, Resolution No. 85 is not repealed. If all or any part of this resolution be declared invalid by the courts, and Resolution No. 85 be not declared invalid, Resolution No. 85 shall apply to the subjects addressed by the portions of this resolution declared invalid, or, if this resolution is declared invalid in its entirety, shall supplant this resolution.

PASSED AND ADOPTED this ____ day of _____, 2006, by the following vote:

AYES:

NOES:

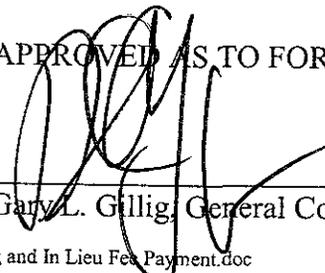
ABSENT:

Dr. Thomas E. Holden, Chairman

ATTEST:

APPROVED AS TO FORM:

Daniel Martinez, Secretary



Gary L. Gillig, General Counsel