



## HOUSING COMMISSION MINUTES

Regular Meeting

June 3, 2009

5:30 p.m.

Administrative Building Conference Room, First Floor  
701 Laurel Street, Menlo Park, CA 94025-3483

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### CALL TO ORDER

Chair Moser called the meeting to order at 5:30 p.m. in the Administrative Building Conference Room.

### ROLL CALL

**Housing Commission Members Present:** Patricia Boyle (Vice-Chair), Don Brawner, Elizabeth Lasensky, Anne Moser (Chair), Clarice O'Neal.

**Housing Commission Members Absent:** Carol Louchheim, Brian Steuer.

**Staff Present:** Douglas Frederick, Housing Manager; Megan Nee, Management Analyst; Megan Fisher, Associate Planner.

**A. PUBLIC COMMENT** – None.

### B. BUSINESS ITEMS

Because the applicant for 4025 Bohannon Drive was present the item was moved to the top of the agenda.

#### 1. BMR Agreement for 4025 Bohannon Drive

The architect for the proposed project, Mr. John Thiele, provided some background on the project. He said the applicant, Novo Construction, is proposing an extensive remodel of the existing building located at 4025 Bohannon Drive, which triggers the BMR fee. He noted the existing industrial-warehouse looking building is approximately 15,000 square feet and not in use. Both the interior and exterior of the existing building would be remodeled, he said. The square footage would be redistributed in order to add natural light, as the existing building doesn't have many windows. The applicant would be adding lots of windows, he said, and also an exterior garden courtyard would be added to increase natural lighting inside the building. He noted the remodeled building would be single-story.

Vice-Chair Boyle inquired whether or not the parking surface would be asphalt. Mr. Thiele responded yes, the parking surface would not change. He noted there would be 24 parking spaces, which the applicant believes would be adequate due to the employees' work schedules. He added the applicant has proposed 22 landscape reserve parking stalls for a total of 46 on-site parking spaces. Vice-Chair Boyle asked how many employees the company has. Mr. Thiele replied about 40; however, not all of them will be there because many will be out of the office at on-site locations. He

said that these employees will never all be at the office at the same time. Vice-Chair Boyle also asked if the building would incorporate green building standards and if it could it be accessed by public transportation. Mr. Thiele responded that the building is proposed to be Leadership in Energy and Environmental Design (LEED) certified – silver status, upon completion. He also said the building is located near the CalTrain shuttle.

Commissioner Lasensky inquired about heritage trees on the property. Mr. Thiele explained that four of the nine heritage trees are proposed for removal. He said that of these trees, the one the applicant tried hardest to save was the #10 oak tree. However, he said, this and some other trees are located in close proximity to an electric vault. Due to PG&E standards the vault needs to be upgraded, which necessitates the removal of the trees. This being the case, he explained, the #10 oak (and each of the other heritage trees being removed) will be replaced with two new trees.

In response to a question about bicycles from Commissioner Lasensky, Mr. Thiele said the proposed interior remodeling includes bicycle storage areas and also possibly showers. Vice-Chair Boyle asked if the City is requiring new parking asphalt to be pervious. Associate Planner Fisher replied that it could be considered should the additional landscape reserve parking be needed.

At this point in the meeting, Mr. Jim Fowler with Novo Construction arrived.

After some discussion Housing Manager Frederick clarified that in redistributing and/or converting the use of space (from an office/warehouse use to office/storage), the BMR fee is applied at a different rate (based on use), which results in a net gain in office space requiring payment of the BMR fee. Mr. Fowler noted that Novo construction is purchasing the building at 4025 Bohannon Drive to be its headquarters and is committed to staying in Menlo Park. He added the firm is also currently located in Menlo Park.

In sum and in response to further questions from the Commission, Mr. Thiele said the proposed remodeled building would have a “cool” roof but no solar panels. In addition, natural light levels and lots of insulation will help the project get LEED points.

M/S Boyle/Lasensky to recommend the City Council approve the BMR Agreement for 4025 Bohannon Drive; 5-0-0.

## 2. Foreclosure Prevention Program

Housing Manager Frederick provided the Housing Commission with an update. He said he was hoping to take the program proposal to a City Council study session next Tuesday. However at this morning's department head meeting, he said, people had questions and said management needs more information before the program can go to a City Council study session. He explained that the first thing to discuss according to the City Manager is: do we really need to be in this business? We know at least one City Council member is in strong support, Housing Manager Frederick said, but public comment has varied widely.

Vice-Chair Boyle said she feels the program would be assisting people who are on the brink of losing their homes. She noted if we meet the requirement that homes assisted through the program remain affordable through deed restrictions, and the money is replaced, she does not understand what the issue would be for the general public. Commissioner Lasensky said one issue of concern is that program recipients would not want to have affordability/resale restrictions. Chair Moser redirected the discussion by suggesting the Commission first decide if it thinks the program is appropriate for the City to do.

Commissioner Lasensky commented that the Housing Commission understands there is a need for the program and wants to help stabilize the community where foreclosures are taking place. She said she thinks the Commissioners all agree it is a good thing to do but the question could be whether or not this (the proposed program) is a good mechanism. She noted some people think it could be a risky use of BMR funds; still others feel the City should not help people who got into trouble, so there may be a need to educate the public on the benefits of such a program, she said.

Vice-Chair Boyle commented that the funds for such a program cannot be used for anything besides affordable housing, just as in the City's BMR Program. Housing Manager Frederick noted however that there is a difference between the BMR Program and option number one for this program (the option in which affordability restrictions would be placed on the resale of the property). The difference, he explained, is that new homes we get through the BMR program are new and in good condition. Under option one of the proposed program, he said, the homes coming into the program could be in poor condition, which the City would then have to fix up and sell.

Commissioner Lasensky inquired about income restrictions for households participating in the program. Housing Manager Frederick replied that program applicants would have to have incomes that fall at or under the income limits, which would be the same as for the City's PAL program (120% of the area median income). He noted that interested households would have to submit applications which would then be reviewed and approved by the Loan Committee, just as for PAL. Chair Moser asked how many people we think would qualify for the program when they have to be current on all other debt, have stable incomes, and minimum 680 credit scores. Housing Manager Frederick responded that this is one of the other questions management had. He noted the qualification requirements could change, however.

Mr. David Shapiro with the EARN Group, who had joined the meeting at the beginning of this item, commented that there are two drivers: economic and emotional. By applying the qualifications we can eliminate some of the emotional concerns and focus on the economic, he said. The economic concern, he explained, is to stabilize the market. Approximately 60 percent of local revenue comes from property taxes so it's a business decision, he said. The City must ask: can this stop the trend? This alone may not stop it, he explained, but it is an opportunity to keep people in their homes through a concentrated effort that helps buoy values for the remainder of homes, which stabilizes the tax base and shows banks that there is an alternative to foreclosure. He said he would not term it a bail-out but an investment. He added that the City could actually make money through the program but yes there is a risk.

Foreclosure counselors he's talked to report that 80 percent of households in foreclosure say they can't afford their mortgage payments but are keeping up with non-mortgage debt. He said the partner credit union would probably establish underwriting standards to work in concert with the City's standards and Loan Committee. He stressed you can often "look through" a credit score if everything else about the application looks good, and say that absent the current mortgage their credit score would be better. He said there are credit unions that will do this.

Vice-Chair Boyle asked Mr. Shapiro how the market values of homes participating in the program would be determined. Mr. Shapiro explained there are AVM's, or automated valuation models, that are very accurate and can also do appraisals. Program representatives and the banks/lenders would undertake a negotiation process to determine the fair market values of participating homes. Program representatives would be fighting to keep these values low for the benefit of the City and the owners, while the banks/lenders would favor high home values.

Commissioner Lasensky inquired what would happen when the owners decide to sell. Mr. Shapiro replied that at sale the City and the selling owners would be aligned. Only in the event of owners wanting to buy the notes back from the City could there be conflict, he said. Commissioner Lasensky also asked if there would be any other potential liabilities for the City. Housing Manager Frederick responded this would be a good question for the City Attorney.

Mr. Shapiro said someone would also have to monitor that assisted homes are owner-occupied; otherwise the City's equity piece must be paid off. We'd also have to monitor that participating owners stay current on their homeowner's insurance and property taxes. Chair Moser then expressed concern over the number of agencies involved and asked how many points of contact there would be for households applying for the program. Mr. Shapiro responded that at some point the credit union, for instance Community Trust, would have to vet the homeowner's application. Chair Moser said that at the City Council meeting she kept hearing questions about safeguards and program monitoring. She said she is concerned that there are at least three entities involved and said we must really spell out which entity is responsible for what.

In response to some discussion and Chair Moser's request to clarify charges, Mr. Shapiro said the EARN Group would not charge a fee for its part in the program. He said that NCUD, as the non-profit arm of Community Trust, must consider a way to compensate NCUD employees who go out and work with the homeowners. He said the proposed fee of \$240 is like a service fee but would actually be much less than that, probably more like \$50. He said that normally such fees are embedded in the interest rate, however the EARN doesn't have an interest rate.

Housing Commissioner Brawner asked if there is any idea how many people have predatory mortgages in Menlo Park. Mr. Shapiro said he could run a report showing any liens against a home. It would take a little money but you could do a sample of Belle Haven, he said.

Chair Moser stated the Commission should first establish if it feels this is a program it wants to take to the City Council. Following this we can discuss program options one and two, she said.

Vice-Chair Boyle said she thinks the program is of merit, especially if its funding does not exceed \$1 million. Commissioner Lasensky concurred by saying that in theory she thinks it is a good idea. Commissioner O'Neal said she needs to think about it but agrees there are people who need help. Commissioner Brawner commented that he prefers to put funds towards people who already own homes, giving them a boost.

In conclusion, Chair Moser concluded there is a majority consensus that the Housing Commission supports the idea of the proposed program and is in favor of presenting it to City Council.

Housing Manager Frederick noted it is important to realize that the program is a passive market price stabilization mechanism because it helps prevent other homes from coming on the market.

Following this, Housing Manager Frederick referenced his staff report to the Commission in outlining program options one and two. He explained how option one would place affordability restrictions on participating properties, bringing them into the City's existing BMR program. He also explained option two, which he said is to work with a developer that paid BMR fees to the City to get their written permission to use funds received from them for this purpose and then operate the program in a manner similar to the existing PAL Program. Housing Manager Frederick noted there is already one developer who may agree to have their funds used for the program, per program option number two. He declined to reveal who the developer is, however, stating it is not relevant to the discussion. He described the pros and cons of each option and concluded that neither option would allow assisted units to count towards meeting the City's Regional Housing Needs Allocation (RHNA) or Housing Element production requirement. This is because the program does not create new affordable housing, he said.

Chair Moser commented on program option number one. She said she is uncomfortable with it because she thinks people would not want to participate given the affordability restrictions. We also know that the credit union might not want to participate if we choose this option, she said. Mr. Shapiro commented that the EARN Group would be willing to negotiate but NCUD would not be a partner. Chair Moser also expressed concern about the possible poor condition of participating homes.

Chair Moser said she thinks program option two would be more palatable, less complicated, and wouldn't get the City involved in administrative difficulties. Commissioner Lasensky seconded this, saying the City seems less open to risk this way. Commissioner O'Neal said she prefers option number one and Commissioner Brawner said he is flexible.

Vice-Chair Boyle asked how long participating owners would be required to hold onto the homes. We do not want them "flipping" the homes, she said. Housing Manager Frederick responded that it would not be to their benefit to do so and the City would have looked at the owners' histories to ensure they are not interested in renting out the

homes. For both program options we would require Loan Committee approval, he added, and participants would have had counseling as part of an on-going program.

Regarding the application process and points of contact, Housing Manager Frederick said that the way he envisions it applications come to the City and are added to a waiting list, then are immediately turned over to the non-profit, which subsequently interviews the homeowners. After the non-profit works with the homeowners, the applications come back to us when and if the equity infusion is needed. Mr. Shapiro clarified that the non-profit, in this case NCUD, would be the "face" to the homeowners.

The Commission then discussed qualification criteria for homeowner applicants. Mr. Shapiro again stressed the importance of being able to "look through" a credit score. Housing Manager Frederick stated the program is not intended for people who can afford to pay their mortgages but do not because they are "under water" – that is, their homes are worth less than they owe on them.

M/S Lasensky/O'Neal to recommend the Foreclosure Prevention Program to the City Council; 5-0-0.

M/S O'Neal/Boyle to recommend that staff present the Foreclosure Prevention Program, Option One, to the City Council for approval; 3-2-0.

M/S Lasensky/Moser to recommend that staff present the Foreclosure Prevention Program, Option Two, to the City Council for approval; 4-1-0.

In conclusion, Chair Moser requested staff include a sentence in the program proposal on points of contact for the applicant, including a flow chart.

### 3. Status of Default at Menlo Square

Housing Manager Frederick reported he had previously disclosed more information on this than was appropriate. He revised his previous disclosure to say that the City Attorney has been asked to ensure the City does not lose the unit.

### 4. Approval of May 6, 2009 Minutes

M/S Lasensky/O'Neal to approve the May 6, 2009 minutes as presented; 5-0-0.

## **C. REPORTS AND ANNOUNCEMENTS**

### 1. Update on Housing Activity (Report from Staff)

Housing Manager Frederick reported that a buyer has been selected to purchase the BMR condominium unit at 1058 Pine Street. The buyer was pre-approved for a mortgage but loan funding is currently on hold because the lender has a 71% pre-sale requirement for condominium developments. This is a Fannie Mae requirement, he said, however the lender has said she will appeal the requirement to her loan committee in hopes of securing an exception to the 71% pre-sale requirement.

Housing Manager Frederick also reported that the applicants for the Gateway project would like to present to the Housing Commission in August, however the August meeting was cancelled.

M/S Boyle/Lasensky to reinstate the August 2009 Housing Commission meeting, to be held on August 5<sup>th</sup>; 3-2-0.

2. Report from the Chair

None.

3. Commission Member Reports

None.

**D. INFORMATION ITEMS**

1. Monthly Report on the Housing Rehabilitation Loan Program for April 2009

The Commissioners accepted the report.

**E. ADJOURNMENT:** The meeting was adjourned at 7:30 PM.

Respectfully submitted,  
Megan Nee  
Management Analyst