

Lompoc City Council Agenda Item

City Council Meeting Date: August 1 , 2006

TO: Gary P. Keefe, City Administrator

FROM: Lucille T. Breese, AICP, City Planner
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SUBJECT: An appeal, submitted by Jon Martin representing Martin Farrell Homes, of the Planning Commission determination of June 12, 2006. The Commission approved a Development Plan (DR 05-36) for a Mixed Use Residential/Commercial project in the Old Town. The applicant is requesting an amendment to Conditions of Approval P-48 and P-49 which require that six (6) affordable housing units be provided with the project; the applicant is requesting that five (5) units be considered.

The project is generally located south of Chestnut Avenue at H Street at 222, 233, 234, 239 North H Street and 223, 227, 231 North G Street . The site is comprised of seven (7) parcels (Assessor Parcel No. 85-081-01, - 02 / 85-082 – 03, - 04, 05, -14, -15) and has a total area of 80,595 square feet (1.85 acres). Planning Division File No. DR 05-36.

RECOMMENDATION:

1. Take public testimony;
2. Direct staff to prepare a resolution, with appropriate Findings of Fact to either uphold the Planning Commission decision of June 12, 2006 or to grant the appeal; and
3. Adopt Redevelopment Agency Resolution No. 06-117 approving the development.

BACKGROUND:

On June 12, 2006, the Planning Commission held a public hearing to review the Chestnut Crossing Mixed Use Project Development Plan (DR 05-36), Parcel Map (LOM 552), and Zone Change (ZC 05-06). The project generally consists of: 1) DR 05-36, a Development Plan for residential and commercial space including parking and landscaping; 2) LOM 552, a parcel map for subdivision of the site into condominium units for residential and commercial uses; and, 3) ZC 05-06, a zone change on three (3) of the parcels to be consistent with the General Plan Land Use designation.

During the Planning Commission review of the project, the applicant stated that although he was willing to accept the Conditions of Approval (COA) included with PC Resolution No. 495 (06) approving the Development Plan, he had concerns with several of them. There was discussion of the conditions requiring:

- 1) pavers in the sidewalk area in front of the project site (Engineering COA EN 35);
- 2) a bus turnout in the project area (Aviation Transportation COA AT4);
- 3) the utility lines to be under grounded for the project (Electric COA EN8); and,
- 4) the number of affordable units for the project (P49).

The discussion is reflected in the minutes of the June 12, 2006 meeting included as Attachment No 2. The applicant has stated that he will attempt to work with staff to meet the requirements of the conditions noted above, however, if unable to do so he may return to the Commission for relief from compliance. PC Resolution 495 (06) was adopted on a 5-0 vote with the recommendation that the Council consider an exception and allow the Chestnut Crossing development to provide five (5) affordable units instead of the required six (6) in exchange for the benefits that the project will provide to the community.

APPEAL:

On June 21, 2006, Suzanne Elledge of Suzanne Elledge Planning and Permitting Services, representing Jon Martin of Martin Farrell Homes, Inc., filed a timely appeal requesting that the Council review the Planning Commission action of March 12, 2006. Ms. Elledge and Mr. Martin have requested that the Council consider *“that the five (5) affordable units proposed as part of the Chestnut Crossing mixed-use project meets the City’s requirement to designate at least 15% of the projects residential units as affordable”*. Also included in the appeal is correspondence from Mr. Peter N. Brown of Hatch & Parent to Ms. Sharon Stuart, City Attorney, discussing his research and conclusions in the matter.

Due to scheduling conflicts, the applicant agreed to the appeal hearing being delayed until the August 1, 2006 Council meeting for consideration.

ANALYSIS:

The following information was provided to the Commission on the subject in the staff report of June 12, 2006:

“Housing Element – Affordable Housing Requirements

The City has made a commitment to address its housing needs by implementing the policies of the Housing Element. One of the central goals identified in the

Housing Element is the provision of a choice of housing opportunities for all economic segments of the community. This includes households unable to afford market-priced housing. Policy 1.11 of the Housing Element ensures that all residential projects address the need for affordable housing within the community and help satisfy the regional fair share housing allocation. This policy is provided below:

Policy 1.11 Residential development projects within the Old Town Redevelopment Project, No. 2 area shall provide 15% of new housing affordable to low- and moderate-income households with at least 40% of those units to be used by very low-income households.

The proposed project is located within the Old Town Redevelopment Project, Amendment No. 2 area, and at least fifteen (15) percent of all the units must be affordable. The proposed project consists of 34 residential units and six (6) affordable units are required ($34 \times 15\% = 5.1$ dwelling units).

It should be noted that it has been the practice of the City to round any percentage of a dwelling unit up to the next number. The applicant has questioned the need for designating the sixth unit as affordable and suggested paying a portion of the in-lieu fee to accommodate this requirement. The applicant was advised that within the Redevelopment Agency area the units must be constructed and the in-lieu fee is not an option. As a part of the reporting requirements for the Redevelopment Agency, the required number of affordable units must be accounted for. It should be noted that the Council has adopted Policy 1.11 of the General Plan allowing projects of less than ten (10) units to be exempt from the affordable requirements, however to date, this has been the only exception to this Policy. The Commission may wish to discuss this point and make a recommendation on policy to the Council.”

The Commission considered the information provided and was informed by staff that the practice that had been followed by staff had been to round up ANY portion of a residential unit to the higher number. After considerable discussion, the Commission determined that the question of “rounding”, either up or down, was a matter that should be decided by the Council since it was a policy decision. The Commission recommended that this project receive consideration if possible.

While it may appear this rounding up from 5.1 to 6 units on a project of this size is a hardship for the developer, a number of issues must be considered:

- The Chestnut Crossing Mixed Use Development is located within the City of Lompoc Redevelopment Agency (RDA) Project Area, Amendment No. 2;

- Staff has conferred with the RDA counsel to verify that California Redevelopment Law (CRL) does not require each housing project to meet the affordability requirement. However, the Agency must meet the 15% affordable housing number for all housing projects developed within the Agency area, with 40% of the number of units affordable to very low income households.

Agency failure to meet this requirement during the reporting period may result in the need to utilize tax increment plus the set aside money to meet the obligation. Having to do so would make it difficult for the Agency to fund new projects and service the existing bond debt for the Aquatic Center and other projects.

- The Council has set a policy relieving projects under ten (10) units from having to meet the affordability requirements. This was done in an effort to encourage infill development within the RDA area and not burden the small projects with the affordability requirement which could make small projects infeasible.
- This Council policy does not relieve the agency of the need to provide the required number of units meeting the 15% and 40% standard. Instead, it makes providing the number of units more difficult and makes each unit very important.
- Staff has consistently advised developers, both inside and outside the RDA project area, that any portion of a unit is considered a full unit, as it is not possible to construct a portion of a unit.
- The Redevelopment Agency is developing a program to encourage developers to build affordable housing within the project area. The Agency is currently proposing a Housing Incentive Program that would disperse funds to a developer to offset a portion of the profit loss and construction cost in developing the inclusionary affordable units required in the project area. This 0% interest, deferred 45 year loan would be passed through to the homebuyer in the way of a second or third Trust Deed and would be forgiven after the term of the covenant which is 45 years. If the unit is sold to a non-eligible buyer, the initial loan plus a formulated shared appreciation (which is required by CRL) would be repaid to the Agency.

In an effort to find an acceptable resolution to this problem, staff has reviewed RDA Resolution No. 01-75, which was adopted on August 7, 2001 and set the policy requiring projects of ten (10) units or more to provide the 15% affordable units (Attachment No. 4). Section 2 of the Resolution notes:

“That upon a determination that meeting such requirements at the new project site would render the project infeasible”.

It may be the case for this development since addition of the sixth unit would require a redesign of the entire project and an analysis of whether this type of project would be economically feasible with a reduced number of market rate units. The RDA Board could direct staff to add a finding to RDA Resolution No. 06-117 that the requirement of six (6) affordable units would make the Chestnut

Crossing Mixed Use Development infeasible based upon the need to redesign the project and reduction of the number of market rate units.

“The required number of units meeting the foregoing criteria may be achieved by a project condition of approvalrequiring payment of a fee.. so long as such in-lieu fee shall be applied to housing within the Project Area... “

The Council adopted Resolution No. 5135 (03) on December 2, 2006 and established an in-lieu fee for projects outside the RDA area which is currently \$86,180. The RDA Board could amend the Condition of Approval requiring six (6) units and allow the construction of five (5) affordable units with the payment of \$86,180 to the Redevelopment Setaside Housing Fund specifically identified for use within the RDA project area.

Lucille T. Breese, AICP, City Planner

Christie Alarcon
Housing Program Technician

Linda Wertman
Redevelopment Program Coordinator

Attachments:

1. [Notice of Appeal](#)
2. [Minute excerpts of June 12, 2006 Planning Commission Meeting](#)
3. [Planning Commission Resolution No. 495 \(06\)](#)
4. [RDA Resolution No. 01-75](#)
5. [RDA Resolution No. 06-117](#)

APPROVED FOR SUBMITTAL TO THE CITY ADMINISTRATOR:

Arleen T. Pelster, AICP, Community Development Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Gary P. Keefe, City Administrator