



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
September 17, 2008**

TO: Mayor and City Council

FROM: Karen L. Majors, Assistant City Manager Community and Economic Development

SUBJECT: Introduce an Ordinance Amendment to Ordinance No. 1331 C.S. Rezoning the Villa Del Sol Site.

DATE: August 22, 2008

RECOMMENDATION:

Hold Public Hearing and introduce an Ordinance amendment to Ordinance No. 1331 C.S. rezoning the Villa De Sol site to accommodate 8 units, eliminating the requirement for Buena Vista LLC to contribute \$5,000.00 per unit to the City's anticipated Affordable Housing Trust Fund.

BACKGROUND:

As the City Council will recall, the development entitlements for the Villa Del Sol project were completed in September, 2006. It was the first residential project approved and constructed after the adoption of the Downtown Specific Plan. At the time the Villa De Sol Project was going thru the entitlement process, the City of Martinez had recently completed the Housing Element of the General Plan and the mayor appointed a task force to draft an inclusionary housing ordinance for review and consideration by the Planning Commission and City Council. The City's new Housing Element included the development of an inclusionary housing ordinance as one of its implementation programs. Although the City of Martinez did not have an inclusionary housing ordinance when the Villa Del Sol project was approved, because of the recently adopted Housing Element, city officials had a heightened awareness of the need for affordable housing in the community.

The Black Mountain Project (located at the corner of Arnold Drive and Pacheco Blvd.) went thru the entitlement process at about the same time as Villa Del Sol. As a result of an appeal, the City Council required this 46 unit townhouse project to include 4 affordable units as part of their development approval. This project has not been built yet. In a gesture of fairness, the City Council requested Buena Vista LLC, the developer of Villa Del Sol, to contribute to the City's yet to be created affordable Housing Trust Fund since it would be difficult to include an affordable unit in an 8 unit downtown infill project. Buena Vista LLC agreed to contribute \$5,000 per unit. The funds were to be transmitted to the City once the certificate of occupancy was issued for each unit.

When the project developer, Buena Vista. LLC (Isidro and Anamarie Avila Farias), obtained project financing and when the 8 townhouse units were first completed in December, 2007, the two bedroom units were marketed at \$500,000 and the three bedroom units at \$589,000. The downturn in the real estate market did not support these values. Over the last several months Buena Vista LLC has restructured their financing enabling them to reduce the purchase prices and to continue to market the units for ownership. The prices of the units have been reduced to \$349,000 for the 2 bedroom units and \$427,000 for the 3 bedroom units. In addition, Buena Vista is now offering 100% financing program which includes participation in a 97% first time buyer financing program thru FHA for qualified buyers. This program requires the developer to put up the remaining 3% of the financing. Buena Vista LLC is requesting that the City eliminate the \$5000 per unit contribution so that they can provide the funding needed to participate in the FHA program.

In order to determine if this was a reasonable request staff contacted Kara Douglas, Contra Costa County Housing Specialist. She provided us with updated information regarding moderate income levels and corresponding housing prices. The two bedroom Villa Del Sol units priced at \$349,000 are considered affordable by a moderate income family of 3. At 110% of the average median income, a 3 person family with an annual income of \$85,250 can afford a home priced at \$349,000 or below. Based upon this information, half of the Villa Del Sol units (the four two bedroom units) can now be considered moderate income units. The price reduction in addition to the down payment assistance program being offered is evidence that the developer is providing moderate income housing on site, eliminating the need for the developer to pay into the City's Affordable Housing Trust Fund. The developer will utilize these funds to support the price reduction and down payment assistance program to actually create affordable housing.

If this proposed amendment is approved and the requirement to contribute \$40,000 into the Affordable Housing Trust Fund is eliminated, the Villa Del Sol project will provide 4 moderate income home ownership opportunities that meet several goals of the City's Housing Element Goals including #1 Achieve an adequate supply of decent housing for all segments of the community..., #3 Expand and conserve housing opportunities for low and moderate income families and individuals, and #5 Pursue efforts to meet the City's regional housing needs.

Since the City Council imposed this condition on the Villa Del Sol project, staff initially took this request to them. The City Council discussed this request and indicated their support and directed staff to begin the process to amend the Ordinance that included the \$5,000 per unit contribution. All zoning ordinances and amendments thereto must begin with the Planning Commission. The Planning Commission heard this item on July 22, 2008 and voted 3-0 (three commissioners voted yes, 2 abstained and 2 recused themselves) to recommend approval of this proposed ordinance amendment. The Planning Commission also requested that City Council offer the same consideration to other developers that were required to provide affordable housing prior to the adoption of an inclusionary housing ordinance.

FISCAL IMPACT:

None. In lieu of contributing funds to the newly created Affordable Housing Trust Fund, Buena Vista LLC will provide 4 moderate income ownership units on site.

ACTION:

Motion to introduce an Ordinance to proposed an amendment to Ordinance No. 1331 C.S. rezoning the Villa De Sol site to accommodate 8 units, eliminating the requirement for Buena Vista LLC to contribute \$5,000.00 per unit to the City's anticipated Affordable Housing Trust Fund.

ATTACHMENTS:

- 1) Ordinance amending
- 2) Letter from Buena Vista LLC
- 3) Ordinance 1331 C.S. and Site Plan
- 4) Planning Commission Minutes of July
- 5) Communication from the Planning Commission

APPROVED BY:



City Manager

APPROVED BY:



Assistant City Manager Community &
Economic Development

ORDINANCE NO. C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARTINEZ REMOVING THE REQUIREMENT FOR DEVELOPER TO CONTRIBUTE TO CITY'S AFFORDABLE HOUSING TRUST AS WAS REQUIRED BY ORDINANCE 1331 C.S. WHICH rezoned a 10,000 square foot parcel located at 500-528 berrellesa street ("vILLA DEL SOL") from THE R-2.5/D designation to THE CURRENT r-1.5/D MULTIFAMILY RESIDENTIAL DESIGNATION (APN 373-233-002)

WHEREAS, the Planning Commission, after a duly noticed public hearing on May 23, 2006, conditionally approved a request for a Planned Unit Development for the construction of an eight unit attached single family development ("Villa del Sol"), and recommended that the City Council introduce an ordinance rezoning the 10,000 square foot parcel from the R-2.5/D designation to the current R-1.5/D multifamily residential designation in order to accommodate the project; and

WHEREAS, the City Council, after a duly noticed public hearing on September 20, 2006, introduced an ordinance to rezone the 10,000 square foot parcel from the R-2.5/D designation to the current R-1.5/D multifamily residential designation; and

WHEREAS, Ordinance 1331.C.S. was passed and adopted by the City Council on October 4, 2006; and

WHEREAS, Ordinance 1331.C.S. included the following:

WHEREAS, as a condition of approval for the rezoning, the project applicant modified the project to include payment of \$40,000 (\$5,000 per unit) to the City's Affordable Housing Trust Fund, to implement the policies of the City of Martinez Housing Element to promote the creation and retention of affordable housing.

WHEREAS, on July 16, 2008, the developer, Villa Del Sol, LLC requested that the City Council Consider a request to remove the requirement for payment into the Affordable Housing Trust Fund, as declining home prices has necessitated that the developer lower the prices of their new infill housing units into ranges now deemed "moderate income," thus helping to implement the policies of the City of Martinez Housing Element without the need for payment into the trust fund; and

WHEREAS, on July 16, 2008, the City Council directed the Planning to make its recommendation on amending the rezone ordinance; and

WHEREAS, the Planning Commission, after a duly noticed public hearing on July 22, 2008, recommended that the City Council introduce an ordinance amending Ordinance 1331. C.S. removing the requirement for the developer to contribute to City's affordable housing trust fund; and

WHEREAS, the adoption of the proposed ordinance is categorically exempt from the requirements of CEQA, under Section 15305 of the CEQA Guidelines, and

WHEREAS, on September 3, 2008, the City Council of the City of Martinez held a duly noticed public hearing on the proposed ordinance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Martinez does ordain as follows:

SECTION I. All the findings contained above are part and parcel of this ordinance and are incorporated herein by this reference.

SECTION II. Requirement of Ordinance 1331 C.S. that developer of project known as "Villa del Sol" (500-528 Berrellesa Street) make payment of \$40,000 (\$5,000 per unit) to the City's affordable housing trust fund, is hereby removed as a condition of approval for the rezoning the 10,000 square foot parcel from the R-2.5/D designation to the current R-1.5/D multifamily residential designation.

SECTION III: Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council declares that it would have passed this ordinance and adopted each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, clauses or phrases be declared invalid or unconstitutional on there face or as applied.

SECTION IV: Effective date. This ordinance shall become effective 30 days after the date of adoption.

SECTION V: Posting. The City Clerk shall cause this ordinance to be published at least once, with the names of those city council members voting for and against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: _____

ATTEST: _____

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the _____ of September 2008, and duly passed and adopted at a Regular Meeting of said City Council held on the day of _____, 2008, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

Buena Vista, LLC

June 24, 2008

Karen Majors, Community Development Director
City of Martinez
525 Henrietta Street
Martinez, CA 94553

RE: Villa Del Sol – Request to Modify Conditions of Approval

Ms. Majors,

We would like to request a modification to our Subdivision Improvement Agreement for the Villa Del Sol Project. We would like rescind our voluntary contribution to the Affordable Housing Trust fund in the amount of \$40,000 (\$5,000 per Unit). We are requesting this modification due to the current real estate market forces; which consequently has forced us to realign and readjust project pricing and budget.

We had various goals and visions with Villa Del Sol some that have and have not materialized for us. However, below are some of our accomplishments and contributions to the City of Martinez to date:

- Designing Eco-Friendly Housing: 1st Green Residential building in Martinez & Contra Costa County. Our development is 1 of 11 LEED for Homes certified projects in California
- Maximized land resources by developing an infill site that had environmental issues
- 1st project to utilize adopted Downtown Specific Plan
- 1st Multi-Family Townhome Development promoting Homeownership in Downtown
- Promoting Livable Communities (housing near transportation)
- Over 2 Million Dollars invested in Downtown area.
- Over \$100,000 Infrastructure Improvements to Downtown area

Although we are excited about our contributions to date we are concerned with the fact that our goal to establish homeownership has yet to materialize in a timely manner. In this declining housing market this goal has been difficult to achieve; however, we are very

committed to establishing this development as an owner-occupied project. In order for us to fulfill our goal we need to continue our sales and marketing of Villa Del Sol and continue to fund our interest reserve fund with our lender. These items combined will allow us to stay in the market longer and to obtain our needed sales.

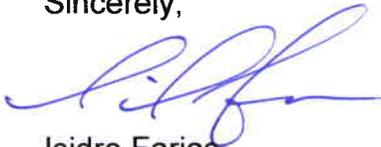
We are requesting this revision modification to our Subdivision Improvement Agreement due to the following reasons:

- Current Housing Market Prices: The prices of the Villa Del Sol units are now inline with affordable housing prices. As a result of foreclosure pricing and having to still be competitive in this market we have had to drastically reduce prices. The Prices of these units are in the range of \$349,000 to \$427,000.
- 100% financing: We have also established a 100% financing option to qualifying potential buyers. The down payment assistance program requires additional funding resources from us.
- Affordable Housing Fund & Inclusionary Housing: The Affordable Housing fund has not been created and the Inclusionary Housing Ordinance is on hold and has not been approved. Payment of this fee was to be the first of future payments made by other projects in the future. The City of Martinez has been delayed in setting the framework for this to occur.
- Home Sales Timeframe: It has taken us over 6 months to secure the sale of one unit. Unfortunately, being in the market this long has reduced our construction loan interest reserve which was put in place for purposes of paying on the loan during and after construction. Since we are unsure of how much longer it will take for us to secure more sales, we would like to use the funds that were originally targeted for the Affordable Housing Fund to use towards the Interest Reserve. Consequently, this will allow us to stay on the market a little longer to continue selling additional units.
- City of Martinez Infrastructure Improvements: As part of this project our company spent upwards of \$100,000 of infrastructure improvements that were not originally budgeted when the project was approved by the City of Martinez. The scope of these improvements included:
 - Storm drain line extension from the property frontage to the intersection of Berrellesa Street & Buckley Street
 - Installation of drainage facilities along this new drain line
 - Related street & curb improvements
 - Engineering & surveying costs for this line extension

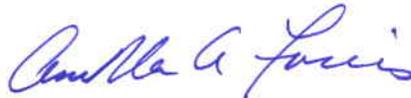
It was always our intention to comply with this condition; however, in this very difficult market it is impossible for us to continue selling these units without all parties involved making some concessions. In our case, we have drastically reduced prices and the Bank has agreed to a third loan extension with some workable conditions, etc. As you are aware, in this buyer's market, the low prices is what is selling homes. Therefore, there is no way for us to recover additional fees or costs as we had all originally anticipated.

Please feel free to contact us if you have any questions or if you need any additional information.

Sincerely,



Isidro Farias
Member



Anamarie A. Farias
Member

ORDINANCE NO. 1331 C.S.

AMENDING THE CITY OF MARTINEZ ZONING MAP BY REZONING A 10,000 SQUARE FOOT PARCEL LOCATED AT 500 BERRELLESA STREET FROM ITS CURRENT R-2.5/D DESIGNATION TO THE R-1.5/D MULTIFAMILY RESIDENTIAL DESIGNATION (APN 373-233-002)

WHEREAS, the City of Martinez received a request for a Planned Unit Development for the construction of an eight unit attached single family development; and

WHEREAS, to accommodate the project a change in zoning is required to increase density; and

WHEREAS, Section 22.02.020 of the Martinez Municipal Code identifies that the zoning code consists of a zoning map, and a process for amending the zoning map is identified in Chapter 22.46 (Amendments); and

WHEREAS, the Planning Commission of the City of Martinez, after a duly noticed public hearing on May 23, 2006, approved the land use entitlements for the project, and also recommended that the City Council introduce an ordinance to rezone the parcel to accommodate the project; and

WHEREAS, the Planning Commission on May 23, 2006 also approved a Negative Declaration for the project, and no new information has been submitted to require additional review; and

WHEREAS, on July 24th, 2006, the City Council of the City of Martinez held a duly noticed public hearing on the proposed ordinance and approved the land use changes, directing staff to prepare the ordinance herein; and

WHEREAS, pursuant to Section 22.46.090B the Council finds that the change to the zoning map is required to achieve the objectives prescribed in Section 22.02.010, which are to protect and to promote the general health, safety, peace, comfort, convenience, prosperity and general welfare of the public; and

WHEREAS, this ordinance is consistent with the Residential Group 4 General Plan designation; and

WHEREAS, as a condition of approval for the rezoning, the project applicant modified the project to include payment of \$40,000 (\$5,000 per unit) to the City's affordable housing trust fund, to implement the policies of the City of Martinez Housing Element to promote the creation and retention of affordable housing.

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

SECTION I. All the findings contained above are part and parcel of this ordinance and are incorporated herein by this reference.

SECTION II. The City of Martinez Zoning Map as defined in section 22.02.020 is hereby amended as follows:

**Site Map
Rezoning (REZ#06-02)
500 Berrellesa Street
From R-2.5/D to R-1.5/D**



SECTION III. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and adopted each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, clauses or phrases be declared invalid or unconstitutional on there face or as applied.

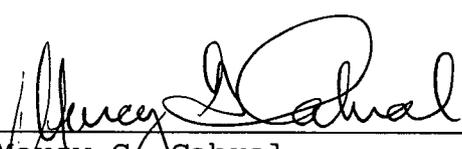
SECTION IV. Effective date. This ordinance shall become effective no sooner than 30 days from its adoption, and upon execution of an affordable housing agreement signed by the project applicant stipulating the time and manner for deposit of the \$5,000 per unit proposed as part of the revised project to the City's affordable housing fund.

SECTION V. Posting. The City Clerk shall cause this ordinance to be published at least once, with the names of those city council members voting for and against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: _____


Rob Schroder, Mayor

ATTEST: _____


Mercy G. Cabral,
Deputy City Clerk

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was duly and regularly introduced at an Adjourned Regular Meeting of the City Council of the City of Martinez, held on the 20th day of September, 2006, and duly passed and adopted at a Regular Meeting of said City Council held on the 4th day of October, 2006, by the following vote:

AYES: Councilmembers Kennedy, Ross, Wainwright, Vice Mayor DeLaney and Mayor Schroder

NOES: None

ABSTAIN: None

ABSENT: None


RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

Planning Commission Minutes
Regular Meeting
July 22, 2008
Martinez, CA

CALL TO ORDER/ROLL CALL

The meeting was called to order by Chair Frank Kluber at 7:00 p.m. with all members present except Commissioner Avila, who arrived after roll call, and Commissioner Burt, who was excused.

Staff present: Assistant City Attorney Veronica Nebb
Assistant City Manager/Community Development Karen Majors
Senior Planner Corey Simon
Assistant Planner Anjana Mevani

AGENDA CHANGES: None.

PUBLIC COMMENT: None.

CONSENT ITEMS

1. Minutes of March 25, 2008, meeting.

Motion by Mark Hughes, Planning Commissioner, seconded by Lynette Busby, Planning Commissioner, to approve Minutes of March 25, 2008, meeting.

Motion unanimously passed 6 - 0. Yes: Frank Kluber, Chair, Fred Korbmacher, Vice Chair, Donna Allen, Planning Commissioner, Ana Marie Avila-Farias, Planning Commissioner, Lynette Busby, Planning Commissioner, and Mark Hughes, Planning Commissioner, Absent: Harriet Burt, Planning Commissioner, Abstain: Michael Marchiano, Planning Commission Alternate.

REGULAR ITEMS

2. *Casara Canyon Sub #9132 Consider a request for a two year extension of a previously approved Major Subdivision for the following actions to allow the development of 20 new attached single-family homes (i.e. townhomes) on an approximate 1½ acre area adjacent to Shell Avenue, and one 4¼ acre custom home parcel (with a 10,000 sq. ft. building site and the balance to be within an open space easement): a) approval of a variance to the Hillside Development Regulations' maximum density limitations and prohibition of development on areas with a natural grade exceeding 30% slope ; b) approval of a 21-unit Major Subdivision; and c) Approval of Use Permit and Design Review for a Planned Unit Development. This project is located on Shell Avenue - vacant 5.6 acre parcel located between La Salle Manor Apartments and Alhambra Terrace (Housing Authority)*

Apartments Applicant: Bill Schrader, The Austin Group (CS)

3. *Valley Vista II Sub #8740, DR #03-20, UP #04-18 Consider a request for a two year extension of a previously approved Major Subdivision to develop 6 new single family residence on lots ranging from 6,000 to 11,009 sq. ft., and the following exceptions to the development standards of the R-6.0 Zoning District: A Use Permit to allow a building heights of 3 stories and up to 36 feet, where a maximum of 2 stories and 25 feet is typically allowed; and Variances to allow minimum front yards ranging from 3 feet to 5feet where a minimum of 20 feet is typically required, and to permit less than the minimum required lot width, depth and side yards; and Design Review approvals. This project is located at Alhambra Way; vacant 0.97 care lot located between 3995 and 4109 Alhambra Way. Applicant: Andrew Morse, Janin Associates (CS)*

Commissioner Avila entered and was seated.

Staff gave an update on Items 2 and 3 being given automatic 1-year extensions because of new state law.

Commissioner Busby asked about the sidewalk on Shell Avenue. Senior Planner Corey Simon said it would be fixed, as required. Commissioner Busby said it would be better to have it done sooner rather than later. Commissioner Allen agreed, preferably before the new school year begins since students travel there regularly. Chair Kluber also agreed.

Staff promised an update before the beginning of the school year. Commissioner Hughes asked whether a letter can be sent to the owner before the school year begins. Commissioner Allen commented on the City's work on a community-based transportation plan. She asked why there was no alternative pedestrian route during construction, adding that this should be addressed with future projects.

Vice Chair Korbmacher confirmed with staff that the map was never recorded.

In response to a question from the Commission regarding Commissioner Burt's concerns about Valle Vista II, Mr. Simon confirmed they have been forwarded to the developer.

4. *Stebbins Project Preliminary Study session to discuss and receive public input on a proposed Conditional Use Permit, Variance, and Design Review to construct a new two-story duplex on a lot with an existing single-family residence. The proposed duplex will be 1,491 square feet, with a 505 square foot garage on a 5,000 square foot lot. The Conditional Use Permit is proposed to increase density and for reduced parking; a Variance is proposed for reduced rear yard setback and open space and a Design Review is required for all multi-family projects. This project is located at 1014 Castro Street. Applicant: Geoff Stebbins (AM)*

Staff report presented by Assistant Planner Anjana Mepani.

Commissioner Allen asked whether the requirements applied to the two new units or to all three units; staff confirmed the open space requirements applied to the new units. Commissioner

Allen said she would like to see a discussion applicable to all the units when the application comes back to the Commission. Vice Chair Korbmacher confirmed with staff that the proposal is for rental units.

Chair Kluber opened the public hearing.

GEOFF STEBBINS, applicant, stated he intends to live on the property while the new units are being built and afterwards as well.

BILL JORDAN, owner of the 6-unit building across the street on Castro, indicated his units were built in 2003 and were also within the downtown overlay district. He said he supports development on the site, but would like staff and the applicant to consider similar architecture to other buildings in the downtown, as mentioned in the Downtown Specific Plan. He was especially concerned about the long stairway up, and consistency with the building next door since it is on the same parcel. He also said he would like the buildings to be one story as the rest of block is.

Chair Kluber asked Mr. Jordan if his project went to Design Review, and Mr. Jordan said it had. Chair Kluber confirmed with staff that this project will go to Design Review also; he encouraged Mr. Jordan to attend that meeting and make his requests known there as well.

Seeing no further speakers, Chair Kluber closed the public hearing.

Commissioner Allen asked when the project will go to Design Review; the applicant said as soon as possible.

Commissioner Avila said the project is feasible, but there are definite design review issues with the floor plan. She agreed with Mr. Jordan that the design is important to the neighborhood and needs to match existing architecture.

Mr. Stebbins commented on cost issues, noting the 2nd unit over the garage makes the project work. He also noted that several other homes in the area have walk ups to the main living area.

Vice Chair Korbmacher said the issue is not that there is a second story, but the need to tie in with existing structures. He indicated he could support the project and the requested variances with the proper architectural treatment.

Commissioner Allen agreed; she suggested Mr. Stebbins consider one access from each street, allowing the long stairway to be treated differently. She also noted that the Downtown Specific Plan strongly encourages home ownership rather than rentals, and she would not want someone to infer differently from her support of this project.

Vice Chair Korbmacher said the stairway could be put inside.

Chair Kluber noted that there was one member of the Design Review Committee in attendance tonight, so all the issues should be adequately addressed at their hearing.

Staff said the Commission's comments will be passed on to the Design Review Committee and the applicant.

5. Buena Vista LLC (Villa del Sol) Sub #9111 Public hearing to consider amendment to 2006 Zoning Ordinance (that rezoned subject properties from D/R-2.5 to R-1.5) which requires the developer to contribute \$5,000 per unit into the City's then anticipated "Affordable Housing Trust Fund." The cash was intended to be "in-lieu" for providing "affordable" units on site. The developer is requesting that the requirement for cash payment be deleted, as the lower than anticipated current pricing places units within "moderate income" affordability thresholds. The Planning Commission will make its recommendations to the City Council, which will consider the possible amendments at a future date to be announced. This project is located at 500-528 Berrellesa Street. Applicant: Isidro Farias, Buena Vista LLC (CS)

Commissioner Avila recused herself. Chair Kluber also recused himself and turned the meeting over to Vice Chair Korbmacher.

Assistant City Manager/Community Development Karen Majors presented the staff report, briefly reviewing the history. She noted that the applicant is requesting a waiver of their proposed voluntary contribution to the Housing Trust Fund, in view of the drop in real estate prices, noting they could use the waived fees to help create a First Time Homebuyer program for the project. She also noted that the Council is agreeable to the change, and Assistant City Attorney Veronica Nebb is present to ensure the proper legal process is followed.

Commissioner Hughes asked about the pricing threshold for affordable units, and staff discussed the calculations.

Ms. Majors also noted the proposed amendment will enable the project to remain as ownership units.

Commissioner Busby asked about down payment assistance programs and whether that was to be the purpose of the housing trust fund. Ms. Majors reviewed various possible uses for the trust fund.

Commissioner Allen asked about the status of the Black Mountain project. Ms. Majors said it has not moved forward and may be sold to another developer. Ms. Majors also confirmed that the Trumark project has not moved forward either. Commissioner Allen asked, and Ms. Majors confirmed that the Farias project is the only one in process with a cash component.

Commissioner Busby asked whether the conditions of approval included the affordable component, and whether it has been paid. Ms. Majors said one unit has been sold, with \$5,000 paid to the City at the close of escrow, rather than when the Certificate of Occupancy was issued. Staff confirmed the applicant is asking for financial relief even on the one unit already sold.

Public hearing opened.

ISIDRO FARIAS, applicant, said staff did good job in reviewing the history. He reviewed other

contributions made to the City of Martinez through this project, including LEEDS certification, an example of an approved and built project under the new Specific Plan, home ownership project, creating a livable community near transportation, and the improved drainage system. He asked for support from the Commission for the waiver of the condition requiring the Housing Trust Fund contribution.

Vice Chair Korbmacher commended Mr. Farias for the speed of construction and the beauty of the project.

No members of the public were present to speak on the item.

Public hearing closed.

Commissioner Allen said she had not voted in support of the affordable housing ordinance when it first came forward, and the City should not have imposed conditions of a soon-to-be ordinance on existing projects. She thought this was a wonderful project and was very much in favor of it. She noted that future projects that benefit from the improved drainage should reimburse Mr. Farias. She expressed concern about easing requirements for one project while there are other also affected. She thought the Council should reconvene the Housing Task Force to address remaining issues; but should not move forward with an affordable housing ordinance at all under these circumstances. She would support relief for the applicant but would like to consider all pending projects with similar requirements at the same time.

Commissioner Busby agreed with Commissioner Allen. She indicated that if the developer had put in a main line that allows other developments to benefit from improvements made, there should be some compensation. She thought it was a very nice project and an asset to the community, but she was not sure about the appropriateness of a waiver.

Commissioner Hughes said it was great project and a good developer; since the objective of affordable housing has been met the requirement should be re-addressed. He would support a waiver and reimbursement of the \$5,000 already paid.

Commissioner Marchiano said he would support fully the waiver and reimbursement, and agreed the Commission should address the ordinance again in the future.

Commissioner Allen said the City should be fair to all pending developments that have an affordable component and should review each one. Vice Chair Korbmacher confirmed with staff that the requirements were imposed at the Council level.

Assistant City Attorney Veronica Nebb clarified this is an applicant-driven request to modify the conditions, and it would not be appropriate to change the conditions of other projects without their request. She also clarified that the Commission is being asked to make a recommendation to the Council.

Staff reviewed the history and affordable requirements of the Black Mountain and Trumark projects, as well as discussing how new projects would be handled.

Ms. Majors further clarified that the applicant is not asking for a complete waiver, but a change from the contribution to a Housing Trust Fund to a provision for homeowner financing assistance. At the request of staff, Mr. Farias discussed the FHA Nehemiah program and his intent to participate by offering a buyer incentive. Commissioner Allen confirmed with staff that there would be no need for a deed restriction.

Commissioner Allen said she wanted the Council to know the Commission wants everyone to be treated equitably. She also wanted the Council to reconvene the Housing Task Force. The rest of the Commission agreed by consensus.

Staff indicated they would provide a copy of the minutes and a memo to the Council expressing the Commission's concerns.

Motion by Mark Hughes, Planning Commissioner, seconded by Michael Marchiano, Planning Commission Alternate, to recommend that the City Council approve an amendment to the 2006 Zoning Ordinance (that rezoned subject properties from D/R-2.5 to R-1.5) deleting the requirement for a \$5000 per unit cash payment.

Motion unanimously passed 3 - 0. Yes: Fred Korbmacher, Vice Chair, Mark Hughes, Planning Commissioner, and Michael Marchiano, Planning Commission Alternate, Absent: Harriet Burt, Planning Commissioner, Abstain: Donna Allen, Planning Commissioner, Lynette Busby, Planning Commissioner, Recuse: Frank Kluber, Chair, Ana Marie Avila-Farias, Planning Commissioner.

Commissioner Avila and Chair Kluber returned to the meeting. Vice Chair Korbmacher turned the meeting back over to Chair Kluber.

COMMISSION ITEMS

None.

Staff stated that the next meeting will be September 9th.

STAFF ITEMS

Ms. Majors introduced Michael Marchiano, Planning Commission alternate. Commissioner Marchiano expressed appreciation for the opportunity to serve. Commissioner Hughes said Mr. Marchiano will be a great asset to the Commission, to make Martinez a better place to live.

In response to a question from Ms. Majors, Commissioner Avila reported her new son is now 4 months old.

Ms. Majors introduced City Manager Philip Vince, who gave brief information on himself. He expressed excitement at the possibilities.

Commissioner Busby asked about the Planning Director position. Ms. Majors said that because of economic conditions the City had postponed hiring for the position until after the new City

Manager came, to let him decide the best way to handle the staffing.

Commissioner Allen asked about funding for the General Plan process. Ms. Majors commented on the need to consider the most cost-effective way to do the update.

COMMUNICATIONS: None

ADJOURNMENT

Chair Kluber adjourned the meeting at 8:44 p.m. to the next regularly scheduled meeting, September 9, 2008.

Respectfully submitted,

Approved by the Planning Commission

Chairperson

Transcribed by, Mary Hougey

Frank J. Kluber

DRAFT

**CITY OF MARTINEZ
PLANNING COMMISSION**

TO: Mayor Schroder
Vice Mayor Mark Ross
Council Member Lara Delaney
Council Member, Janet Kennedy
Council Member Mike Menesini

FROM: Planning Commission Via Karen Majors, Assistant City Manager

RE: Villa Del Sol Ordinance Amendment

DATE: August 22, 2008

The Martinez Planning Commission considered the proposed amendment to the 2006 Ordinance Rezoning the Villa Del Sol site eliminating the City Council imposed requirement for Buena Vista LLC to contribute \$5,000 per unit into the City's Affordable Housing Trust on July 22, 2008. In their discussion regarding this item, several Planning Commissioners expressed their concern that the Trumark and Black Mountain projects be given the same consideration if and when these projects move forward. The Black Mountain developer was required to include 4 affordable units on site and Trumark agreed to contribute \$5,000 per unit or \$350,000 for their 70 unit project.

The Planning Commission expressed concern that the City had not yet adopted an affordable/inclusionary housing ordinance and the difficulty of dealing with this issue without such an ordinance. The Planning Commission voted 3-0 (3 – yes, 2 abstain and 2 recuse) recommending that the City Council adopt the proposed ordinance amendment.

The Commission requested that I write and transmit this memo to you on their behalf.