

From: Jeffrey Barnett
Sent: Tuesday, August 11, 2020 4:48 PM
To: Joel Paulson <jpaulson@losgatosca.gov>
Subject: Planning Commission Meeting 8.12.20 Item 2

Good afternoon, Joel.

Below are my comments concerning the proposed changes to the Code and the Guidelines related to the BMP Program. The proposed changes and my comments (in brackets) are in red font.

Would you kindly distribute this as a desk item.

Sec. 29.10.3010. – Program —Intent. The below market price (BMP) program requires the provision of dwellings that persons and families of moderate and low income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings, and rents if they are rented, will be within the means of persons and families of moderate **and low** income. **[this harmonizes the statute internally and also with the Guidelines; the missing language appears to be an oversight.]**

Sec. 29.10.3030. - Price. The price of BMP units is controlled for the first buyer and for future buyers by the BMP Guidelines as adopted and amended from time to time by Council resolution and as follows: 1. The initial price is limited to direct construction cost and a proportionate share of the costs of preparing working drawings and specifications and providing on-site and off-site improvements, determined according to rules set by the Council. 2. The initial price does not include the cost of land, profit, or marketing costs. 3. Each BMP unit will be subjected to recorded title restrictions concerning manner of fixture sales, occupancy and leasing. 4. Each buyer of a BMP unit must agree to sell the unit to a moderate **or low** income buyer designated by the Town. The Town will designate moderate income persons according to rules adopted by the Council in effect at the time the seller purchased the unit. 5. The resale price cannot exceed the original selling price plus the value at the time of sale of improvements added by the owner, and plus an amount equal to the increase in cost of living or housing during the owner's tenure. The index or method to be used in calculating the increase is established by the Council. 6. If a BMP unit to be resold has not been properly maintained or for any other reason is in poor condition and in need

of cleaning or repair, the Town may elect to do the work or have it done and recover the cost from the sale price limited as provided in subsection (5). 7. The regulations will specify the period for controlled resales. The time period will be in perpetuity or for as long as is practical. [same comment]

Guidelines – Page 9 - 4. (b) ii

ii. For persons who are retired at the time of application, the applicant’s work history immediately prior to the date of retirement shall be considered in determining the length of employment. The Town may require applicants to submit pay stubs, W-2 forms, tax returns, or other satisfactory evidence as proof of employment at a Santa Clara County business. Length of employment shall be calculated from the **from the final date** for submitting a Town Eligibility Preapplication. [I do not understand the logic here. Should “from” be “to”?]

Guidelines -Page 10 (b) ii

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Guidelines – Page 11 (8)

An applicant must obtain pre-approval for a mortgage loan within one week after notification of eligibility to purchase a unit. The applicant must submit documentation of loan approval within three weeks of notification of eligibility to purchase a unit. **These time limits may be extended by the Town for good cause.** [the timeline benchmarks may be too short].

Guidelines – Page 16 D a

a. The Town or its designee will provide the “BMP Renter Occupancy Certification Form” to all BMP tenants who have lived in a BMP unit for at least one year. If the BMP renter fails to submit a signed Occupancy Certification Form within thirty (30) days of the written request, then the lease shall automatically terminate, and the rent will increase to market rate, as determined by the apartment owner, property manager **or the Town** within sixty (60) days of written notice from the apartment owner/property manager. [In the case of multifamily developments, such as condominiums and planned developments, there is no “apartment

owner”, and any retained property manager for the common interest development is unlikely to accept this responsibility. The Town should be able to set the fair market rate in the event of a tenant’s failure to timely submit a signed Occupancy Certification Form]

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6. Executed Lease Agreement and BMP Addendum: The apartment owner, property manager or tenant shall provide the Town or its designee with a copy of the executed lease agreement and BMP Addendum within five (5) business days of execution. [similar concern]

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