



City of Nevada City

DATE: July 21, 2011

TO: Planning Commission

FROM: Tom Parilo, Contract Planner

RE: **Proposed Affordable Housing Plan for Nevada City Tech Center, LLC, 12.9 acres on 210 Providence Mine Road**

BACKGROUND

As a key implementing feature of the 2009 Housing Element, on January 12, 2011, the City Council approved a General Plan amendment and rezone for the subject property. The General Plan Amendment and Rezone would accommodate up to a maximum of 59 residential units. The City Council actions consisted of the following specific features for the 12.9 acre site features:

1. A 2.0 acre portion was zoned to R3, High Density Multiple Family Residential. This site would yield a maximum of 32 units.
2. A 10.9 acre portion was zoned R2-PD-SP, Multiple Family Residential with Planned Development and Site Performance Combining District, allowing a maximum of primary dwelling 27 units

Future development of the 2-acre portion could proceed with a ministerial approval by the City Planner or through a discretionary development should the site not achieve the maximum density of 16 upa or if a tentative map (for sale project) is submitted. Development of the 10.9 acre site would require a discretionary application in the form of a tentative map or site plan review.

As part of the adoption of the Housing Element, the City Council adopted Program 5 and Ordinance 2009-07 (Section 16.04.054, Title 16, Subdivisions). This program and ordinance requires that tentative map developments provide that 30 percent of the total new units have housing units of 1500 square feet or smaller. It further states that these units shall be affordable to moderate and below income households. This plan shall be accomplished through deed restrictions or through an affordable housing plan that includes moderate and below income housing opportunities accomplished through a variety of mechanisms including, but not limited to size restrictions, rental units, second units, etc. The plan shall be approved by the Planning Commission and/or City Council.

Further, Section 16.04.056 requires that twenty (20) percent of all new single family lots created contain a second dwelling unit.

AFFORDABLE HOUSING PLAN

The applicant proposes an affordable housing plan for the subject 12.9 acre site. That plan proposes that each of the 59 dwelling units be offered for-sale through the submission of a tentative map application. Prior to submitting a detailed application, the applicant is requesting

consideration of its affordable housing plan before undertaking this time consuming and expensive planning work. As such, the applicant would like to make sure that it has the City's concurrence of an affordable housing plan.

The proposed affordable housing plan relies on size restrictions to accomplish affordability. Each size-restricted unit will include a deed restriction to preclude the units from being enlarged in the future thereby keeping them at a size that will always be relatively affordable in any market. The applicant has represented that a project that would include sales or resale prices deed restrictions could not be completed. The goal is to propose affordability by design, instead of complicated and unworkable price controlling deed restrictions.

The affordable housing plan includes three primary features, as follows:

1. Twenty (20) percent of all units (12) will be less than 1,500 square feet.
2. An additional 10 percent (6) of all units will be further restricted to be less than 1,250 square feet.
3. Twelve (12) second dwelling units will be provided.

With one minor variation, the three above referenced affordable housing plan elements meet the minimum required for tentative maps according to the Municipal Code. The additional six units that are restricted to 1,250 square feet constitute the only exceedances of the minimum standards, although it falls within the 30 percent requirement for size restrictions. The smaller unit restriction is also below the 1,500 square foot maximum unit size.

STAFF COMMENTS

The affordable housing plan does not include a demonstration that these units will be affordable to moderate and below households. It does offer, however, long term affordability in any market. Appendix 3 of the 2009 Housing Element assessed all newly constructed units in Nevada City from the time period of 2001 through 2008. The rationale for size restrictions in the proposed affordable housing plan is based on the assumptions used for the new home construction provided in Appendix 3 of the Housing Element. The Appendix 3 table represented that new dwellings constructed between 2001 and 2008 ranged in size between 975 square feet through 6,125 square feet. That Housing Element analysis also indicated that 9 out of 36 units constructed in that time period could be affordable to moderate and below households. These units ranged in size between 975 (one) and 2,449 square feet. The affordability determination was based on the assumption that units less than 2,500 square feet would have been available to moderate income households and those units smaller than 1,200 square feet would have been available to low income households. Four of the nine units were equal to or smaller than the 1,500 maximum lot size included in the Municipal Code standard. The data from the 2009 Housing Element bears out the claim that smaller units could be "affordable" in any market. Since income affordability is not a part of the plan, staff suggests that the Planning Commission carefully review the plan to determine if additional size restricted units are warranted.

In order to satisfy the Housing Element's affordability assumptions, the R3 zone must be developed to achieve the 16 unit per acre density (32 units in this case). Should a project under achieve the density; it would be subject to a Conditional Use Permit. Staff recommends that the future development project fully achieve the density on the R3 site.

The R3, High Density Multiple-Family Residential Zone requires that each development consist of units that have at least one unit type with a studio/or one bedroom, two bedrooms and three or more bedrooms. The affordable housing plan does not reflect this requirement, but it is understood that these unit types will need to be accommodated within the 2- acre, R3 portion of the project. Under the State's method of determining the household income category, the number of bedrooms is a key component to determining household size. As a result, units with more bedrooms will be potentially more affordable to moderate and below households while also providing housing for larger families (households).

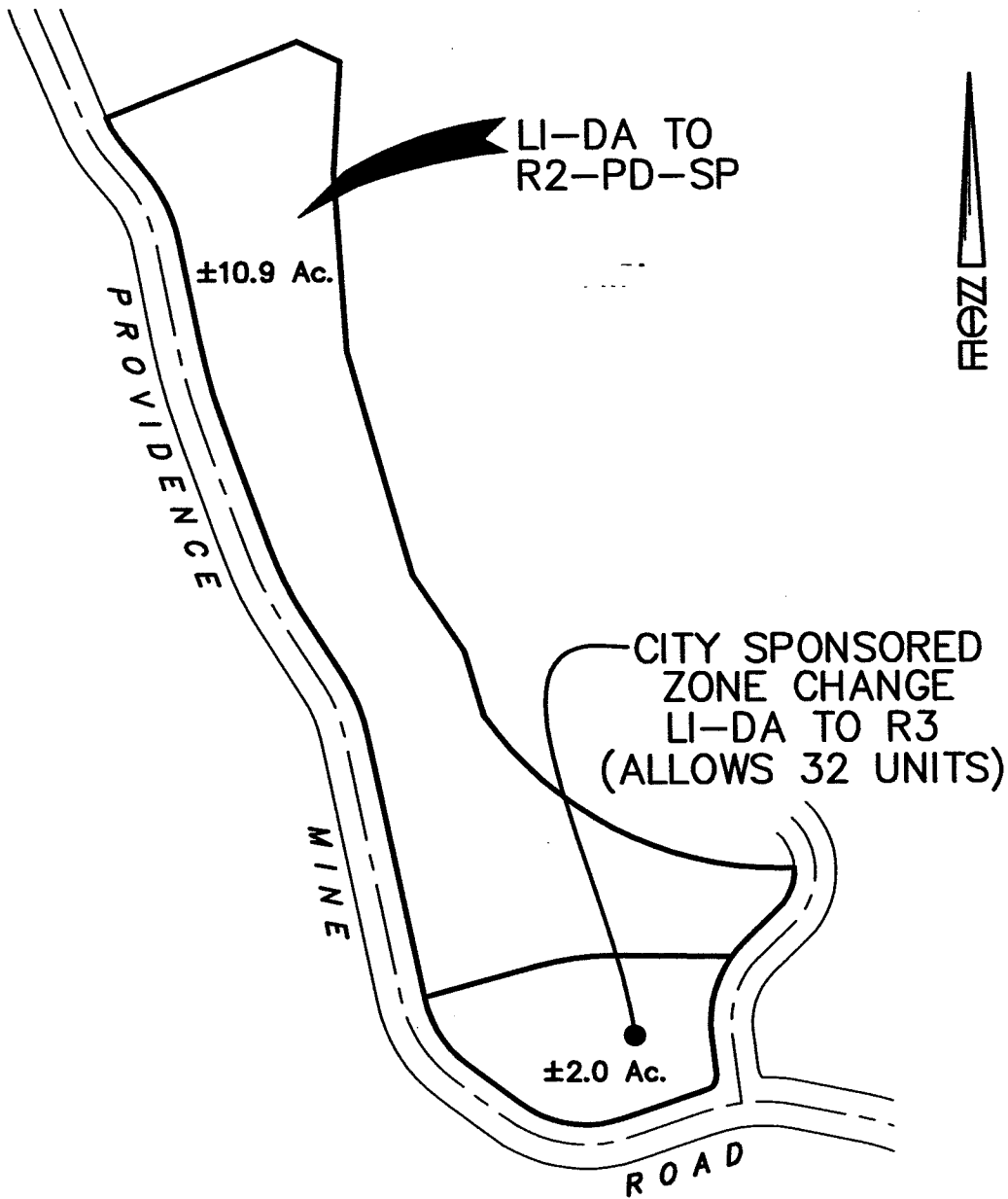
Staff has requested that the applicant provide a sketch or other indication for the Planning Commission meeting demonstrating conceptually how the affordable housing plan will be accomplished on the development site and where the size-restricted units would be located. Staff recommends that the size restricted units be provided within the R3 zone site as this area has the greatest Housing Element association with "affordability."

PLANNING COMMISSION ACTION

1. The Planning Commission should specifically determine whether the number of size-restricted units is adequate to ensure long term "affordability by design."
2. Specify that the base, 18 size-restricted, units be located within the R3 zone.
3. The submitted tentative map for the R3 zone be accompanied with units that will reflect at least one unit type with a studio/or one bedroom, two bedrooms and three or more bedrooms.
4. The R3 site shall accommodate 32 dwelling units.
5. Concur with the 12, second unit proposal.
6. Recommend that the City council consider and adopt the affordable housing plan

Attachments:

1. Site map
2. Zoning Map
3. Applicant's affordability housing plan



ZONE CHANGE MAP

FOR

**CITY OF NEVADA CITY +
NEVADA CITY
TECHNOLOGY CENTER**

WITHIN A PORTION OF

SECTION 13, T. 16 N., R. 8 E., M.D.M.

WITHIN THE INCORPORATED TERRITORY OF THE CITY OF

NEVADA CITY

CALIFORNIA

SCALE: 1" = 300'

AUGUST, 2010

NEVADA CITY ENGINEERING, INC.

505 COYOTE STREET * P.O. BOX 1437 * NEVADA CITY * CALIFORNIA

SHEET 1 of 1

05-145

EXHIBIT B

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Engineering • Surveying • Planning

May 31, 2011

Planning Commission
CITY OF NEVADA CITY
317 Broad Street
Nevada City, CA 95959

REGARDING: Nevada City Tech Center Housing Component – Request to Review and Approve Affordable Housing Plan

Honorable Commissioners:

My client, Robert Upton, and I have enjoyed working with you over the last couple of years as you completed the housing element and then the rezoning actions to implement housing policies. It was great to complete the rezoning process recently at the City Council with not a single public objection or concern, thanks to the thoughtful and collaborative approach of the City.

Although the housing market remains depressed now, it takes time to design and process a formal housing project development plan through the City, so we would like to get started. While the work to date relied on conceptual drawings, field walks, and general design guidelines, we are now entering into the specific application stage and this will be expensive to prepare and submit. Our development plan will include obtaining a detailed topographic and tree survey, preparing preliminary grading and drainage plans, creation of residential unit floor plans and exterior designs, and identification of all of the related details. The plan will also require detailed evaluation of the sustainability and energy efficiency of the units.

Before beginning this time consuming and expensive planning work, we would like to make sure that we have the City's blessing on our mandatory affordable housing plan. Therefore, we are asking for agenda time at our expense for you to formally consider and adopt the affordable housing plan for the Tech Center.

Throughout our participation in the housing element update and implementing rezoning, we spoke a number of times about our inability to complete a project that would include deed restricted initial prices and restricted resale prices.

We continue to propose affordability by design, instead of complicated and unworkable price controlling deed restrictions. Robert Upton's enclosed housing affordability plan describes this approach in more detail. The plan recognizes the excellent provisions of the City's subdivision ordinance in helping to provide both affordable resale and rental units.

These provisions include the requirement that 30% of all housing units be no larger than 1,500 square feet. Further, the City's subdivision ordinance requires that 20% of all new single family units include a second unit of between 350 and 640 square feet in size. Our plan embraces these requirements and even goes further in limiting some of the units to even smaller sizes. For such units, we are willing to record a deed restriction stating that the units cannot be enlarged, thereby keeping them at a size that will always be relatively affordable in any market.

So, in summary, we would like to discuss the enclosed affordable housing plan with you, refine it as needed after discussion, and then we would appreciate your positive recommendation to the City Council to adopt our plan. With this step completed, we will feel comfortable beginning to plan the details of our housing for your future review. Thank you.

Respectfully submitted,



Andrew R. Cassano
City and Regional Planner

cc: Robert Upton
Enc.
/arc

NCTC Affordable Housing Plan

May 2011

<u>Municipal Code Standard</u>	<u>This Project Requires</u>	<u>Project Meets or Exceeds Standard</u>
30% of new lots have homes that are 1500 sq ft or less and deed restricted	18 units	20% will be less than 1,500 sq ft 12 units will be less than 1,500 sq ft See below for remaining units exceeding City standard
No requirement for units to be less Than 1,200 sq ft	0 units	10 % units will be less than 1,250 sq ft 6 units will be less than 1,250 sq ft exceeding City standard
20% of single-family lots Contain 2nd Dwelling unit	12 units	12 units with 2nd dwelling units meeting City standard

Affordable Housing Plan Nevada City Tech Center Residential Units

May 2011

Introduction

The City Council, as part of the implementation of the Housing Element, adopted Ordinance 2009-07 in September 2009 which provides for affordability to be achieved through an approved Affordable Housing Plan. This Ordinance was a response to concerns raised by the three property owners, who while agreeing to an R3 designation on their property felt strongly that artificial income restrictions are an ineffective way to secure affordability. The Council therefore agreed that affordability would be achieved through an 'Affordable Housing Plan' to be approved by the Planning Commission and City Council.

Overview

Any plan for affordable housing needs to balance the goals of three stakeholders:

1. the State.
2. the City and local community
3. the property owners.

To be effective the 'affordable' plan must be practical, recognize market realities, be simple to understand and easy to implement. It should require minimal monitoring and policing from City Staff. The plan will remain in effect for many years and should continue to meet these criteria throughout its life.

Stakeholder 1 - The State

City Staff has achieved approval by the State of the Housing Element by using a combination of second units and a new R3 zone.

The State establishes a 'default density' for each jurisdiction based on its analysis of local conditions. The default density for Nevada City requires zoning at 16 dwelling units per acre (the R3 zone). Once a sufficient amount of land is zoned at the default density the State deems the affordability criteria satisfied, provided that these lots can be approved ministerially. **No further restrictions are required by the State.**

Stakeholder 2 -The City / Local Community

The City may refine the State criteria to ensure "affordability" in the local context.

Stakeholder 3 - The Property Owners

The Property Owner's concerns are whether restrictions are workable in reality and will allow a reasonable return on investment. Failure to meet these criteria will preclude development.

The subsequent Property Owner's (ie Home Owner's) concerns are whether the benefits of buying a restricted unit are sufficient to accept the restrictions.

Current Status

The City currently has a number of criteria that a new development has to meet

1. 20% of the units must have a second unit
2. 30% of the units must be less than 1,500 sf
3. certain units must be 'income restricted'

Commentary

Nevada City Tech Center (NCTC) is very keen to build housing and sees a big advantage from adding a residential component in both retaining existing commercial tenants and attracting new ones. NCTC also believes the designated site is an ideal housing opportunity being walkable to not only employment but also schools, shops and transit. The site offers a remarkable opportunity to create a sustainable Traditional Neighborhood Development that embodies all the recognized principles of 'Smart Development'.

NCTC has supported the City's efforts to create an R3 zone to provide a variety of housing types within a diverse residential neighborhood. As the Housing Element process evolved NCTC agreed to increase the number of R3 units from 15 to 32.

NCTC believes that the most practical way to achieve affordability, both immediately and in the long term is "Affordability by Design". Affordability by Design can be accomplished very simply by limiting the size of certain units – this is the approach used for some time by Nevada City in requiring that there be 20% of units with 2nd units (ie small units) and 30% of units be no more than 1,500 square feet.

The problems associated with income restrictions in 'for sale' units are well documented in numerous jurisdictions. These include:

- Impractical in smaller developments.
- Impractical where there is minimal price difference between restricted and unrestricted units. Why would someone buy a restricted unit with almost no potential for appreciation and which will be very difficult to sell?
- Extremely difficult for the City to provide oversight and monitoring, either short or long term.
- Confusion and complication for the home buyer.
- At today's prices the 'affordable prices' based on income restrictions can exceed market values!

In contrast 'Affordability by Design' is simple and effective:

- A smaller unit will always be more affordable than a larger one.
- Implementation is simple – a deed restriction prohibits expansion.
- Easily understood by everyone. Easily enforced.

NCTC is committed to building a quality project with as many sustainable and energy saving features as possible. Through a careful design process with skilled consultants the Tech Center believes that it will be possible to create a model project which could become a blueprint for others to follow. Incorporating these features (and indeed the design process itself) requires additional investment which could never be recovered if

some units are artificially restricted in price. The home owners will benefit from this approach, they will own a low maintenance high quality home with energy costs significantly lower than a typical property. This is true long term affordability.

The outcome if artificial income restrictions are imposed is most likely no project at all. If a project were to proceed the motivation would become to build the cheapest possible units to reduce the impact of lower sale prices. Cutting corners to cheapen the product is inconsistent with NCTC's basic principles.

Conclusion

The many pitfalls of income restrictions are well known, particularly in smaller 'for sale' projects in communities with market pricing that is modest at least relative to high priced metro areas. Affordability by Design can produce reasonably priced homes with low energy and maintenance costs and avoids the stigma of "low income housing".

NCTC requests approval of the following Affordable Housing Plan that addresses these concerns and builds on the current Nevada City Ordinance;

1. 20% of units must have a 2nd unit as defined in the current Ordinance.
2. 20% of units must have less than 1,500 square feet of living area. Expansion to be prohibited by deed restriction.
3. 10% of units must have less than 1,250 square feet of living area. Expansion to be prohibited by deed restriction.