Atascadero City Council
Staff Report – Community Development Department

Resale of Moderate Inclusionary Housing Unit
(8985 Cason Court) (City of Atascadero)

(Request for City to purchase an affordable unit, allowing the City to retain the affordable unit, provide a fair and equal process for the next homebuyer, and allow current owner to sell without incurring debt or undergoing foreclosure.)

RECOMMENDATIONS:

Council adopt the Draft Resolution, thereby:

1. Authorizing the City Manager to purchase 8985 Cason Court for an amount not to exceed $321,000, including closing costs; and,

2. Authorizing the City Manager to sell 8985 Cason Court under the provisions of the City’s current Inclusionary Housing Program, to a qualified buyer at the Moderate restricted price level; and,

3. Authorizing the Director of Administrative Services to appropriate $325,000 from the Inclusionary Housing Program In-lieu fees for the purchase of 8985 Cason Court; and,

4. Authorizing the return of all proceeds from the sale of 8985 Cason Court to be returned to the Inclusionary Housing Program In-lieu fee fund.

DISCUSSION:

Background: The City instituted an Inclusionary Housing Program in July of 2003 to assist individuals and families of very low to moderate incomes in the purchase of housing. The program includes provisions for both building affordable units and for the payment of in-lieu fees. Currently, there is approximately $400,000 in the in-lieu fee fund.

The unit at 8985 Cason Street is a 30-year, moderate income, deed restricted residence. This unit was placed in the City’s program on June 29, 2004, prior to the current equity sharing inclusionary program.
The owner finds it necessary to sell the unit, which was originally purchased for $315,255 plus closing costs. The current, maximum selling price for a 3-bedroom moderate unit is $285,000 based on the San Luis Obispo County Affordable Housing Standards. The City uses these standards to determine income, rental rates and sales prices.

**ANALYSIS:**

The unit was originally purchased for $315,255 plus $4,792 in closing costs equaling a total price of $320,046.04. With a current, maximum selling price of $285,000, the owner will potentially lose $30,255 (not including closing costs).

The City Council’s intent in adopting the Inclusionary Housing Program was to provide affordable housing to individuals and families with limited incomes. Over the last two years the City has hired a consultant and implemented a more flexible inclusionary program that provides the City with the “first right of refusal” on any potential resale of affordable units and includes provisions for the City to recoup the Developer’s initial subsidy of the affordable units. The current inclusionary program also includes provisions to insure that any individual or family buying a unit will not lose money on a resale. While the program does not guarantee any appreciation in the value of the home, it does insure against loss.

This particular unit is restricted through an older inclusionary program that does not provide any flexibility in resale arrangements nor does it provide provisions protecting against loss. The owner is required to sell the unit for no more than the maximum, moderate selling price as established by the Affordable Housing Standards for the next 27 years.
The City has the opportunity to purchase this unit and resell it to a qualified buyer, under the provisions and terms of the current inclusionary program. However, this purchase would require the City to invest approximately $35,000 in the unit.

The City could purchase the unit for the owner’s total price of $320,046 (initial sales price plus closing costs paid by owner) plus closing costs and then sell the unit to a qualified buyer, under the current inclusionary program as follows:

- Purchase for $320,046 plus closing costs for approximately $330,000.
- Sell to qualified buyer for market price of approximately $500,000 under current inclusionary program.
- Under new program, new buyer purchases for $500,000, but pays $285,000 plus closing costs or approximately $295,000 total.
- City would carry a “silent second” on the difference for approximately $215,000.
- City would have an equity share of 43% when/if the unit sold at market rate in the future.
- City would have approximately $35,000 cash invested in the property.

This would allow the City to retain the affordable unit, provide a fair and equal process for the next homebuyer and allow the current owner to sell the unit without incurring a large amount of debt, or having to endure a foreclosure process.

Policy Limitations

Staff recommends that if the Council approve this proposal, the Council should be very clear that this action does not set precedent and is just an interim measure until the Affordable Housing Ordinance is drafted and adopted. Each individual affordable unit shall be reviewed and analyzed on a case by case basis and the City retains the right to refuse to purchase an affordable unit and the right to enforce all the terms and conditions of the existing agreements for affordable units.

FISCAL IMPACT:

The proposed purchase of the affordable unit would result in the initial expenditure of approximately $330,000 from the Inclusionary Housing In-lieu fees. Approximately $295,000 (moderate purchase price plus closing costs) would be returned to the fee account upon sale of the unit leaving an outstanding cost of approximately $35,000. If the unit were to sell in the future, prior to the expiration of the 30 year deed restriction, the City would receive payment of the silent second in the amount of approximately $215,000 and 43% of any equity realized by the appreciation of the affordable unit. (All numbers have been rounded up.)
ALTERNATIVES:

1. Allow the affordable unit to be sold at market value with all proceeds to be paid to the City’s Inclusionary Housing In-lieu fees.
2. Require the Owner to sell the unit for the current Moderate Rate of $285,000 plus closing costs, thereby incurring a personal financial loss.

ATTACHMENTS:

Attachment 1: Draft Resolution A - 1
DRAFT RESOLUTION A-1

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO RETAIN 8985 CASON COURT IN THE CITY’S AFFORDABLE HOUSING INCLUSIONARY PROGRAM

WHEREAS, 8985 Cason Court (Lot 16, Tract 2557) was incorporated into the City’s Affordable Housing Inclusionary Program (Inclusionary Program) on June 29, 2004, prior to the implementation of the City’s current equity sharing inclusionary program; and,

WHEREAS, 8985 Cason Court was sold to the current owner on February 25, 2005 for the maximum price allowed by the Affordable Housing Standards of San Luis Obispo County plus closing costs; and,

WHEREAS, the current owner now wishes to sell 8985 Cason Court, and the City Council desires that the unit be incorporated into the City’s equity sharing inclusionary program and remain an affordable unit, restricted at the Moderate Income level; and,

WHEREAS, the City Council has determined that the current owner has not refinanced or obtained additional loans that exceed the original selling price of 8985 Cason Court; and,

WHEREAS, the City Council considered the purchase and re-sale of 8985 Cason Court at a public meeting on May 29, 2007; and,

WHEREAS, the City Council does not desire to set precedent for converting all affordable units incorporated in the Inclusionary Program prior to implementation of the equity sharing Inclusionary Program; and,

WHEREAS, the City Council has directed City staff to develop an ordinance and policies to resolve future conflicts between the pre-equity sharing inclusionary program and the current, equity sharing inclusionary program; and,

WHEREAS, the City Council has determined that until such ordinance is adopted, the City Council reserves the right to review affordable units on a case by case basis and to enforce all provisions and regulations of existing affordable housing agreements; and,

NOW THEREFORE, the City Council, hereby makes the following Findings:

1. 8985 Cason Court (unit) is a residential unit subject to the regulations and policies of the City’s Non-equity Sharing Affordable Housing Inclusionary Program.
2. The current owner has not refinanced or obtained other financing that exceeds the original purchase price of the unit.
3. It is in the best interest of the City to retain the affordability of the unit in order to continue to provide affordable housing options within the City’s jurisdiction.
4. Placing the unit within the equity sharing Inclusionary Program is in the best interest of the City and any future buyers of the unit because it allows both the City and the buyer to reduce the risks to the investment in the property.
5. This action is not precedent setting and any future units at risk of converting to market rate will be reviewed on a case by case basis until such time as an ordinance addressing affordable housing is adopted.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Atascadero

SECTION 1. The City Council does hereby authorize the City Manager to purchase 8985 Cason Court for an amount not to exceed $321,000, including closing costs.

SECTION 2. The City Council hereby authorizes the City Manager to sell 8985 Cason Court under the provisions of the City’s current Inclusionary Housing Program, to a qualified buyer at the Moderate restricted price level.

SECTION 3. The City Council hereby authorizes the Director of Administrative Services to appropriate $321,000 from the Inclusionary Housing Program In-lieu fees for the purchase of 8985 Cason Court.

SECTION 4. The City Council hereby directs all proceeds from the sale of 8985 Cason Court to be returned to the Inclusionary Housing Program In-lieu fee fund.
On motion by Council Member _______________________ and seconded by Council Member ________________________, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:

NOES:

ABSENT:

ADOPTED:

CITY OF ATASCADERO

By: ________________________________

Dr. George Luna, Mayor

ATTEST:

______________________________
Marcia McClure Torgerson, C.M.C.,
City Clerk

APPROVED AS TO FORM:

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Patrick L. Enright, City Attorney