

**CITY OF ALBANY
PLANNING AND ZONING COMMISSION AGENDA
STAFF REPORT**

Agenda Date: December 13, 2011
Prepared by: JB

ITEM/ 6b

SUBJECT: Planning Application 07-084. Condominium Conversion–
Preparation of a Regulatory Agreement Requiring One Unit of the
Completed Residential Project at 1100 Portland Avenue to comply with the
City’s Affordable Housing Ordinance.

SITE: 1100 Portland.

APPLICANT/
OWNER: John Gutierrez for Portland Gardens LLC

STAFF RECOMMENDATION

That the Commission make a recommendation to the City Council to Approve a
Regulatory Agreement requiring one unit of the completed residential project at 1100
Portland Avenue to comply with the City’s inclusionary housing ordinance.

BACKGROUND

Inclusionary housing is a land use regulation tool, adopted by the City of Albany and many
other cities, which requires new housing developments to include a certain percentage of
affordable units in every project. Section 20.40.030 of the Planning and Zoning Code
describes the City’s inclusionary housing standards (Attachment 1). In Albany, the
requirement is that any project with more than seven units must set the cost of 15% of the
units to a level that is affordable to low and very-low income households. Low income
households are defined as households that earn 80% or less of median income in Alameda
County. Very low income households are those that earn 50% or less of of the County
median income.

Portland Gardens (1100 Portland) is 12-unit apartment building at the corner of Portland
and San Pablo. In 2008, the Planning and Zoning Commission approved the condominium
conversion of the property (attachment 2). Although construction of the project was
completed before the City’s inclusionary housing ordinance was adopted, the provisions
are applicable to a conversion of a project from rental housing to ownership housing. Thus,
as a condition of approval, the owners were required to comply with the City’s
inclusionary housing ordinance.

The conditions of approval of the condominium conversion call for the Planning and Zoning Commission to make a recommendation to the City Council. The final agreement will be presented to the City Council at a meeting in the near future for formal approval.

DISCUSSION

The property owners seek to complete the condominium conversion process as soon as possible. The owners, however, do not intend to sell units at this time, and thus existing rental tenants will not be displaced. Because of a recent Court of Appeals ruling (Palmer/Sixth Street Properties v. City of Los Angeles 175 Cal. App. 4th 1396 (2009)), the City cannot impose an affordable housing requirement on rental housing. Thus, at the point in time that the owners sell individual units in the project, the establishment of an affordable housing unit will be required.

In the event the sale of the units is phased over time, the property owner's request that the 12th unit sold be established as the inclusionary unit. Based on current income and utility costs, the sales price of the unit would be approximately \$188,000 (attachment 3).

In addition, as an alternative to establishment of an affordable unit, the owners request the option, as provided for in the City's ordinance, for payment of an in-lieu fee. Staff and the property owner agree that determination of the amount of an in-lieu fee should be determined at the time that the option is exercised.

At the December 5, 2011 City Council meeting, the City Council authorized staff to negotiate an agreement and review the agreement with the Planning and Zoning Commission. A draft of the agreement is attachment (attachment 4). The Council did express an interest in exploration of whether the affordable unit could be made available sooner than the final 12th unit.

Attachments

1. Excerpt from Planning and Zoning Code
2. Staff Report and Notice of Action for Condominium Conversion
3. Calculation of sales price
4. Draft Agreement