

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

Introduction. The **Newport Banning Ranch (NBR)** is a **402**-acre master planned community regulated by the **City of Newport Beach (City)** and other stakeholder governments. The master plan, following extensive community outreach and facilitation, was crafted by a multi-disciplinary team of architects, engineers, planners, and environmental specialists to implement the Option II entitlement standards within the Newport Beach General Plan as approved by voters in **November, 2006**. When local regulatory processing is completed, the **California Coastal Commission** must then consider and evaluate the entire package of environmental and planning documents.

The Option II development plan includes **1,375** dwelling units, **75,000** sq. ft. of retail and convenience commercial, and a **75** room coastal inn with spa facilities and services. More than half of the property is to be set aside for open space for public parks and playgrounds as well as protected areas for environmentally sensitive and other habitats. Oil production facilities now on the site will be consolidated into two drilling and production areas.

The housing within the plan includes:

- Low Density Residential (RL)
- Low-Medium Density Residential (RL/M)
- Medium Density Residential (RM)
- Mixed Use Residential (RM)

Dwelling unit counts are as follows¹:

Total Proposed Units	1375
----------------------	------

The Affordable Units shall be comprised of either

¹ The unit count may vary based on final project approvals. The relative percentage of affordable units shall remain the same.

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

Five Percent Very Low Income (69 units)

or

Ten Percent Low Income (138 units)

or

Fifteen Percent Moderate Income (206 units)

or a combination of the above.

For the purpose of calculating the number of affordable units in the event a combination of units is to be provided, a Very Low Income Unit shall be deemed to be the equivalent of three Moderate Income Units and two Low Income Units. A Low Income Unit shall be the equivalent of 1.5 Moderate Income Units. For example if 20 Very Low Income Units are provided either 146 Moderate Income Units or 98 Low Income Unit would be required to complete the affordability requirement.

Square footages and likely pricing are not available at this time but project sequencing, the location of the proposed neighborhoods, and the planned mix of units are detailed in the Planned Community Development Plan and the Villages and Colonies Planned Community Plan. **NBR LLC** shall comply with its affordable housing obligation by constructing the Affordable Units on-site or offsite, by the renovation and restriction of existing housing units, by the payment of the City's In-lieu Fee, by the land dedication for affordable housing or a combination of the foregoing; provided however, that at least 50% of the Affordable Units would be provided on site.

This Affordable Housing Implementation Plan has been prepared in order to comply with the Housing Element of the Newport Beach **General Plan** as well as Chapter **19.54** of the **Newport Beach Municipal Code**, Inclusionary Housing, an **Affordable Housing Implementation Plan (AHIP)** which provides that an AHIP must be prepared by Applicant to set forth a plan for meeting the City's goal of providing a balanced residential community comprised of a variety of

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

housing types and opportunities for all social and economic segments of the community including very low, low and moderate income households. This **AHIP** is provided in fulfillment of those requirements and details Applicant's approved strategies for meeting City requirements.

- I. AHIP. When Required.** Chapter **19.54.060** of the **Municipal Code** provides that "Residential subdivision projects of **51** dwelling units or more shall be required to submit an AHIP." Tentative Tract Map (TTM) **17308** for condominium purposes is an element of Applicant's entitlement package. This map provides for a maximum of **1,375** dwelling units and meets the minimum threshold for submittal of a mandatory **AHIP** for City review and adoption.

The **City's** requirements provide that an **AHIP** shall contain the following information:

- 1.** A description of the residential subdivision, including the number of market rate and affordable units proposed, and the basis for the calculation of the number of required affordable units;
- 2.** The method of satisfying the affordable requirement, including the income level(s) and tenure of the affordable units to be provided;
- 3.** A phasing plan, if the applicant proposes a phased project, that provides for the timing of development of the affordable units;
- 4.** Information necessary to establish compliance with criteria provided in Subsection **19.54.070** (B) (Off- Site Renovation Projects) or Subsection **19.54.070.C** (land Dedication), if applicable; and,
- 5.** Any additional information requested by the Planning Director to assist in the evaluation of the AHIP.

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

The Inclusionary Housing Ordinance provides further guidance on the preparation of an **AHIP** and the City's published housing guidelines and rules including definitions. A number of those definitions, especially definitions about rentals, are relevant to the **NBR AHIP** including:

- A. Affordable Housing Agreement.** The Agreement entered into is to be in compliance with Section **19.54.080**, which provides legal restrictions by which the affordable units shall be restricted to ensure that the unit remains affordable to very low-, low-, or moderate-income households, as applicable. With respect to rental units, rent restrictions shall be in the form of a regulatory agreement recorded against the applicable property. With respect to owner-occupied units, resale controls shall be in the form of resale restrictions, deeds of trust, and/or other similar documents recorded against the applicable property;
- B. Affordable Housing Cost.** Affordable housing cost for very low income households shall not exceed 30 percent of 50 percent of area median income adjusted for family size. Affordable housing cost for low income households shall not exceed 30 percent of 70 percent of area median income adjusted for family size. Affordable housing cost for moderate income households shall not be less than 28 percent of the gross income of the household, nor exceed 35 percent of 110 percent of area median income adjusted for family size. In determining the maximum household income for a given affordable unit, it shall be assumed that each bedroom is occupied by two persons, except for efficiency units (one person).
- B. Affordable Rent.** An annual rent that does not exceed **30** percent of maximum income levels for very low-, low-, and moderate-income households, as adjusted for household size. In determining the maximum household income for a given affordable unit, it shall be assumed that each bedroom is occupied by two persons, except for efficiency units (one person).

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

C. Affordable Unit. An ownership or rental housing unit, including senior housing, affordable to households with very low-, low-, and moderate income as defined in Section 9.54.020 of the Newport Beach Municipal Code.

D. Moderate Income. Income between **80%** and **120%** of the Orange County median income, adjusted for actual household size as established annually by the California Department of Housing and Community Development.

E. Low-Income. Income between **50%** and **80%** of the Orange County median income, adjusted for actual household size, as established annually by the California Department of Housing and Community Development.

F. Very Low Income. Income **50%** or less of the Orange County median income, adjusted for actual household size, as established annually by the California Department of Housing and Community Development.

Procedure for AHIP Consideration by Decision Makers. Section 19.54.060 C.

establishes procedures for the consideration of an **AHIP** once an actual application is filed and evaluated:

1. The review authority for the project shall approve, conditionally approve, or deny the **AHIP** on the basis of the application, plans, materials, and testimony submitted.
2. If the **AHIP** proposes the dedication of land in compliance with Subsection **19.54.070.C** (Land Dedication) the City Council shall be the final review authority and may accept or reject the proposed dedication of land.

II. The Provision of a requisite number of Affordable rentals is one method for obtaining Housing Element Compliance.

1. **Affordable Rentals.** As an element of its Housing Element compliance program, the Applicant shall be permitted to utilize an affordable housing

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

rental program with a given number of units to be set aside for eligible households subject to **City** approval as to timing and phasing of providing such units.

- 2. Candidate Rental Buildings in Urban Colony.** **City** and **NBR LLC** understand and acknowledge that the current Planned Community Land Use Plan for NBR provides opportunities for rental buildings in Urban Colony of the planned construction plan following necessary site remediation and infrastructure, and that said proposed identification of probable sequencing fulfills the phasing plan requirement of the Municipal Code.
- 3. MU / R is Best Land Use Choice for Proposed Rentals.** **City** and **NBR LLC** also understand and acknowledge that the Multi-Family Attached Mixed Use Commercial District (MU/R) is the most logical site for the provision of affordable housing in sufficient numbers to fulfill, or partially fulfill, requirements for the **NBR** on a logical economic scale
- 4. Financial Subsidies Not Readily Available.** **City** and **NBR LLC** also understand and acknowledge that absent available financial subsidies the provision of rental housing to Very Low Income and Low Income households would be unworkable and not financially feasible without substantial governmental assistance, and that such assistance is not available.
- 5. Moderate Income Restricted Rentals May Be Provided.** **City** and **NBR LLC** understand and acknowledge, therefore, that the provision of affordable rental housing by **NBR LLC** for other than Moderate-Income families may not be feasible unless other permissible programs are utilized.
- 6. Rental Income Limits Established.** **City** and **NBR LLC** understand and acknowledge that to the extent **NBR LLC** elects to provide some or all of **NBR**

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

Inclusionary Housing on site as affordable rentals for families that the permissible rental rates shall not exceed the Affordable Rent.

- 7. Affordable Housing Cost Established.** City and NBR LLC understand and acknowledge that to the extent NBR LLC elects to provide some or all of NBR Inclusionary Housing on site as affordable for sale housing that the permissible housing cost shall not exceed the Affordable Housing Cost.
- 8. Minimum of 50% of Affordable Housing Obligation to be On Site.** NBR LLC and City agree that regardless of the permissible measures employed by NBR LLC to meet Affordable housing objectives and the mandates of the AHIP, including fee payments and/or land dedications, NBR LLC will insure that at least **50%** of the AHIP affordable housing provided will be on site as either for sale housing or rentals.
- 9. Affordable Housing Restricted for 30 Years Subject to Annual Adjustments.** City and NBR LLC understand and acknowledge that any affordable units provided as qualified Inclusionary Housing Program units shall be restricted for a period of not less than **thirty (30)** years; and, that such the Affordable Housing Cost or Affordable Rent can be adjusted annually to reflect any changes to the Median Family Income for Orange County as determined by California HCD. Such requirements shall be recorded in a rental agreement or affordable housing covenant against the applicable property as provided in the Municipal Code.
- 10. Units Must Meet RENA Requirements.** City and NBR LLC agree that any units constructed and or renovated to meet City Inclusionary Housing Ordinance Requirements shall also meet **Southern California Association of Governments (SCAG)** Regional Housing Needs Assessments (RENA) specifications for qualified affordable housing.

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

3. The location and size of the land to be dedicated shall be subject to the approval of the City which may elect to reject a proposed offer of dedication.

IV. Other Measures for Obtaining Compliance with Inclusionary Housing Program Requirements.

NBR LLC shall, at NBR LLC's sole discretion, be permitted to pay City's in-lieu fee rate of **\$18,500** for each unit constructed in order to fulfill up to 50% of the Inclusionary Housing Program requirements. Section **19.564.050** allows affordable housing requirements to be "...satisfied by paying a fee in lieu of providing all or a portion of the affordable units, unless otherwise provided by an approved AHIP."

1. The per dwelling unit in-lieu fee will be paid at the time each dwelling unit building permit for market rate housing units is otherwise ready to issue.
2. There shall be no such Inclusionary Housing Program fees required for Commercial, Institutional, or Resort buildings, including lodging buildings.
3. To the extent that NBR LLC has elected to pay such fees, then NBR LLC's obligations to construct affordable rental units or to provide land to others for such rental units, shall be reduced or exonerated on a prorated basis.

V. Implementation. An **Affordable Housing Implementation Agreement (AHIA)** will be executed and recorded at each development phase of development for any affordable units to be constructed within that phase, or for land proposed to be dedicated, or for any in-lieu fees to be paid, or for any other permissible measure or measures for compliance with **City's** Inclusionary Housing Program. Any affordable units shall be affordable for the period of time specified in the Development Agreement or as City and Applicant may otherwise agree. .

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

- VI. Authority.** The approved AHIP shall be adopted by the City Council as provided by the Municipal Code and an implementing resolution in conjunction with the approval of any Tract Map or Tract Maps for **NBR** development phases.
- VII. Number of Units to be Provided.** The number of units to be provided, or the fees to be paid in lieu of providing such units, shall be consistent with Section II. If for any reason the number of approved market rate units authorized is not constructed, or cannot be constructed due to the operation of law or economic conditions, then the number of affordable units offered for rent or the fees paid in-lieu of providing rentals shall be reduced proportionally so that Applicant's obligation does not exceed the percentage requirement.
- VIII. Excess Affordable Units Constructed or Provided by Applicant.** In the event that Applicant constructs affordable units in excess of the maximum required amount, as described in Section II, then the Applicant shall be entitled to such additional benefits that may accrue to persons constructing such units, including the availability of special public financing, stepped up processing, or other program incentives.
- IX. Unit Production Security to be Posted by Applicant.** Prior to beginning the construction of any phase or phases of the **NBR**, the Applicant shall enter into an Affordable Housing Agreement. As security for the provision of the affordable housing provided for in the Affordable Housing Agreement the Applicant shall post compliance security in the amount of **\$18,500** on a per dwelling unit to be constructed basis. For example, if Applicant applies for **100** building permits not including any building permits for designated affordable housing units, then applicant shall post a bond for **\$1,850,000** (**\$18,500 x 100**) guaranteeing the subsequent construction of required affordable units for that phase, or an appropriate land dedication or a combination of such measures as permitted by the Municipal Code.

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

X. Sequencing

1. The affordable housing units required under this AHIP will be provided incrementally. Suitable Security will be provided at each phase of building permit issuance for market rate buildings
2. The affordable units provided or arranged for to be phased as follows:
 1. Certificate of use and occupancy for **Fifty** percent of market rate units: commence construction on, or payment for fees/dedication of lands for one-third of required units.
 2. Certificate of use and occupancy for **Seventy Five** percent of the market rate unit: commence construction on, or payment of fees/dedication of lands for the next one-third of required units.
 3. After issuance of certificate of occupancy for **Seventy Five** percent of the market rate unit, a reconciliation process will be created to determine the final number of affordable housing units required to be constructed and/or payment of fees/dedication of land
 4. At the earlier to occur of certificate of use and occupancy for the last market rate: commence construction on, or payment of fees/dedication of lands for final required units.

XI. Affordable Housing Agreements. Such agreements shall be executed and recorded, and security posted at each appropriate final map. Security will be released when a certificate of use and occupancy is issued for the related affordable rate units.

XII. Requirements May Be Modified and/or Extinguished. If the requirements of Chapter **19.54** of the Newport Beach Municipal Code are modified by the City Council during the

Newport Banning Ranch
Affordable Housing Implementation Plan (AHIP)
August 3, 2011

term of the AHIP agreement to eliminate the requirement for the payment of in lieu affordable housing fees for the privilege of constructing market rate housing, then **NBR LLC** shall be entitled to a waiver of any further fee obligations for the provision of affordable housing units for fees not already paid, or for buildings not already constructed and/or renovated and occupied.

- XIII. Amendments of the AHIP.** The AHIP may be amended by mutual agreement of the City and Applicant. Such an amendment, so long as it is consistent with the Housing Element of the General Plan and with the Development Agreement, shall not require an amendment to the General Plan itself, the Coastal Development Permit or to the Development Agreement.

300362446.1