MS Word Export To Multiple PDF Files Software - Please purchase license.**RESOURCES AND DEVELOPMENT MANAGEMENT DEPARTMENT REPORT**

DATE: August 10, 2005 (continued from June 22, 2005)

TO: Orange County Planning Commission

FROM: Land Use Planning Services Division

SUBJECT: Planning Application PA040095, a Use Permit request in the Las Flores Planned Community Planning Area 6

LOCATION: 381 Sable, Las Flores Planned Community; northwest corner of Oso Parkway and Antonio Parkway (District 5)

OWNER: Archstone-Smith Operating Trust

CONTACT: Chuck Shoemaker (834-5159)

PROPOSAL: PA040095 is a Use Permit request per General Regulation 3 of the Las Flores Planned Community Land Use Regulations and cross-referenced Zoning Code Section 7-9-147, dealing with condominium conversions, and 7-9-150, dealing with discretionary permits, to convert 504 apartments to condominiums.

SYNOPSIS:

This is the second hearing for the consideration of Planning Application PA040095. At the applicant's request the Planning Commission continued the hearing to this date to permit the applicant to respond to the June 22, 2005 Staff Report. On June 22, 2005, staff recommended denial of the project, citing primarily concern that the conversion of apartments to condominiums would have an adverse impact on the supply of rental housing not only within the Las Flores Planned Community but on the greater range of housing opportunities in south Orange County. A copy of the June 22, 2005 staff report is included for the Planning Commission's reference.

Subsequent to the previous hearing the applicant submitted a letter dated July 19, 2005 that provides greater elaboration on Archstone's intentions related to the proposed condominium conversion request. The letter is discussed under the Analysis portion of this report. The Planning Commission also requested staff provide clarification regarding the affordable housing provisions of the Las Flores Planned Community. A discussion of this topic is included in the Analysis portion of this report.

BACKGROUND:

As reported in the June 22, 2005 Staff Report, the 504 unit apartment project known as "Archstone Las Flores" (formerly Alicante) was constructed pursuant to Area Plan (AP96-0l), PA96-0033 (including a development standard modification request to permit a building height of 39 feet when the standard was 35 feet, for architecturally-varying rooflines), Changed Plan CP97-

0013, and "minor changes to the approved site plan" approved by memo September 24, 1996. The project includes 240 one bedroom units and 264 two bedroom units in 8 44-unit and 4 38-unit 2 & 3-story buildings.

It provides 296 garage spaces, 208 carport spaces, and 485 open unassigned spaces, a leasing office (to become the community building) of 2,641 sq. ft.; several outdoor trellised barbecue and eating areas, along with open turf areas; scenic landscaping and perimeter walls, pedestrian access to the Las Flores community trail system; a common car wash area with water quality drains, and two pool areas and two recreational buildings, each with common (rental) laundry facilities, all on a 19.9 acre site. It is not a gated facility, nor is that proposed.

Parking complies with the bedroom count formula detailed in Zoning Code Section 7-9-145 "Off-Street Parking Regulations". In accordance with the Las Flores Urban Edge Treatment Plan, a buffer area of 300 feet is maintained to the west (O'Neill Regional Park), with project berming and landscape material to permanently soften views of the project from the Park.

PUBLIC NOTICES AND REFERRAL FOR COMMENT:

Notice of the continued public hearing was mailed to all tenants and all property owners of record within a 300-foot radius of the project site (with the site and two other public places posted) on July 22, 2005.

DISCUSSION:

This section of the report transmits information submitted by the Archstone Smith, the applicant, subsequent to the June 22, 2005 hearing; and, offers further staff discussion relative to the requested conversion request. By letter dated July 19, 2005 (attached), the applicant provided responses to issues raised in the previous staff report.

In summary, the applicant has offered: 1) to sell 15% (78) of the units for less than market rate; 2) to provide an exclusive right to the current residents to purchase their respective unit at a 3% discount in the market price; and, 3) an expanded relocation plan. The revised relocation program indicates that $1,100 would be offered to all tenants to be relocated. It is not stated whether that means $1,100 to each individual adult tenant on a lease or $1,100 to each "household" or "family". At the time of original application, some units were occupied by as many as 5 adults with different surnames. An additional $1,000 would be offered to each tenancy with a person who is a senior citizen, disabled, or low income, or includes minor children. Again, it is not stated whether any additional benefit would be offered to tenancies with multiple adults each meeting one or more of these criteria, for example 2 unrelated single parents each with 1 child sharing an apartment. When this information was shared with the applicant, they provided a second letter (unsigned version attached) that clarifies their position

relative to relocation assistance.
The applicant's proposal to sell 15% of the units for less than the market rate would appear to be an attempt to respond to the requirements of Condition No. 41 of the Las Flores Planned Community. The Condition reads as follows:

"Condition 41: The project shall provide a minimum of 25% of the dwelling units as affordable, as defined in the Housing Element of the Orange County General Plan. This 25% shall be further divided into the following affordable housing categories: 10% Low, 10% Moderate I and 5% Moderate II; Compliance with this requirement shall be documented in the existing Annual Monitoring Report process."

Implementation of the applicant's proposal would have the following effects. Instead of a market rate $300,000, a total of 16 1-bedroom units would sell for approximately $151,250 to low income families of exactly 2 persons, 16 1-bedroom units would sell for approximately $194,900 to moderate income families of 2 persons, and 16 1-bedroom units would sell for approximately $240,850 to "Moderate II" income families of 2 persons.

Instead of a market rate approaching $400,000, a total of 10 2-bedroom units (of 972 sq. ft.) would sell for approximately $171,300 to low income families of no less than 3 persons, and 6 such 2-bedroom units would sell for approximately $222,600 to moderate income families of no less than 3 persons.

Instead of a market rate of over $400,000, a total of 4 2-bedroom units (of 1,028 sq. ft.) would sell for approximately $220,000 to moderate income families of no less than 3 persons, and 10 such 2-bedroom units would sell for approximately $271,900 to "Moderate II" income families of no less than 3 persons.

Staff has a concern with this proposal. The County has no re-sale control program; and, none is offered by the applicant. Consequently, the 78 units sold below market rate would carry a significant "windfall" upon initial resale. Staff cannot support such a program.

A question has arisen as to whether the original development was approved to be constructed and then remain as rental apartments for any particular length of time. Staff has reviewed the following: 1) the original 1996 letter of explanation; 2) the EIR Addendum; 3) the staff report; 4) the Las Flores Planned Community Development Plan and Supplemental Text; 5) Conditions of Approval emplaced upon the Planned Community as a whole by the Board of Supervisors; 6) the County's Housing Opportunities Program in effect at the time; and 7) the Las Flores Affordable Housing Implementation Plan.

No specific reference to the project remaining as rentals for any amount of time was found. However, both the CEQA documentation and the project as approved under PA96-0033 included the following Condition of Approval (Condition No. 31) which reads as follows:

"Affordable Housing - Prior to issuance of the first Certificate of Use and Occupancy related to this project, a Housing Program Report update shall be submitted to and approved by the Manager, EMA/Advance Planning Division. Said update shall indicate consistency with the approved Affordable Housing Implementation Plan of the Las Flores Planned Community."

Staff has no evidence this condition was ever complied with. It appears to staff that Condition of Approval No. 31 was included so that the apartments could demonstrate compliance with Condition of Approval No. 41. As such, it would appear a fair argument that the apartments were to be included in the overall affordable housing supply for the Las Flores Planned Community. However, there no evidence the apartments were ever included in any of the subsequent AHIPs for the Las Flores Planned Community.

SUMMARY:

In summary, the applicant has made an attempt to comply with Condition No. 41 of the Las Flores General Plan Amendment and Planned Community Zone Change, but only offering 15% affordability compared to the stated 25% requirement. The project now offers tenants "more favorable terms and conditions than those on which such unit(s) will be initially offered to the general public", a requirement of Zoning Code Section 7-9-147.5. The project now offers "particular consideration (for) the elderly, handicapped (and) families with children", a requirement of Zoning Code Section 7-9-147.4(c)(5).

With the additional proposals regarding relocation benefits, it seems that compliance with those sections of Zoning Code Section 7-9-147 dealing with defining comprehensive programs for relocation and subsidies to current tenants in condominium conversion projects can be assured.

However, the broader policy question in Section 7-9-147.1 of "determining when such conversions are appropriate" remains. Testimony was received on June 22, 2005 from a number of current tenants that they were not in any position to buy a home, not due to pricing nearly as much as questions of savings, credit, job opportunities, and renter proximity to quality schools and this community of quality.

The project now appears to comply with applicable land use regulations contained in the Zoning Code and Las Flores Planned Community Land Use Regulations, while failing to comply with the Las Flores Planned Community Conditions of Approval, to the extent of offering 15% official affordability vs. the stated 25% requirement. Staff has expressed concern that the 78 units which would be offered as affordable would carry with them the potential for windfall profits because the County does not have a resale control program.

Staff restates its position relative to two key General Plan Land Use Policies. The first Policy is

the "Balanced Land Use Policy", which reads:

"To plan urban land uses with a balance of residential, industrial, commercial, and public land uses.

The purpose of the Balanced Land Use Policy is to ensure that communities at all levels are developed in a manner whereby residential, industrial, commercial, and public land uses are proportionally balanced. This balance is intended to aid in developing a sense of community by distributing the various land uses and employment base more evenly throughout the County, reducing the impacts on the County's transportation system and positively affecting air quality. This policy does not require completely self-contained communities."

Related is the "Housing Densities" Policy, which reads:

"To provide for a variety of residential densities which permit a mix of housing opportunities affordable to the county's labor force.

The purpose of the Housing Densities Policy is to provide a wide range of housing densities within the unincorporated County that will permit a mix of housing opportunities, including both rental and ownership housing. The mix of densities is intended to make it possible to develop housing which is affordable to the County labor force and offer those who work here a reasonable choice of living accommodations."

It remains staffs' position that the 504 apartment units represent more than just a planned community commitment to affordability in a range of housing types; they represent a part of the overall supply and range of housing types in furtherance of the Housing Density policy of the Land Use Element. Additionally, the balanced land use policy of the Land Use Element is intended to ensure that projects are approved which provide a range of land uses and housing types. The policy implies a broadly even distribution of land uses so that one area does contain an overabundance of one or more land uses. Staff views the retention of apartments in Las Flores as an aid in promoting this policy.

In conclusion, staff recognizes the applicant's revised proposal and attempt to comply with the requirements of Zoning Code Section 7-9-147, which governs condominium conversions. We note that conversions are discretionary subject to making required findings. Staff cannot recommend approval of this project and offers the following finding for Planning Commission consideration:

- The use or project proposed is inconsistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

Should the Planning Commission find for the applicant's proposal, staff would request a continuance to a date certain so that appropriate findings and conditions for approval may be developed and offered for Planning Commission action.

RECOMMENDATIONS:

1. Receive RDMD report and public testimony as appropriate.

2. Deny PA040095, on the basis of the finding discussed heretofore.

   (or)

3. Continue PA040095 to a date certain with direction to staff to develop findings and conditions of approval.

Respectfully submitted,

Timothy S. Neely, Director
Planning & Development Services

Attachment: June 22, 2005 RDMD/PDS Staff Report
Applicant's Letter of July 19, 2005
Applicant's unsigned Letter of August 3, 2005