

DRAFT – April 29, 2003

Civano Neighbors Response and Recommendations to Fannie Mae’s Proposed Changes to MOU, Civano IMPACT System, and Development Agreement

In September 2002, Fannie Mae—through the Community of Civano, LLC—submitted a number of comprehensive changes to Civano’s Memorandum of Understanding, Civano IMPACT System, and Development Agreement. The changes, which would apply only to Civano Neighborhoods II and III, were submitted to Tucson City Manager James Keene. A month later, the City responded by requesting clarification, justification, and often alternatives for those changes. In March, Fannie Mae provided its response in the form of eleven points.

Since then, members of the Civano Neighbors leadership team have reviewed these proposed changes and met with City of Tucson and Community of Civano representatives. We have developed draft responses and recommendations to these points, and these will be discussed at our May 22 Civano Neighbors general meeting. Once community consensus is reached, Civano Neighbors will issue a position statement and work hard to ensure that no changes that may adversely affect Civano’s vision and sustainability goals take place. The points and our draft responses are summarized below:

1. Use of solar power as one of multiple technology choices available to reduce energy demand.

Fannie Mae is proposing that solar be offered as an option, where it is currently required. Given that Civano’s origin is as the Tucson Solar Village, and knowing that solar energy is our region’s most abundant natural resource, **Civano Neighbors opposes making solar optional.** In fact, we have separately submitted amendments to the Sustainable Energy Standard to the City Manager with the hopes that the energy requirements will be enhanced, allowing solar technologies to be more cost-effective at Civano because of enhancements to technology and lessons learned in Civano Neighborhood I.

2. Modify the requirement for reclaimed water use for Neighborhoods 2 and 3.

Fannie Mae proposes eliminating the reclaimed water requirement for individual homes, but maintaining it for common areas. Because of our extensive xeriscaping and other avenues to reduce potable water use—such as rainwater harvesting—**Civano Neighbors is in favor of modifying the requirement for reclaimed water use**, so long as other water reduction and conservation efforts are encouraged or required.

3. Allow optional roof construction to support roof-top solar systems.

Fannie Mae is proposing to allow roof structures designed to support roof-top

solar systems be optional, whereas they are currently required. While it is true that solar technologies are changing and may some day not be predominantly roof-top-based, the cost for roof-top structuring to support solar systems is minimal, and requiring such design encourages the use of solar technologies. **Civano Neighbors does not support allowing optional roof structures designed to support roof-top solar systems.** Such support should continue to be required.

4. Modify the location of commercial and industrial uses found at the center of each Neighborhood.

Fannie Mae proposes modifying the requirements for locating commercial and industrial uses at the center of each neighborhood to include community gathering areas and similar meeting places. It appears to us that Fannie Mae's sole definition of commercial is "retail." We acknowledge that retail uses have struggled at the neighborhood center, and likely need to be located along Houghton for more visibility and greater access. Professional office uses within the neighborhood center, however, have flourished. Institutional uses, outside of the traditional definition of "commercial," may also do quite well. Therefore, while we support a broader definition for what may be in the neighborhood center or core, that definition must continue to include commercial uses such as professional offices. **Civano Neighbors does not support modifying the requirements for locating commercial and industrial uses at the center of each neighborhood to include community gathering areas and similar meeting places** if the broad commercial definition, including office and institutional uses, is removed. Regardless, no modification can be a carte blanche ticket to remove commercial/office uses from neighborhood centers.

5. Modify the ratio of required non-residential to residential construction.

Fannie Mae is proposing modifying the original ratio of 300 square feet of "commercial" space for every two residential units to 200 square feet of "non-residential" space for every two residential units. In addition to decreasing commercial/non-residential space per residential unit, this proposal requests a definition change. **Civano Neighbors supports changing the definition to "non-residential,"** which includes institutional uses as well as parks and recreation centers and other public uses, so long as those uses still directly support onsite employment. **Civano Neighbors does not support modifying the ratio from 300 square feet to 200 square feet per every two residential units.**

6. Modify the housing affordability standards consistent with single-family detached housing types, market demand and financing availability.

Fannie Mae proposes to modify the IMPACT System housing affordability standard, which currently requires that 20% of the units constructed be affordable to households at 80% of Area Median Income (AMI). Fannie Mae's new

requirement would be that 15% of the units be considered “affordable,” which is defined as either a) affordable to a family at no more than 115% AMI or b) with a unit price not more than 90% of the average new home sales price. Fannie Mae contends that the market for attached or multifamily housing in outlying locations with no public transportation (such as Civano, currently) is weak. However, if Neighborhood II’s OCR land use is built out as planned, there would be much higher density, facilitating both public transit and attached housing. Therefore, while **Civano Neighbors supports modifying the housing affordability standards**, we encourage higher-density, attached housing in the locations currently designated for such by the City’s Land Use Code.

7. Modify the Civano Development Agreement to acknowledge the limitations of annual production quotas.

Fannie Mae is proposing to modify the Development Agreement so that the fixed 100 unit-per-year production target is eliminated, and that terms be changed from houses or dwelling units to “residential lots”—since the Master Developer is presumed to be developing and selling lots, and may not necessarily be constructing houses or other dwelling units. Fannie Mae’s discussion of this point clearly shows its marketing focus has not been successful (trying to market Civano to the broader audience while it is a niche community), and additionally points to the fact that homebuilders’ selling agents may not be adequately selling the homes (based on Civano’s sales to traffic pattern percentage). That said, the impact of the economy on home sales cannot be predicted, much less controlled, and an annual quota that has yet to be reached doesn’t make sense. Therefore, **Civano Neighbors supports modifying the Civano Development Agreement to acknowledge the limitations of annual production quotas.**

8. Modify the Civano Development Agreement and Indemnity Agreement to provide the City with an equitable return on its infrastructure investment.

Fannie Mae proposes both that the Indemnity Agreement require the Master Developer to develop and sell 1,000 building lots, as opposed to completing the dwelling units, by April 2009; and that the City be able to recover the cost of the infrastructure provided by the City on a pro-rata basis rather than an absolute \$3 million recovery if the Master Developer misses the target by even one unit. The first proposal is one of lots versus units, and the second of equitable reimbursement. Following discussions with the City, it appears the City does not want to change the definition from dwelling units to lots. However, the City seems open to pro-rating versus full reimbursement, if necessary. Because of its uniqueness, Civano will take longer to build out than a typical subdivision. The risk with changing the definition isn’t necessarily the amount of time that build out takes, but rather whether so many lots are left by April 2009 that the Master Developer could leave and Civano remain unfinished. Despite that risk, **Civano Neighbors supports modifying the Civano Development Agreement and Indemnity Agreement to provide the City with an equitable return on its**

infrastructure investment.

9. Revise the remedies available to the City regarding Civano’s Energy certification procedures.

Fannie Mae proposes modifying the provision that enables the City’s Development Services Department to perform energy conservation reviews if the existing energy certification process is “unsatisfactory.” Fannie Mae’s language would provide that if the City determines that a non-compliance issue exists, the City may require that Community of Civano and Civano builders to employ a certification vendor whose review and certification has not resulted in any non-compliance findings. It appears to us that Fannie Mae is attempting to remove ultimate oversight from the City, and by default allow the developer or builder to self-police itself. Because the energy certification process, and related reporting, are essential and work well today, **Civano Neighbors does not support revising the remedies available to the City regarding Civano’s Energy certification procedures.**

10. Coordinate development of the proposed park facility with future Civano development.

Fannie Mae is proposing to modify the Development Agreement, which currently provides an indefinite amount of time for the City to conduct a park bond funding. If passed, the bond would require the developer to set aside land and subsequently build the turnkey \$4 million park and recreation center. The modification would require the City to conduct a bond election to determine the availability of park bond funding no later than May 30, 2007. While the park bond issue means there’s a possibility such funds will not be available (if the bond proposal fails), and even though in the current economy it’s unlikely such a bond would pass, Civano residents anticipate a regional park located in Neighborhoods II or III. Even though it’s an unknown, we would like to see the developer set aside the land for the possible park during site planning, and not hold off until the very end. If the entity that develops Neighborhoods II and III commits to set aside and plan for the park and recreation center funded by these bonds, **Civano Neighbors supports coordinating development of the proposed park facility with future Civano development.** However, if the park is not designed into the site plan, Civano Neighbors does not support this proposal.

11. Formalize and finalize the COC-funded not-for-profit.

COC proposes capitalizing its own not-for-profit entity, Civano Research and Development Foundation (established for several years but never active), with an initial cash contribution of \$134,000 plus a transfer of \$100,000 from unused sewer credits—in lieu of the requirement that the Master Developer contribute 10% of its net profit to the not-for-profit entity. Despite the fact that Fannie Mae has endured a loss on Civano and therefore has not had to pay the 10% of profits,

it's quite possible that another developer of Neighborhoods II and III could make an overall profit.

Nevertheless, Civano Neighbors supports the "buy out" of this portion of the Development Agreement provided that the benefiting not-for-profit entity is not controlled by or associated with the Master Developer and has a broader vision and mission than the existing Civano Research and Development Foundation that COC created and recommends. Civano Neighbors understands that the original Solar Village Corporation may soon be reactivated with a new Board or that a new "Civano Institute," with an expanded mission, may be created to take its place. The Solar Village Corporation (later called the Civano Institute and most recently the Tucson Institute for Sustainable Communities) was the original Civano not-for-profit entity and was active until the end of 2002.

Civano Neighbors supports formalizing and finalizing the COC-funded not-for-profit provided the Solar Village Corporation or a new "Civano Institute" located at Civano is designated in the MOU for capitalization by COC. It is understood by Civano Neighbors that the capitalization will be \$234,000 including a cash payment for sewer credit as specified by Section 4.4 of the Development Agreement.