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Agenda Date: 12/2/2009

Agenda Placement: 9D

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** John McDowell for Gitelman, Hillary - Director  
Conservation, Development & Planning  
**REPORT BY:** Lawrance Florin, COM AND INTERGOV AFFAIRS MGR - 253-4621  
**SUBJECT:** Affordable Housing and Density Bonus Ordinance

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### **RECOMMENDATION**

#### **AFFORDABLE HOUSING AND INCENTIVES ORDINANCE - ZONING ORDINANCE TEXT AMENDMENT P09-00501-ORD**

**CEQA Status:** The project is intended to implement some of the programs in the 2009 Housing Element Update and falls within the scope of the 2009 Housing Element Update adopted June 23, 2009 and the program-level Environmental Impact Report (EIR) prepared for the 2009 Housing Element Update certified on June 23, 2009 adequately describes the activity for the purposes of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15168(c); General Rule: It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

**Request:** The ordinance would reorganize existing County Code provisions regarding affordable housing and incentives for affordable housing development. Ordinance amendments would: 1) require that 20 percent of new single-family homes and 17 percent of condominiums and townhomes be affordable to moderate-income households; 2) require that moderate-income homes be built on site for developments with 5 or more for-sale units; 3) require payment of housing impact fees for rental housing developments; 4) allow alternative affordable housing proposals; 5) add application requirements for affordable housing; 6) modify housing trust fund procedures; 7) amend provisions for density bonuses and other incentives as required by State law; and 8) continue to require the payment of housing fees with respect to nonresidential development projects.

**Ordinance Title:** AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, REPEALING CHAPTERS 15.60 (AFFORDABLE HOUSING) AND CHAPTER 18.107 (RESIDENTIAL DENSITY BONUS AND INCENTIVES) OF THE NAPA COUNTY CODE AND ADDING CHAPTER 18.107 (AFFORDABLE HOUSING AND INCENTIVES) TO IMPLEMENT THE 2009 HOUSING ELEMENT UPDATE OF THE NAPA COUNTY GENERAL PLAN AND MAKING VARIOUS ADDITIONAL TECHNICAL CHANGES

**Staff Recommendation:** That the Planning Commission conduct a public hearing and forward a recommendation of approval to the Board of Supervisors.

**Staff Contact:** Larry Florin, 253-4621 lflorin@co.napa.ca.us

**EXECUTIVE SUMMARY****Proposed Action :**

1. A) That the Planning Commission recommends to the Board of Supervisors that the proposed ordinance has been adequately addressed within the scope of the 2009 Housing Element Update Program Environmental Impact Report (EIR) certified on June 23, 2009; and B) that the Planning Commission recommends to the Board of Supervisors that the proposed ordinance also qualifies as statutorily exempt from the provisions of CEQA pursuant to Section 14 CCR 15061(b)(3), General Rule.

2. That the Planning Commission recommends to the Board of Supervisors that the proposed ordinance by found consistent with the Napa County General Plan, and that the Board of Supervisors adopt the proposed ordinance.

**Discussion :**

The Housing Element of the General Plan, adopted in June 2009, commits the County to update the Affordable Housing Ordinance not less than every time the Housing Element is updated (usually every 5-7 years). Attached to this item is the proposed amended Affordable Housing ordinance.

Based on a residential nexus study commissioned by the County, the proposed amendment to the Affordable Housing Ordinance recommends that the inclusionary housing requirements are raised from 10% to 12% for rental housing, 17% for condominium development and 20% for single family detached housing. The proposed ordinance also requires that developments of five or more units build inclusionary housing, rather than pay an in lieu fee.

In addition to the inclusionary requirement, the County, through the Housing Element, committed to amending the Affordable Housing Ordinance, pursuant to state law, to create a density bonus for projects of five or more units where affordable units are constructed in addition to those already required by the terms of this ordinance. This proposal creates the following bonus:

- 1 projects containing target units affordable to low and very low income households are granted a bonus of from 20% to 35%.

The ordinance also contains a number of administrative provisions. These provisions are intended to clarify the operation of the affordable housing fund.

In addition, as part of the update of the Affordable Housing Ordinance, the County is proposing to revise the in-lieu fees by converting those fees from a percentage of construction value, to a fee per square foot of new habitable area. In addition, the proposed in-lieu fees would reflect the findings of an economic nexus study commissioned by the County and conducted by Keyser Marston Associates.

The option under consideration:

- 1 An increase in the in-lieu fee for new construction or additions to "for-sale" units, phased in over three years from 2011 to 2014, increasing from \$2.50 to \$9.00 per square foot of new habitable area.
- 1 An increase in the proposed in-lieu fee for rental units, to be phased in over four years from 2010 to 2013,

increasing from \$2.50 to \$5.50 per square foot of new habitable area.

It is also requested that the Planning Commission discuss the proposed increases to the affordable housing in lieu fee and provide comments to the Board of Supervisors. Commission feedback on the fee component will be forwarded by Staff to the Board for consideration, but is not part of the formal action requested.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

The project is intended to implement some of the programs in the 2009 Housing Element Update and falls within the scope of the 2009 Housing Element Update adopted June 23, 2009 and the program-level Environmental Impact Report (EIR) prepared for the 2009 Housing Element Update certified on June 23, 2009 adequately describes the activity for the purposes of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15168(c); General Rule: It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

### **BACKGROUND AND DISCUSSION**

The Housing Element of the General Plan adopted in June 2009, establishes as policy that the Board of Supervisors will update the Affordable Housing Ordinance. Below is a summary of the changes that are being proposed to the Ordinance:

#### **Affordable Housing Fund**

Maintains an Affordable Housing Fund where all affordable housing fees required by the ordinance are to be deposited. The Affordable Housing Fund monies are to be administered by the Housing Director under the direction of the Board of Supervisors. The Board, if it chooses, may establish an Affordable Housing Advisory Board. Affordable Housing Fund monies must be used to increase, improve, or preserve affordable housing in the County. On an annual basis, the Housing Director is to prepare an annual report for the Board of Supervisors that lists all monies in the fund, describes the source of such monies, and details any activities undertaken with the Affordable Housing Fund during the reporting period.

#### **Nonresidential Development**

Housing fees for commercial development are assessed per gross square foot of new nonresidential space and are charged to help mitigate the need for affordable housing in the County caused by new jobs created from the development. Fees are set by resolution of the Board of Supervisors based on the following land use categories: office, retail, warehouse, industrial and hotel. Fees for affordable housing related to nonresidential development were last amended in 2004 with the previous Housing Element adoption. The current proposal for updates do not contain any changes to the non residential fees.

#### **Residential Development**

The proposed amendment includes a change from 10 to a proposed 20 percent of all single family detached

dwelling units, and 17 percent of all single family attached and common interest dwelling units in an ownership project must be affordable to moderate income households. Housing fees, paid in lieu of this requirement, with respect to residential projects will be set by resolution of the Board of Supervisors. These fees will be based on gross square footage of residential floor area.

**Rental residential projects must either:**

- | Pay housing fees based on the floor area of each rental dwelling unit.
- | Be subject to an approved equivalency proposal to mitigate the impact of the rental project on the county's affordable housing needs.
- | Make 12 percent of all rental units in the project affordable to low income households by entering into a rental regulatory agreement with the county as required by the Costa Hawkins Act.

Projects exempt from the residential inclusionary requirement include: farmworker housing units and units totaling 1200 square feet or less; deed-restricted affordable housing units; residential projects located on a Specified Priority Housing Development Site; and state density bonus units. Residential projects of four or fewer development units may either build one or more affordable units or pay housing fees based on the floor area of each market rate unit in the project. As an alternative to on-site construction of affordable units or payment of housing fees, an applicant for a residential project may suggest an alternative means of compliance so long as such alternative will supply as much or more affordable housing. Residential projects that include the actual construction of affordable units are entitled to submit a request for the waiver of application fees, expedited permit processing and certain other incentives.

**Density Bonus and Other Incentives**

Pursuant to state law, a density bonus is granted for residential projects of five or more units where affordable units are constructed in addition to those already required by the affordable housing terms of the ordinance. Projects containing target units affordable to low income households are granted a bonus of from 20% (for 5% target units) to 35% (for 20% target units). projects containing target units affordable to very low income households are granted a bonus of from 20% to 35%. If a density bonus is requested for a qualified residential project, that project, may also be eligible for certain state authorized incentives such as a reduction in applicable development standards or the allowance of mixed use development. Under certain circumstances, an applicant may seek a waiver of any development standard that will physically preclude the construction of the residential project. Common interest development projects, including specified donations of land, senior citizen residential projects, projects containing a child care facility, and condominium conversions, may also qualify for state density bonuses and incentives. A residential project eligible for a density bonus may also qualify for a decrease in the onsite parking requirement that would otherwise be required by the project. If the project is located on Specified Priority Housing Development site, the applicant may apply for a density bonus and incentives either under this ordinance or under the :AH Combination District ordinance but not both.

**Residential In Lieu Fees**

In addition to the update to the Affordable Housing Ordinance the Board of Supervisors will be considering an update to the Affordable Housing Fees that are paid in lieu of building inclusionary affordable housing. Below is a summary of what is being proposed to the Board of Supervisors.

As part of the update of the affordable housing ordinance, the County is proposing to revise the in-lieu fees by converting them from a percentage of construction value to a fee per square foot of new habitable area. The following option is under consideration for amendment of the in lieu fee:

The proposed in-lieu fees would reflect the findings of an economic nexus study commissioned by the County and conducted by Keyser Marston Associates, which targets an inclusionary requirement of 20% for detached for-sale units, 17% for attached for-sale units, and 12% for rental units. The proposed in-lieu fee for new or additions to for-sale units would be phased in over three years from 2011 to 2014, increasing from \$2.50 to \$9.00 per square foot of new habitable area. The proposed in-lieu fee for rental units would be phased in over four years from 2010 to 2013, increasing from \$2.50 to \$5.50 per square foot of new habitable area.

The attached memo details the proposed changes as well as the rationale for these proposed changes.

### **SUPPORTING DOCUMENTS**

- A . Draft Affordable Housing Ordinance
- B . Residential Nexus Study
- C . In Lieu Fee Proposal

Napa County Planning Commission: Approve

Reviewed By: John McDowell