

Agenda Item#14.1
Meeting of: March 31, 2015



DATE: March 12, 2015
TO: Mayor Sawyer and Members of the City Council
FROM: Charles J. Regalia, Assistant City Manager
SUBJECT: Housing Allocation Plan Requirements

The purpose of this memorandum is to outline the history and current requirements of the Housing Allocation Plan, the City's inclusionary housing ordinance, in response to recent Council questions.

History

The Housing Allocation Plan ordinance was adopted in June 1992, following an update to the Santa Rosa General Plan. The goal of the Housing Allocation Plan (HAP) is to increase production of housing units affordable to households of lower income. Since 1992, the ordinance has been amended several times; the key amendments are noted below.

The initial Housing Allocation Plan required most projects to provide units affordable to low-income households on a project site. The requirement was that projects of more than seven acres designated Very Low Density (up to 2 units per acre) or more than two acres designated Low Density (2-8 units per acre) on the General Plan Land Use Diagram provide affordable units on a project site. Fifteen percent of total project units were to be affordable to low income households and be either for sale or for rent. Projects on smaller sites, where applying 15 percent to did not yield one affordable unit, were subject to an in lieu fee. As is true today, there were other alternatives for compliance in the original ordinance, including off-site development of affordable units and land dedication on or off-site.

In 1995, the ordinance language was revised to require residential developments under 20 acres to pay the in lieu fee. After a multi-month Council study of the Housing Allocation Plan and Growth Management ordinances in 2002, the requirement was changed to apply to projects of 15 acres or less.

The Housing Allocation Plan was most recently revised in 2012 to include payment of a housing impact fee as the basic requirement. The details of this amendment are described more below.

Affordable Housing Supported by HAP

Since the inception of the Housing Allocation Plan in 1992, **1,682 units have been constructed**, both on project sites and through the use of the housing impact fee. Of these, **1,583 units have been provided with assistance of the HAP fee.** This includes 980 units affordable to very low-income households and 603 units affordable to low-income households.

Ninety six on-site units affordable to low-income households have been constructed in seven development projects. Of these units, 50 are rental units and 46 units were sold. Several of these ownership units are no longer affordable.

Recently, permits have been issued for the 24-unit Dauenhauer Ranch Tierra Springs project, which are on-site rental units. And 24 low-income, senior units are approved on the Creekside Village site on Montgomery Drive, and 31 low-income units are approved in the North Village II project.

Current HAP Provisions

The General Plan's 2009 Housing Element included a policy directing amendment of the HAP. The policy directed that the trigger for provision of affordable units on-site be changed from a project's size in acres to a project's number of units. The policy also directed that the HAP's exemption for mixed use developments be studied and potentially eliminated. A Mayor's Committee on the Housing Allocation Plan was appointed to evaluate several factors, including:

- 1) Percentage of affordable housing required of development projects
- 2) Relationship of on-site production to in lieu fee payment
- 3) Continuation or termination of the exemption for mixed use development projects from the requirement to participate in the Housing Allocation Plan
- 4) Identification of additional funding sources for affordable housing (commercial linkage fee, real estate transfer tax, redevelopment funding increase)
- 5) Off-site affordable housing development and other alternatives

This group began meeting in September 2009 and completed its meetings in September 2010. From the beginning of the process, a severe and continuing disagreement emerged regarding the best way to provide affordable housing in Santa Rosa. The two alternative methods addressed by the committee included:

- 1) **Construction of affordable units on-site** as part of development projects
- 2) **Use of in lieu fees to construct affordable units** in separate projects

Legal Context

Concurrent with the HAP Committee discussions, a legal decision was made which impacted the regulatory options available for inclusionary housing. This California Court of Appeals decision, *Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, presented communities with new questions regarding the legal parameters of inclusionary zoning.

The *Palmer* case holds that requiring affordable rental units violates the state law prohibiting rent control. Thus, **communities can no longer require on-site provision of affordable rental units through inclusionary ordinances**. A locality may include rental housing in its inclusionary ordinance provided the developer receives a financial contribution or incentives or concessions such as those specified in the density bonus law. In this case, the developer would agree by contract to limit rents for affordable units in exchange for incentives or concessions.

Based on the work of the HAP Committee and the impact of the *Palmer* decision, the Council weighed options and directed staff to return with a revised ordinance which would require all residential units to pay a housing impact fee and remove the current exemption for mixed-use projects.

The **revised Housing Allocation Plan** was adopted in November 2012. The basic provisions of the program, which are in effect today, are:

- 1) Residential projects pay the housing impact fee
- 2) Projects of 70 or more units must consider providing allocated units on the project site and meet with the Community Development Director to discuss
- 3) Projects providing affordable units on-site shall provide units affordable to low income households at 15% of total project units
- 4) Any on-site unit provided must be a rental unit
- 5) Projects may provide affordable units off-site or dedicate land on or off the project site, in accordance with ordinance requirements

At the time the Council directed revision of the HAP, it also directed updating the housing impact fee. Nexus studies were completed, and the revised fee was adopted in December of 2013. Rental units pay a per square foot fee which increases as the unit size increases, and for sale units pay a fee equal to 2.5% of the unit sales price.

Please let me know if there are further questions.

CJR/lis

c: Sean P. McGlynn, City Manager

On Site Units Developed through HAP

Project Name	VL	Low	Type	Permitted
Donahue		1	Ownership	
Cottonwood		1	Ownership	
Franklin Park Place		2	Rental	
Linwood Subdivision		32	Rental	2005
Woodbridge		19	Ownership	2006 (13), 2007 (4), 2008 (5)
North Village I		16	Rental	2006 (4), 2007 (6), 2008 (6)
Orchard at Oakmont		25	Ownership	2006 (5), 2007 (2), 2009 (4), 2011 (14)

(Note: 22 originally required, but 3 allowed to sell at market
(To be released when North Village II units built).
Voluntary units w contract

TOTAL 0 96

Pending Projects with On Site HAP Units

Project Name	HAP Units	Total Units	Type	Approved
Courtney Estates	8			2005
Creekside Village	24	165	Rental/Senior	2005
Dauenhauer Ranch	24		Rental	
North Village II	31		Rental	
TOTAL	87			

Other

Varena	15 VL	5 L	Rental	2007	Voluntary units no contract-also 12 VL due to bond sales
Dauenhauer	20 Mod		Ownership		Restricted at Moderate until 24 rental units are built.

