



**REPORT TO MAYOR AND CITY COUNCIL**

AGENDA ITEM

TO: THE HONORABLE MAYOR  
AND CITY COUNCIL

DATE: November 27, 2007

SUBJECT: Revisions to the City's Affordable Housing Ordinance (6A), the Spring Lake Affordable Housing Plan, and 2007-2008 CDBG Action Plan

**Report in Brief**

In response to issues associated with the implementation of the City's affordable housing programs, staff has developed proposed changes to the Affordable Housing Ordinance (6A), the Spring Lake Affordable Housing Plan and the 2007-2008 CDBG Action Plan. These changes have been reviewed and recommended for approval by the City Council Affordable Housing Subcommittee as well as the Planning Commission at their meeting of November 1, 2007. Approval of these changes will address issues that staff have encountered during the implementation of these programs and make it easier to facilitate the construction, distribution and occupation of these units by families who meet the program eligibility requirements.

Staff recommends that the City Council introduce and read by title only an ordinance to amend Chapter 6A which updates to the City's Affordable Housing Ordinance, adopt the resolution to amend the Spring Lake Affordable Housing Plan and amend the CDBG Action Plan to expand the housing rehabilitation program to include homeownership assistance.

**Background**

As part of the approval of the Spring Lake Specific Plan, the City implemented an inclusionary housing program to ensure that there would be a distribution of incomes throughout the Spring Lake Specific Plan Area. This program was initiated in the Spring Lake Specific Plan, and was more fully defined in the Spring Lake Affordable Housing Plan (SLAHP) that was adopted by Council on May 20, 2003.

The basic parameters of the SLAHP were then applied to the citywide inclusionary housing ordinance with the revision of the Chapter 6A: Affordable Housing Ordinance in 2004. The 6A ordinance was originally adopted in January of 1995 and further amended in 2002.

In June of 2006, the City closed its first homes under the Spring Lake Affordable Housing Plan. Based on experience and difficulties that staff has had over the last 15 months in closing units, it was

decided to revisit the ordinance and plan and make changes that is intended to improve the program. Staff looked at ways to speed up sales and make units widely available to eligible households, address issues in design and unit types, improve the lottery process, enhance the program's financial performance as well as some general programmatic changes that will make the program easier to implement.

Over the course of two meetings, (October 9 and 12, 2007) with the City Council Affordable Housing Subcommittee, staff was able to review the proposed changes and receive input on needed refinements to bring the various changes forward. To make it easier to understand, as well as manage, staff prepared a matrix that shows how the issues are addressed currently in the existing ordinances, staff's recommendations for changes, and finally the Subcommittee's comments and recommendations. (This matrix is included as Attachment A.)

Staff initiated the refinement and improvement process in January 2007 through the submission of a report to the City Council on the status of the first year of the program. Prior to this meeting, staff met with the Spring Lake Development Group to discuss the proposed changes. Based on input from this group, staff reexamined some of the possible changes in order to gain their support while still meeting the goal of the Spring Lake Affordable Housing Plan.

### **Discussion**

In the past 15 months, the City has closed 37 units of inclusionary housing. Closing these units has been difficult because the affordable price is too high, in most cases, in relationship to the level of household income required. In most cities, the affordable price is relatively lower than Woodland's because the allowable housing cost is based on the payment of the monthly mortgage payment of principal and interest, as well as payment of taxes and insurance (PITI). Woodland made a compromise with the developers and allowed a calculation of housing costs based only on payment of principal and interest, PI. However, that eliminated a high percentage of households from being eligible because the lending requirements from banks and additional subsidy programs, require that taxes and insurance be counted in the housing payment and households could not spend more than 40% of their gross monthly income on housing costs. This made the window of families that qualified very narrow. Low income is classified as 80% of Area Median Income (AMI). In the City's program, because the affordable price is high, no households earning less than 75% of the Area Median Income could qualify. To help more households and find buyers for the developers, the City had to use additional funds from other subsidy programs. To date, the City has used almost \$1.1 million from other funding sources to make the Spring Lake program successful. Even with these subsidies, only 10% of the low income households that applied were eligible to purchase Woodland homes under the current program. In addition, the majority of the additional funding has expired, so staff is searching for ways to make the program work that does not require a high level of public subsidy.

In addition to the PI vs. PITI issue, the City is looking for a way to reduce the property taxes for these buyers which will lower their housing costs and allow more applicants to qualify. Currently, the Yolo County Tax Assessor assesses these units as if the households paid the full market value. The City has contested this assessment methodology and has gotten support from the State Board of

Equalization which has written an advice letter that gives guidance to the Tax Assessor to use the actual affordable purchase price rather than the market price. However, these efforts have not been successful and the Assessor's office has chosen to interrupt the letter in a different way and has continued to assess these homes at a much higher property tax level. The difference between the property tax assessment of the Affordable Purchase Price and the Fair Market Value is approximately \$80-100 per month. These higher taxes also lower the number of households that can purchase homes.

These two issues have been the biggest hurdles in successfully implementing the City's programs. To overcome these issues, staff has suggested the following changes:

- Moderate Income – Due to the fact that the housing market is currently in decline, it was expected that implementing a PITI Program would be met with great resistance from the development community. To increase the pool of buyers, staff is suggesting instead that Moderate Income families, or those earning up to 120% of Area Median Income, be allowed to participate. Currently, the developer has 90 days to market their units to low income households. After this 90 day period has expired, the City then has 120 days to find a low income buyer. The proposed new program would still retain the 90 days for the developer to find a low income buyer. Then, for the first 60 days of the City's marketing period, the home would be marketed to those families earning up to 100% of Area Median Income and only after that, would the City consider households earning up to 120% of AMI. By splitting the City's period into two, it gives priority to low income families, but allows the families just over the low income level to have a chance to participate as well.
- Regulatory Penalty Clause – The Yolo County Tax Assessor can assess these homes at the full market value because the City records a deed of trust for the difference between the affordable purchase price and the fair market value. This deed of trust places consideration on the property that the assessor can assign a value to. The proposed change would have the City recording a deed of trust for only \$1,000 on the property. By having a deed of trust, it still allows the City to know when the unit is being sold or transferred. To get the full repayment on what has been the Silent Second Mortgage, the City would place a penalty clause in the Regulatory Agreement for each unit sold. Essentially, once the unit is sold to a non-low income family, or for a non affordable price, the seller would be required to repay the City a penalty payment for the remaining amount. Staff has had discussions with the City Attorney, as well as the Tax Attorney who prepared the City's request to the Board of Equalization. Both feel that the Regulatory Agreement has no financial value to it, therefore there is no consideration on the property and the taxes will be based on the affordable purchase price.
- Design and Makeup of Units –Staff has received direction from the Planning Commission and City Council to strengthen language in the ordinance and plan regarding design and type of affordable units. There have been issues where duplexes were used to fulfill all the affordable needs of a project, or where developers, have clustered the for-sale affordable units in one location (clustering will still be an option for rental projects), or there is a lack of

proportionality in terms of number of bedrooms in affordable units matching the bedroom numbers in the market-rate homes. Often all the affordable units were limited to two bedrooms and all of the market rate units had more bedrooms. The proposed changes provide staff with more authority to address these issues as part of the project approval process.

- Lottery Process – The proposed changes strengthen the language requiring a lottery and separate the lottery process from the building permit issuance schedule, making the program easier to implement.
- Financial – The proposed changes add a Map Review Fee to partially cover the costs of housing staff review of the tentative maps for location of affordable units. There are also minor changes to the Spring Lake Affordable Housing Fee as well as the repayment of Silent Second loans to allow for recovery of administrative funds. New language has been inserted to make it easier to reinvest the recovered funds in new development of affordable projects. The in-lieu fee calculation methodology has also been simplified.
- General – The proposed ordinance revisions make changes in marketing requirements, dedication of land for construction of affordable units, and give the City right of first refusal to buy a property that that is losing its affordability restriction. The changes also grant the Community Development Director the authority to make minor changes to the program to keep it in line with changes in laws and regulations, require units to be completed within six months of the lottery (however, extensions can be granted for items beyond the developer's control such as weather), and allow apartment complexes to perform their own utility allowance studies for calculation of the affordable rents.
- CDBG Action Plan Amendment – Under CDBG regulations, CDBG funds can be used for homebuyer assistance. The City currently funds its homebuyer assistance activities through applications to various State and Federal programs. Although the City has been successful in securing these funds, there is often a lag time in receiving funds. The use of CDBG can make it easier for staff to close units as needed. It will also allow the City to reach families that might not be eligible to purchase through the normal Inclusionary Housing Program. This change can be made if the underutilized funds that the City has available for the Housing Rehabilitation Program is expanded to include homeownership. To implement this change would require Council approval for an Amendment to the CDBG Action Plan to include this provision in the City's Housing Rehabilitation Program. At this time the amount available in the housing rehabilitation program at the present time is \$212,000.

The majority of the proposed changes have little to no effect on cost to the developers. Staff does expect that the changes will make the programs easier to implement over the long term.

### **Fiscal Impact**

These changes will have a positive effect to the City as some of these funds will be allowed to be used for the cost of staffing and implementing the affordable housing programs. The exact impact is unknown at this time; however, staff will provide further analysis as part of the FY 2008-09 budget process.

### **Public Contact**

A notice was published in the Daily Democrat prior to the Planning Commission as well as the City Council meetings.

The Spring Lake All meeting group was also sent a copy of the Planning Commission Staff report. Staff did respond to some questions that were raised by the developers. Developers were also invited to meet with staff to discuss the changes. Staff has engaged various developers in productive discussions regarding the proposed changes.

Staff also circulated the requested changes to Legal Services of Northern California for comment. Although Legal Services expressed concerns about the conversion of some of the low income units to moderate income, they did feel that the City was moving in the right direction to continue to improve and enhance its affordable housing programs.

### **Commission Recommendation**

These program changes were presented to the Planning Commission during their November 1, 2007 meeting. One commissioner was supportive of the City instituting a PITI requirement for the Affordable Purchase Price component of the program. The final recommendation was to support the changes was approved 5-1 by the Commission.

### **Council Committee Recommendation**

The City Council Affordable Housing Subcommittee reviewed the changes with staff. Overall the Subcommittee was supportive of the changes. Additional changes requested by the Subcommittee have been incorporated into the proposed ordinances.

### **Alternative Courses of Action**

1. Staff recommends that the City Council introduce and read by title only an ordinance to amend Chapter 6A which updates to the City's Affordable Housing Ordinance, adopt the resolution to amend the Spring Lake Affordable Housing Plan and amend the CDBG Action Plan to expand the housing rehabilitation program to include homeownership assistance.
2. Cease further consideration of the actions described herein.

**Recommendation for Action**

Staff recommends that the City Council approve Alternative No. 1.

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- 1) Ordinance Change Matrix
- 2) 6A Ordinance
- 3) Springlake Affordable Housing Plan and CDBG Action Plan Amendment Resolution