



COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

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DATE: April 5, 2005 at 6:00 p.m.
TO: Board of Supervisors
FROM: Jane Riley, PRMD
SUBJECT: ZOR04-0001
Zoning Code Amendments to Implement Housing Element Programs

Action of the Planning Commission:

At a regularly scheduled meeting on January 13, 2005 the Planning Commission with a 5 - 0 vote adopted Resolution No. 05-001 recommending approval of the Zoning Code Amendments package, as amended. Prior to recording their vote, the Commission requested that the following comments be noted for the Board's consideration:

- 1) All Commissioners agreed that there exists a need to re-assess our housing needs on a regular basis, and to re-focus our policies and programs to meet those changing needs as required by the 5-year Housing Element update process.
- 2) Commissioner Cooke emphasized that the County needs to increase incentives for affordable rental housing, as well as for childcare facilities. He also expressed concern about the use of arbitrary numerical standards in the Zoning Code.
- 3) Commissioner Alberigi does not support the Workforce Housing Program or fee, as she feels that it will hurt business.
- 4) Commissioner Alberigi was also opposed to the new regulations allowing lot splits of Williamson Act land to provide farmworker housing, as she is concerned that it could lead to the loss of agricultural lands.

Background:

The proposed Code changes are presented in a tabbed binder (previously distributed to the Board) which groups the code changes by topic in a series of discussion papers outlining the key issues, policy options, and staff recommendations with separate ordinance exhibits attached to each paper. A brief summary of all of the proposed changes is provided in the Introduction under the "Overview" tab. Discussion Papers, Fact Sheets and draft revisions to the code are then grouped in three sections under the primary topics of Removing Constraints, Expanding Opportunities and Affordable Housing. The compilation of discussion papers and ordinance exhibits constitutes the staff report for the project, and has been the "working document" during the Planning Commission's public review & hearing process. The Planning

Commission's Resolution setting forth their recommendations on the proposed code changes is provided in the Introduction under the "Resolution" tab.

The proposed code changes are intended to accomplish three primary goals and objectives of the Housing Element to:

- 1) Remove constraints to the development of housing by revising development standards for multi-family housing, second units, mobile homes and farmworker housing;
- 2) Expand opportunities for affordable housing and a variety of housing types by allowing: mixed use, work/live, live/work, and single room occupancy units; and,
- 3) Produce affordable housing by requiring that all new development participate in the County's Affordable Housing Program through either construction of affordable units, payment of in-lieu fees or an equivalent alternative.

Other changes are also proposed to comply with recent changes in state law, to simplify, streamline and clarify procedures that apply to affordable housing projects, and to provide consistency between code sections. The proposed Article 89 brings together requirements, bonuses and incentives related to affordable housing in one place within the Code. As part of this Article 89 re-write, certain details related to specific homeownership policies and financing mechanisms were recommended to be removed from the Zoning Code and placed instead in a Homeownership Policies document, prepared and administered by the CDC, which will be presented by the CDC to the Board as a separate agenda item. Another code change included in this package would allow deferral of fee payments for affordable housing projects using an agreement form that would be authorized by the Director of PRMD.

Following the Board's review of these amendments and direction to staff on the policy options, an ordinance and accompanying resolutions will be provided for the Board's consideration and final action.

ISSUES DISCUSSED AT THE PUBLIC HEARINGS

Issue #1: Density Standards for Mobile Home Parks (Discussion Paper C)

Discussion: Recent changes in the Mobilehome Residency Law (MRL - Civil Code § 798.45) limits the purview of local jurisdictions over mobile home parks and also exempts newly constructed mobile home spaces from local rent control ordinances. The Planning Commission expressed concern that the relaxation of mobile home park standards might encourage existing park owners to adjust lot lines within existing parks in order to provide additional spaces and release existing spaces from rent control. The Commission discussed applying one set of standards to new mobile home parks and another to existing parks in order to prevent this occurrence. However, another change in state law, which becomes effective on July 1, 2005, will remove the County's authority over the creation, movement, or alteration of lot lines between mobile home spaces. At that time, most interior standards for mobile home parks, including lot sizes, will be under state authority only. The Commission therefore determined there was no effective way to apply different standards to the expansion of existing mobile home

parks versus to the creation of new parks. In addition, staff determined in consultation with HCD that only new construction would be exempt from rent control and that revising lot lines alone would not exempt existing units from rent control. Although most development standards within mobile home parks and rent controls are no longer under local control, the density of residential uses and exterior standards remain under local authority.

Resolution: The Planning Commission recommended a single set of density standards be utilized for all mobile home parks, and that the maximum densities allowed within mobile home parks be set at 135% over the mapped (base) density in the R1, R2 and R3 zoning districts, recent changes in state law and consistent with maximum densities available for affordable units under SB 1818. The Commission directed staff and Counsel to make appropriate changes to Exhibit C, and then recommended adoption of the revised Exhibit.

Issue #2: Subdivision of Ag Preserve Parcels for Farmworker Housing (Discussion Paper D)

Discussion: The Planning Commission had concerns that the implementation of this state law could lead to a potential loss of agricultural land to development and growth inducement outside urban boundaries. New state law requires local jurisdictions to approve a division of agricultural preserve lands to allow development of farmworker housing where the site abuts developed property on at least two sides. The law also requires that the farmworker housing be developed and managed by a non-profit or public agency for a minimum term of 30 years and that the property be re-merged with the original parcel once the site is no longer used for farmworker housing. The Planning Commission was also concerned with how the site could be re-merged if under separate ownership.

Resolution: The Planning Commission agreed that the County's current definition of farmworker housing would not allow family-style subdivisions and is sufficient to protect against urban sprawl. The Commission also determined that adding a reversionary clause to the deed restriction would be sufficient to ensure the re-merger in the event the site was no longer used for farmworker housing.

Issue #3: "Home Occupations" and "Live-Work" Thresholds (Ordinance Exhibit F)

Discussion: Considerable discussion occurred with regard to the distinction between home occupations and live-work units. The primary distinction is that Live/Work includes a broader range of uses and allows employees, and requires a use permit. The Commission looked at whether flexibility should be provided regarding the permit process for each type. The Commission was concerned that the live-work uses would change over time, as property changes ownership. The Commission wanted to give flexibility to homeowners, but was concerned about expanding commercial activity in residential zones.

Resolution: The Commission agreed that, so long as the Accessory Use Permit fee and process was not onerous, those uses which generated more employees or visitors, or those that might result in off-site impacts such as traffic, parking or noise problems, should be subject to Use Permit review and approval as Live-Work uses. Most home-based businesses that have

been shown to be compatible with residential land uses should be subject only to issuance of an over-the-counter Home Occupation Zoning Permit. A provision was added that limited the term of Live-work permits to expire upon sale or transfer of the property. The Commission recommended adoption of staff's recommended Exhibits E (Home Occupations) and F (Live-Work Uses), with revisions.

Issue #4: Residential Space in "K Site" Mixed-Use Projects (Discussion Paper H)

Discussion: The Commission discussed staff's recommendation that the percentage of residential floor area allowed in a Mixed Use project on Recreation and Visitor Serving Commercial lands ("K" sites) be limited to 10% to preserve these sites for visitor-serving uses. The Commission requested additional information related to the number of employees generated by such uses as hotels and lodges, and the resulting residential floor space that would be required to meet the workforce housing need. Staff provided data compiled from existing hotel uses that indicated 16% of the commercial floor area would be needed to meet the demand for affordable workforce housing generated by the use. The Commission also determined that a caretaker unit would be permitted in addition to the allowable residential floor area and would also provide workforce housing.

Resolution: The Commission recommended that the percentage of residential floor area allowed in mixed-use projects on "K" sites be limited to 10%, in addition to maintaining the current allowance for a single caretaker unit.

Issue #5: Allowing Kitchenettes in Large SRO Facilities (Discussion Paper I)

Discussion: The Commission was concerned that disallowing kitchens in large SRO facilities might encourage residents to use or install unsafe cooking devices in order to prepare food within their rooms. However, the Commission agreed that it was important to regulate kitchens in such facilities in order to avoid situations where residential apartments are proposed as SROs in name only, then developed as market-rate residential units in a commercial zone. The Commission considered SRO's to be affordable without rent restrictions primarily because of their small size and generally limited amenities. The Commission determined that some of the units within a large SRO facility (10 or more rooms) should be allowed to have in-room kitchenettes.

Resolution: The Planning Commission directed staff to revise the proposed SRO Ordinance (Exhibit I) to allow up to 50% of the individual rooms within a large SRO facility to have kitchenettes, but to still require a shared kitchen in each facility. The Commission then recommended adoption of the revised Exhibit I.

Issue #6. Encouraging Affordable Rental Housing (Discussion Paper J)

Discussion: The Planning Commission was concerned that the application of the affordable housing inclusionary requirement to rental housing projects might discourage the development of rental housing units. However, the Commission noted that smaller unit sizes (under 1,000 SF) were already proposed by staff to be exempt from the inclusionary requirement. The Planning Commission also noted that staff's recommended lower inclusionary levels for affordable rental housing (10% or 15%) along with other incentives in this package of zoning changes, provided sufficient incentive for the development of rental housing units.

Resolution: The Planning Commission recommended that the inclusionary housing requirement be set at 20% for ownership housing (low and moderate income), and 15% (low and very-low) or 10% (very-low and extremely-low) for rental housing, as recommended by staff, in order to encourage rental housing.

Issue #7. Fee Levels to Encourage On-Site Affordable Housing (Discussion Paper J)

Discussion: The Planning Commission raised the issue of whether or not the proposed in-lieu fees at the 20% level were sufficient to meet the need for low- and very-low income housing which is defined as 36% of the housing demand. The Commission expressed concern that state and federal funding programs for affordable housing require local matching funds of 50 to 60 percent. The Commission was also concerned that a low in-lieu fee would discourage on-site construction of affordable units. There was much discussion about the benefits of off-site construction of affordable units in larger affordable projects that could be managed, rather than dispersing affordable units with little or no management. Leveraging of funds for affordable housing was also considered more available to larger affordable projects.

Staff noted that the fee levels proposed here would provide for approximately 20% of the unmet need for affordable units and that an additional 10% of the need is expected to be met through the proposed Workforce Housing Program. The Commission considered recommending fees at the 25% level to provide a monetary incentive for on-site construction. The Commission also considered requiring the on-site provision of units and allowing in-lieu fees only for fractional unit requirements as several communities have done. The Commission reviewed a summary of Inclusionary Requirements in Other Communities provided in Attachment B. The Commission was also concerned about the total development fees that are charged to new development and reviewed a Comparison of Residential Development Fees in Sonoma County which is provided in Attachment C. The Commission was also concerned that the supply of available residentially zoned land was extremely limited and that the needs would outstrip supply if more affordable units were not strongly encouraged.

Resolution: The Planning Commission recommended that the in-lieu fee for residential development be set at the 25% level as shown in Attachment D to cover more of the actual cost of providing the units and to encourage on-site construction of affordable units. The Commission felt the fee levels were comparable to that of other local jurisdictions and determined that a higher in-lieu fee was more appropriate to meet the County's needs for affordable housing and encourage units to be constructed on-site.

Issue #8. Workforce Housing Program/Fee (Discussion Paper K)

Discussion: There was not agreement among the members of the Planning Commission with regard to the Affordable Housing Program for Non-Residential Development. Commissioner Alberigi was concerned that a fee on commercial and industrial development would hamper business. However, data presented by the consultant illustrated that the fees would be included in financing for the project, and result in only a few cents difference in monthly costs to tenants. The consultant noted that tenants would not be the ones paying the fee directly, but rather that the land developer would pay the one-time fee at the beginning of construction, like other impact fees, then would likely spread that cost among multiple tenants over multiple years. Staff noted that the fee is proposed to be phased in over a 3-year period, similar to the workforce fees adopted in Sonoma, Petaluma and Sebastopol. A comparison table of workforce fees in other jurisdictions is provided in Attachment E.

Commissioner Alberigi was also concerned that the general public was not aware that this program and fee were being considered. Staff noted that several outreach meetings had been held in the community, including meetings at the Santa Rosa Chamber of Commerce and the North Bay Association of Realtors. A widely publicized public informational workshop had been held, and notices had been placed in the newspaper and in mail-outs to owners of properties zoned for business use. Persons who had requested information on upcoming fees had been notified via certified mail. Nine meetings were held at the Planning Commission, including 4 public hearings where the public had opportunity to be heard.

Resolution: The Planning Commission voted 4-1 to recommend the Workforce Housing Program for Non-Residential Development and the Workforce Housing Fee as recommended by staff with a 3-year phase in of the fee levels as shown in Attachment F.

Issue #9. Pipeline Provisions for Projects in the Permit Process

Discussion: The Planning Commission was concerned about the effect of the code changes and proposed fees on projects that were currently in the permit process. Staff noted that "pipeline" provisions would be included in the adopting ordinance for two categories of permits - ministerial and discretionary permits. Ministerial permits are proposed to be exempt from the new provisions if a completed building permit application is received prior to the effective date of the ordinance or fees. Discretionary permits are proposed to be exempt from the ordinance or fees if a complete planning application is on file prior to the notification date of the proposed changes and fees. This provision would be consistent with the state Subdivision Map Act provisions on vesting maps. The Commission noted the importance of requiring a complete application to alleviate the "rush" on permits prior to the fees becoming effective. Staff also noted that all of the proposed changes to the code relax standards or expand opportunities for housing which would benefit land owners. Options for phasing in the fees, reducing the fees, or delaying the effective date of the fees were also discussed.

Resolution: The Planning Commission agreed that the staff recommended pipeline provisions should be included in the adopting ordinance and fee resolutions, exempting complete building permit applications filed prior to the effective date and exempting complete planning permit applications filed prior to the notification date, consistent with state law on vesting maps.

Issue #10. Applicability of Workforce Housing Fee to Mixed-Use Projects

Discussion: There was discussion at the Planning Commission that the imposition of both the workforce housing fee (for the commercial portion) and the inclusionary housing in-lieu fee (for the residential portion) on mixed-use projects would place an undue burden on these types of developments. It was also argued that mixed-use projects, by definition, provide “workforce” housing, and therefore should not be subject to imposition of the workforce housing fee or that a higher exemption level should be established. The Commission’s discussion centered around the fact that payment of either fee was at the option of the developer, since both the inclusionary and workforce housing requirements could be met by providing a portion of the residential floor area as affordable. Additionally, the affordable housing programs already provided an exemption from the inclusionary requirement if the residential units are 1,000 square feet or less, as well as an exemption from the first 2,000 square feet of non-residential floor area of the project.

Resolution: The Planning Commission agreed that all new development should participate in some way toward the provision of affordable housing, and agreed with staff’s recommendation to exempt the first 2,000 square feet of non-residential floor area in a project from workforce housing requirements or fees and to exempt residential units less than 1,000 square feet from inclusionary housing requirements or fees.

Issue #11. Changes Necessitated by SB 1818 (Discussion Paper L)

Discussion: During the Planning Commission’s review of the proposed code changes, the governor signed into law SB 1818. This bill, which became effective on January 1, 2005, made sweeping changes to Government Code § 65915 (the State Density Bonus Law), and required that jurisdictions amend their ordinances to comply. The changes include lower thresholds for the granting of mandatory density bonuses, and a new requirement for the number of incentives which must be provided to housing developers who meet or exceed the new thresholds. Passage of this legislation necessitated numerous changes to several sections of the proposed Article 89, including 26.89.050 (Density Bonus Programs), 26.89.060 (Affordable Housing Incentives), and 26.89.080 (Ownership Unit Occupancy & Affordability).

Resolution: The Commission expressed concern about the confusing nature of the new bill, but directed that staff and Counsel prepare revisions to the above Sections of Article 89 to implement SB 1818. The Commission then recommended adoption of the proposed Exhibit J-K-L-M, as revised.

Issue #12. Long-term Affordability of Restricted Units (Discussion Paper M)

Discussion: SB1818 also imposed certain limitations on a County’s ability to impose resale restrictions on moderate-income ownership units approved through the state density bonus program. Discussion ensued with the Planning Commission as to the mechanism that could be used to ensure continued affordability of for-sale moderate income units in light of the new law. While the Commission considered options for adding a strict resale restriction, County Counsel and the CDC determined that a strict resale price control on the sale of the units was not allowed under SB1818. However, the County’s current practice of providing gap financing with a “silent”

second loan and option agreement was allowed under SB1818 provided that the option agreement provides for repurchase of the unit at fair market value, minus only the County's proportionate share of appreciation. CDC staff stated that the existing mechanisms used by the County would be adequate to maintain long-term affordability of the units so long as local funding sources are available to exercise the option upon resale.

The Commission also considered extending the term of the resale restriction on other affordable units beyond the 30 years and generally wanted to impose the longest term possible. Staff from CDC noted that extending a restriction beyond the term of typical mortgage financing could be problematic for the buyers. However, in any case, the option agreement, along with a 30 year term renewed with each new buyer, would run with the property for as long as the County could provide funding sources to cover the financing gap for new buyers.

A related issue was that of allowing the owner of an affordable second dwelling unit to be able to pay the applicable in-lieu housing fee to get out of the long-term restriction before the end of the affordability period. While there was general consensus among the Commissioners that it should not be "easy" for the owner or developer to get out of the long-term affordability limitations, the Commission thought that there may be some cases of hardship where it was appropriate for owners of restricted units provided under the Affordable Second Dwelling Unit Program to be allowed to "buy out" the remainder of the affordability term by paying the appropriate in-lieu housing fee. At issue was when an owner takes advantage of the incentives provided for affordable second units by allowing a larger unit size or the smaller lot size. The Commission felt a "fee-out" was not appropriate when concessions on the standards for lot size or unit size were granted in exchange for the long-term affordability restriction.

Resolution: The Commission agreed that the County's existing mechanisms for ensuring long-term affordability for ownership units - the silent second and the option agreement (first right of refusal) - were sufficient to maintain affordability so long as adequate local funding existed to allow the CDC to exercise their option to purchase when a restricted unit was sold.

The Planning Commission also recommended that the "fee-out" option for hardship cases on second units be allowed, except when concessions to standards were granted. The Commission directed that staff and Counsel prepare revisions to Article 89 to comply with SB 1818. The Commission also requested that the Board in the future consider the need to provide some relief to holders of long-term affordability agreements in the case of catastrophic illness or other hardships, possibly by allowing payment of the applicable in-lieu fee to release an owner from the long-term obligations.

Issue #13. Deferral of Development Fees for Affordable Housing Projects

Discussion: The Planning Commission reviewed the changes to the code that would allow deferral of impact fee payments on affordable housing projects until permanent financing for the project was in place. Currently, impact fees are paid at the time of building permit issuance which creates the need for short-term financing. The Commission was concerned that the fees may be needed to complete off-site improvements that support the project. Staff noted that the proposed code changes would not permit deferral of fees if the Director determines that the fees are needed to finance near-term public improvements necessary for the project. A fee deferral

agreement form was developed and approved by County Counsel and is provided in Attachment G for the Board's review and approval.

Resolution: The Commission agreed that the need for improvements would be evaluated as part of the entitlement process and the a determination could be made by the Director as to whether the fee deferral should be approved.

Action of the Airport Land Use Commission:

The Zoning Code package was referred to the Airport Land Use Commission (ALUC) because some of the changes would allow residential uses in industrial or commercial zones around the County's airports, particularly the Work/Live and Mixed Use provisions. At its regularly scheduled meeting of March 14, 2005, the ALUC reviewed the proposed Code amendments, pursuant to Public Facilities Code Section 21676 (b), and made a determination of consistency with the County Airport Land Use Plan (CALUP). The ALUC noted that Use Permits and other discretionary approvals would be required for individual development projects within the airport referral areas, and requested that all such specific project applications be referred to the ALUC staff for a project-specific review and determination of consistency with CALUP requirements, pursuant to standard ALUC procedures.

REQUESTED BOARD ACTIONS

- 1) Hold a public hearing and receive public input on the proposed code amendments;
- 2) Provide direction to staff on each of the topical areas in a series of straw votes, and any additional information or modifications to the recommended ordinance exhibits and fee levels.
- 3) Continue the item to allow staff to provide any additional information and prepare any revisions to the ordinance and appropriate resolution(s) for final adoption.

The ordinance would take effect 30 days after Board action. The fee resolutions would become effective 60 days following passage unless another effective date was adopted.

List of Attachments:

- A Housing Element Program Implementation Binder (previously distributed) includes:
- Introduction
 - Overview Summary of Proposed Changes
 - Resolution Planning Commission Resolution No. 05-001w/Revised Ordinance
 - Minutes Planning Commission Minutes for September 23 and 30, 2004; October 7, 12, 19, and 28, 2004; November 18, 2004; December 9, 2004; and January 13, 2005
 - Staff Reports/Memos
 - Removing Constraints Discussion Papers/Fact sheets on Infill Development; Second Units; Mobile Home Parks; Farmworker Housing;

	and Home Occupations
Expanding Opportunities	Discussion Papers/Fact sheets on Live/Work; Work/Live, Mixed Use and Single Room Occupancy
Affordable Housing	Discussion Papers and Fact Sheets on Inclusionary Housing; Workforce Housing; Density Bonus; Affordable Restrictions; and Fee Deferrals
	Environmental Review - Initial Study and Proposed Negative Declaration
B	Table of Inclusionary Housing Requirements in Other Communities
C	Comparison of Residential Development Fees in Sonoma County (Table)
D	Planning Commission's Recommended In-lieu Fee Schedule for Residential Development (Inclusionary Housing)
E	Comparison Table of Workforce Housing Fees in Other Jurisdictions
F	Planning Commission's Recommended In-Lieu Fee Schedule for Non-Residential Development (Workforce Housing)
G	Draft Fee Deferral Agreement
H	Comment letters received to date (on file with clerk)

INCLUSIONARY REQUIREMENTS IN OTHER COMMUNITIES

Cities

Jurisdiction	% requirement	Threshold	Level of affordability	In-lieu fee	Term
Sonoma County (proposed)	20%-moderate 15%-rental, low income 10% rental, very low income	1 unit	rental: ½ v-low, ½ low ownership units, ½ low, ½ mod	\$9,809 staff recommend \$14,919PC recommend	30 years - owner 55 years - rental
Cloverdale	15%	5 units	rental units, up to 80% ownership units, up to 120%	ownership: round up rental: fractional only, set @ 15% of gap	30 years
Cotati	20%	5 units	rental units, <80% ownership units, <120%	\$225K = \$6,400; \$825K = \$30,400	30 years
Healdsburg	10% - 15%	1 unit (fees) 9 units (build units)	“Low & very low”	\$1500/unit existing \$15,000 proposed	30 yrs in CRA 20 years other
Petaluma	10% - 15%	5 units	“below-market,” and affordable to very-low, low and moderate	840 SF = \$2,400 4,000 SF = \$22,500 fee per unit	In perpetuity
Rohnert Park	15%-30%	5 units	rental: ½ v-low, ½ low sales: ½ median, ½ mod.	As individually approved by CC	“Long-term affordability”
Santa Rosa	15%	1 unit (fees) 15 acres (build units)	lower	910 SF = \$757 4,500 SF = \$33,737 over 4,500 = \$7.50/sf	In perpetuity
Sebastopol	20% (15% if at least 25% of new homes have 2 nd units)	2 units (fees) 5 units (build units)	1 st unit @ median 2 nd unit @ lower 3 rd unit @ very-low	\$11,070/unit	59 years
Sonoma	20%	5 units	½ low, ½ moderate	not allowed; round up	40 years
Windsor	10% very low, or 15% low, or 20% moderate	5 units	rentals: <80% sales: <120%	fractional only; based on cost per unit	40 years

Cities (con't)

Jurisdiction	% requirement	Threshold	Level of affordability	In-lieu fee	Term
Novato	15%	1 unit	rentals: <80% sales:<120%	\$10,880 per market-rate unit	30 years; 99 years proposed
Tiburon	15% (including 5% accessible + 10% lower and moderate)	2 units	lower and moderate; accessible also required	(construction cost) - (affordable price for hhold at 80%) = fee	permanent
Davis	25%	5 units	very low-moderate	only under 30 units	rentals permanent; sales, none
Sacramento	15% (10% vlow + 5% low)	10 units	very-low and low	not allowed	30 years
Irvine	15%	1 unit	very low-moderate	per resolution	rentals 20 yrs; sales 10 years
Pasadena	15% (credits given for v-low)	10 units	rentals 10% low, 5% vlow sales low or moderate	per resolution. Credits: 1.5 lows for each vlow 2.0 mods per vlow 1.5 mods per low	rentals "in perpetuity;" sales for 30 years
Santa Monica	30%	2 units	Low & moderate	mod. req'd on-site; fees for fract. & low Base fee \$60,000 range 36K-108K	"life of the project"
San Jose	15% - 20%	5 units	very low to moderate		30 years
Woodland	15% (rentals) 20% (sales)	10 units	rentals <80%; sales ½ at <80%, ½ at <120%	per resolution	40 years
Santa Fe, NM	7% - 16% based on sale price	all sale units >120	low to moderate	not permitted	30 yrs w/each sale
Fairfax Co, Vi	12.5% sales; 6.5% rentals	50; fees for all less	very low to moderate	only for <50 units	rentals, 20 years; sales, 15 years

Counties:

Jurisdiction	% requirement	Threshold	Level of affordability	In-lieu fee	Term
Sonoma County (proposed)	20%-moderate 15%-rental, low income 10% rental, very low income	1 unit	rental: ½ v-low, ½ low ownership units, ½ low, ½ mod	\$9,809 staff recommend \$14,919PC recommend	30 years - owner 55 years - rental
Marin County	20% (5 or more units) fee (1-4 units)	1 unit (fee) 5 units (build unit)	rental units, 30-80% ownership units, 50-120%	“adequate to create the units off-site”	55 yrs
Napa County	10%	1 unit (fees)	rental: ½ v-low, ½ low sales: ½ median, ½ mod.	2% of UBC valuation (\$1,540 - \$8,800)	40 years
Santa Cruz County	15%	3 units (fee) 5 units (build unit)	sales: ≤120% rentals: ≤ 80%	40 - 50% of average home sales price	“life of the unit”
San Mateo County	20%	5 units (fees) 10 units (build unit)	rental: xlow, vlow, low sales: vlow, low, moderate	currently \$90,850 per required unit	55 years
Placer County	15%	7 units	rent: 40% very-low and 60% low sales: 40% low and 60% moderate	100% of gap ([sales price - affordable price] x number of units required)	min. 30 years
Santa Barbara County	5% if very low (50%) 10% if lower (75%) 15% if median (90%) 20% if moderate (110%)	5 units	all, from 50% to 110%	varies by market area - from \$1,553 to \$31,267 per market-rate unit	30 years or longer “hardships available”
Monterey County	20%	3 units (fee) 5 units (build units)	rentals: vlow, low, and mod sales: vlow, low, and mod	100% of gap; ≤\$67,927 per market-rate unit	“in perpetuity”

The following California Counties have adopted Inclusionary Housing Policies or Programs within their General Plan Housing Elements, but do not currently have an implementing “Inclusionary Ordinance:” Alameda, Contra Costa, and Sacramento.

The California Counties of Mendocino, Lake, Santa Clara, and Solano do not have inclusionary policies or programs.

County of Sonoma
COMPARISON OF RESIDENTIAL DEVELOPMENT FEES IN SONOMA COUNTY¹

No.	Jurisdiction	Impact Fee Types ²								Totals	Rank ³
		Traffic	Parks	Sewer	Water	Storm Drain	Comm. Fac's ⁴	Affordable Housing	Other ⁵		
1	Cloverdale	\$1,595	\$1,711	\$2,356	\$2,772	\$158	\$2,296	\$15,401	\$3,312	\$29,601	4
2	Cotati	\$250	\$0		\$12,468	\$0	\$0	\$14,400	\$3,300	\$30,418	5
3	Healdsburg	\$2,991	\$2,057	\$2,863	\$4,399	\$3,222	\$975	\$15,000 (proposed)	\$4,480	\$20,987	10
4	Petaluma	\$5,424	\$7,113	\$3,227	\$3,475	\$250	\$2,249	\$9,022	\$3,860	\$34,620	7
5	Rohnert Park	combined fee of \$8,243						\$3,000	\$3,860	\$15,103	1
6	Santa Rosa	see CF	\$6,202	\$3,827	\$4,827	see CF	\$3,332	\$9,629	\$3,690	\$31,507	6
7	Sebastopol	\$4,040	\$6,500	\$6,360	\$3,900	\$0	\$0	\$11,070	\$3,860	\$35,730	9
8	Sonoma	combined fee of \$966		\$8,109	\$6,110	Combined fee of \$614		20% required	\$4,100	\$19,899	2
9	Windsor	\$6,918	\$8,621	\$6,253	\$1,302	\$2,244	\$1,571	\$10,740	\$3,860	\$41,509	11
10	<i>Sonoma County (staff recommendation)</i>	\$4,765	\$2,266	\$4,046	\$4,781	\$0	\$0	\$9,809	\$3,860	\$29,527	3
10	<i>Sonoma County (Planning Commission recommendation)</i>	\$4,765	\$2,266	\$4,046	\$4,781	\$0	\$0	\$14,919	\$3,860	\$34,637	8

f:\affordable housing info\comparison impact fees.xls

¹ Assumes a 3 bedroom, 2 bath single-family detached home of 2,000 sq. ft. home within a new 10 unit subdivision selling for \$425,000

² Does not include fees resulting from special assessment districts for fire, sewer, utilities, special traffic, etc.

³ Ranking is from lowest to highest total fees. For Sonoma County, both staff and Planning Commission recommendations are shown or fees are established on a project-by-project basis (Rohnert Park). Windsor, Cotati, Cloverdale & Sebastopol allow in-lieu fees only for fractional remainders. Sonoma and Rohnert Park require the units to be built.

⁴ Includes fees for all community facilities

⁵ Includes School Fees, Any Special Fees

03/29/2005

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County of Sonoma
REVISED PROPOSED AFFORDABLE HOUSING FEE SCHEDULE- PLANNING COMMISSION
RECOMMENDATION
25% REQUIREMENT

Unit Square Footage	Total Per Unit Fee	Unit Square Footage	Total Per Unit Fee	Unit Square Footage	Total Per Unit Fee	Unit Square Footage	Total Per Unit Fee
<1,000	exempt						
>1,000	\$1,909	1,460	\$7,894	1,920	\$13,878	2,380	\$19,863
1,010	\$2,039	1,470	\$8,024	1,930	\$14,008	2,390	\$19,993
1,020	\$2,169	1,480	\$8,154	1,940	\$14,138	2,400	\$20,123
1,030	\$2,299	1,490	\$8,284	1,950	\$14,269	2,410	\$20,253
1,040	\$2,429	1,500	\$8,414	1,960	\$14,399	2,420	\$20,383
1,050	\$2,560	1,510	\$8,544	1,970	\$14,529	2,430	\$20,513
1,060	\$2,690	1,520	\$8,674	1,980	\$14,659	2,440	\$20,643
1,070	\$2,820	1,530	\$8,804	1,990	\$14,789	2,450	\$20,774
1,080	\$2,950	1,540	\$8,934	2,000	\$14,919	2,460	\$20,904
1,090	\$3,080	1,550	\$9,065	2,010	\$15,049	2,470	\$21,034
1,100	\$3,210	1,560	\$9,195	2,020	\$15,179	2,480	\$21,164
1,110	\$3,340	1,570	\$9,325	2,030	\$15,309	2,490	\$21,294
1,120	\$3,470	1,580	\$9,455	2,040	\$15,439	2,500	\$21,424
1,130	\$3,600	1,590	\$9,585	2,050	\$15,570	2,510	\$21,554
1,140	\$3,730	1,600	\$9,715	2,060	\$15,700	2,520	\$21,684
1,150	\$3,861	1,610	\$9,845	2,070	\$15,830	2,530	\$21,814
1,160	\$3,991	1,620	\$9,975	2,080	\$15,960	2,540	\$21,944
1,170	\$4,121	1,630	\$10,105	2,090	\$16,090	2,550	\$22,075
1,180	\$4,251	1,640	\$10,235	2,100	\$16,220	2,560	\$22,205
1,190	\$4,381	1,650	\$10,366	2,110	\$16,350	2,570	\$22,335
1,200	\$4,511	1,660	\$10,496	2,120	\$16,480	2,580	\$22,465
1,210	\$4,641	1,670	\$10,626	2,130	\$16,610	2,590	\$22,595
1,220	\$4,771	1,680	\$10,756	2,140	\$16,740	2,600	\$22,725
1,230	\$4,901	1,690	\$10,886	2,150	\$16,871	2,610	\$22,855
1,240	\$5,031	1,700	\$11,016	2,160	\$17,001	2,620	\$22,985
1,250	\$5,162	1,710	\$11,146	2,170	\$17,131	2,630	\$23,115
1,260	\$5,292	1,720	\$11,276	2,180	\$17,261	2,640	\$23,245
1,270	\$5,422	1,730	\$11,406	2,190	\$17,391	2,650	\$23,376
1,280	\$5,552	1,740	\$11,536	2,200	\$17,521	2,660	\$23,506
1,290	\$5,682	1,750	\$11,667	2,210	\$17,651	2,670	\$23,636
1,300	\$5,812	1,760	\$11,797	2,220	\$17,781	2,680	\$23,766
1,310	\$5,942	1,770	\$11,927	2,230	\$17,911	2,690	\$23,896
1,320	\$6,072	1,780	\$12,057	2,240	\$18,041	2,700	\$24,026
1,330	\$6,202	1,790	\$12,187	2,250	\$18,172	2,710	\$24,156
1,340	\$6,332	1,800	\$12,317	2,260	\$18,302	2,720	\$24,286
1,350	\$6,463	1,810	\$12,447	2,270	\$18,432	2,730	\$24,416
1,360	\$6,593	1,820	\$12,577	2,280	\$18,562	2,740	\$24,546
1,370	\$6,723	1,830	\$12,707	2,290	\$18,692	2,750	\$24,676
1,380	\$6,853	1,840	\$12,837	2,300	\$18,822	2,760	\$24,807
1,390	\$6,983	1,850	\$12,968	2,310	\$18,952	2,770	\$24,937
1,400	\$7,113	1,860	\$13,098	2,320	\$19,082	2,780	\$25,067
1,410	\$7,243	1,870	\$13,228	2,330	\$19,212	2,790	\$25,197
1,420	\$7,373	1,880	\$13,358	2,340	\$19,342	2,800	\$25,327
1,430	\$7,503	1,890	\$13,488	2,350	\$19,473	2,810	\$25,457
1,440	\$7,633	1,900	\$13,618	2,360	\$19,603	2,820	\$25,587
1,450	\$7,764	1,910	\$13,748	2,370	\$19,733	2,830	\$25,717

County of Sonoma
REVISED PROPOSED AFFORDABLE HOUSING FEE SCHEDULE- PLANNING COMMISSION
RECOMMENDATION
25% REQUIREMENT

Unit Square Footage	Total Per Unit Fee	Unit Square Footage	Total Per Unit Fee	Unit Square Footage	Total Per Unit Fee	Unit Square Footage	Total Per Unit Fee
2,840	\$25,847	3,300	\$31,832	3,760	\$37,817	4,220	\$43,801
2,850	\$25,977	3,310	\$31,962	3,770	\$37,947	4,230	\$43,931
2,860	\$26,108	3,320	\$32,092	3,780	\$38,077	4,240	\$44,061
2,870	\$26,238	3,330	\$32,222	3,790	\$38,207	4,250	\$44,191
2,880	\$26,368	3,340	\$32,352	3,800	\$38,337	4,260	\$44,322
2,890	\$26,498	3,350	\$32,482	3,810	\$38,467	4,270	\$44,452
2,900	\$26,628	3,360	\$32,613	3,820	\$38,597	4,280	\$44,582
2,910	\$26,758	3,370	\$32,743	3,830	\$38,727	4,290	\$44,712
2,920	\$26,888	3,380	\$32,873	3,840	\$38,857	4,300	\$44,842
2,930	\$27,018	3,390	\$33,003	3,850	\$38,987	4,310	\$44,972
2,940	\$27,148	3,400	\$33,133	3,860	\$39,118	4,320	\$45,102
2,950	\$27,278	3,410	\$33,263	3,870	\$39,248	4,330	\$45,232
2,960	\$27,409	3,420	\$33,393	3,880	\$39,378	4,340	\$45,362
2,970	\$27,539	3,430	\$33,523	3,890	\$39,508	4,350	\$45,492
2,980	\$27,669	3,440	\$33,653	3,900	\$39,638	4,360	\$45,623
2,990	\$27,799	3,450	\$33,783	3,910	\$39,768	4,370	\$45,753
3,000	\$27,929	3,460	\$33,914	3,920	\$39,898	4,380	\$45,883
3,010	\$28,059	3,470	\$34,044	3,930	\$40,028	4,390	\$46,013
3,020	\$28,189	3,480	\$34,174	3,940	\$40,158	4,400	\$46,143
3,030	\$28,319	3,490	\$34,304	3,950	\$40,288	>4,400	\$10.50/sq. ft.
3,040	\$28,449	3,500	\$34,434	3,960	\$40,419		
3,050	\$28,579	3,510	\$34,564	3,970	\$40,549		
3,060	\$28,710	3,520	\$34,694	3,980	\$40,679		
3,070	\$28,840	3,530	\$34,824	3,990	\$40,809		
3,080	\$28,970	3,540	\$34,954	4,000	\$40,939		
3,090	\$29,100	3,550	\$35,084	4,010	\$41,069		
3,100	\$29,230	3,560	\$35,215	4,020	\$41,199		
3,110	\$29,360	3,570	\$35,345	4,030	\$41,329		
3,120	\$29,490	3,580	\$35,475	4,040	\$41,459		
3,130	\$29,620	3,590	\$35,605	4,050	\$41,589		
3,140	\$29,750	3,600	\$35,735	4,060	\$41,720		
3,150	\$29,880	3,610	\$35,865	4,070	\$41,850		
3,160	\$30,011	3,620	\$35,995	4,080	\$41,980		
3,170	\$30,141	3,630	\$36,125	4,090	\$42,110		
3,180	\$30,271	3,640	\$36,255	4,100	\$42,240		
3,190	\$30,401	3,650	\$36,385	4,110	\$42,370		
3,200	\$30,531	3,660	\$36,516	4,120	\$42,500		
3,210	\$30,661	3,670	\$36,646	4,130	\$42,630		
3,220	\$30,791	3,680	\$36,776	4,140	\$42,760		
3,230	\$30,921	3,690	\$36,906	4,150	\$42,890		
3,240	\$31,051	3,700	\$37,036	4,160	\$43,021		
3,250	\$31,181	3,710	\$37,166	4,170	\$43,151		
3,260	\$31,312	3,720	\$37,296	4,180	\$43,281		
3,270	\$31,442	3,730	\$37,426	4,190	\$43,411		
3,280	\$31,572	3,740	\$37,556	4,200	\$43,541		
3,290	\$31,702	3,750	\$37,686	4,210	\$43,671		

COMPARISON OF BAY AREA JURISDICTIONS WITH WORKFORCE HOUSING FEES

(Dollars per square foot)

Jurisdiction	Year Adopted	Retail	Office	R & D	Hotel	Industrial	Other
Petaluma ¹	2003	3.59	2.08	2.15	3.59	2.15	\$2.15 - Ag. Processing
Sebastopol	2004	3.59	2.08	2.15	2.08	2.15	\$2.15 - Ag. Processing
Sonoma County²	PROPOSED	3.59	2.08	2.15	2.08	2.15	\$2.15 - Ag. Processing
Marin County	2003	4.32	5.75	5.75	9.31	2.99	\$1.55 - warehousing
Corte Madera	2001	8.38	4.79	3.20	1.20	2.79 - light industrial 0.40 - warehouse	\$1.20 - Commercial Services \$2.39 - Training Facility, School \$2.00 - Health Club \$4.39 - Restaurant
Napa County	2004	2.00	2.00		3.00	1.00 - industrial & warehousing <30k sf ² 0.80 - warehouse>30k sf	\$1.00 - Wine Production & Bottling \$2.00 - Wine Offices \$3.00 - Wine Tasting \$0.80 - Wine Storage
Napa City	1999	0.80	1.00			0.50 - industrial 0.30 - warehouse 30k-100k sf ² 0.20 - warehouse >100k sf	
Sacramento		0.77	0.97	0.82	0.92	0.61	\$0.26 - warehousing
Sacramento City		1.99	0.84	0.94	0.62	0.27	
San Francisco	1985	13.95	14.96	9.97	22.21		\$13.95 - Entertainment
Palo Alto	1985	15.00	15.00	15.00	15.00	15.00	
Menlo Park	1987	5.45	10.00	10.00		5.45	
Mountain View	2002	2.00	6.00	6.00		6.00	
Sunnyvale	1984		7.14	7.14	22.21	7.14	\$13.95 - Entertainment
Oakland	2002		4.00			4.00 - warehouse	
Alameda		1.50	3.00		\$770 per room	0.50	
Pleasanton	1991	2.31	2.31	2.31	2.31	2.31	
Berkeley	1993	4.00	4.00			2.00	
Cupertino	1993		2.13	2.13		2.13	
Livermore	1999	0.81 - retail services	0.52		\$397 per room	0.25 - manufacturing 0.07 - warehouse storage 0.52 - business commercial park 0.26 - industrial high intensity 0.16 - industrial low intensity	
Bay Area Average³		4.83	5.29	6.75	9.60	3.48	\$4.36

1. Phase-in over 3 years beginning in January 2005; 50% of amount shown for projects in the redevelopment areas.

2. Fees suggested by EPS Linkage Fee Study presented to Sonoma County jurisdictions in Spring 2002. EPS's Linkage Fee Study recommended three use categories: Retail which included services,

3. Commercial which included office, medical, and hotel; and industrial, which included industrial, R&D, agricultural processing, and distribution. Hotel Average excludes jurisdictions that charge fees per room rather than per square foot.

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9/17/04

Revised 10/08/04 sw

County of Sonoma

**PROPOSED
WORKFORCE HOUSING FEE SCHEDULE**

Effective 2005

Type of Use	Fee Per Square Foot (sf) of Building Area¹
Office, Commercial, Hotels	\$0.69
Industrial, Warehousing, Ag Processing	\$0.72
Retail and Services	\$1.96

Effective 2006

Type of Use	Fee Per Square Foot (sf) of Building Area¹
Office, Commercial, Hotels	\$1.39
Industrial, Warehousing, Ag Processing	\$1.43
Retail and Services	\$2.39

Effective 2007

Type of Use	Fee Per Square Foot (sf) of Building Area¹
Office, Commercial, Hotels	\$2.08
Industrial, Warehousing, Ag Processing	\$2.15
Retail and Services	\$3.59

Notes

1. The first 2,000 square feet of building floor area is exempt from the workforce fee

**NONRESIDENTIAL LAND USE MATRIX
WORKFORCE HOUSING FEE DETERMINATIONS AND EXEMPTIONS**

NON-RESIDENTIAL USE	OFFICE	RETAIL	IND	OTHER
Agricultural uses				E
Amusement centers--Indoor only				S
Amusement enterprise—Outdoor				S
Animal or poultry slaughter			X	
Appliance repair shop		X		
Assembly plants			X	
Auto sales, service, rental storage				
Repair/body shop			X	
Sales/service		X		
Bakery or bakery goods store		X		
Bank--Savings and loan	X			
Barber shop, beauty shop		X		
Bed and breakfast inn	X			
Beverage bottling plant (non-wine)			X	
Boat manufacturing			X	
Bus and other transit terminals, depots, and passenger stations, public and private				S
Bus and other transit vehicle maintenance			X	
Cabinet shop			X	
Cement or clay products manufacturing			X	
Child care center				E
Christmas tree sales lots				E
Church				E
Cleaning, laundry agency		X		
Cleaning plant commercial			X	
Concrete batch plant			X	
Convenience market		X		
Dairy products processing			X	
Dance, music, voice studio		X		
Delivery service			X	
Drive-in restaurant/food stand		X		
Equipment rental		X		
Florist		X		
Food processing plant			X	
Food store/delicatessen		X		
Fuel yard				S
Furniture refinishing			X	
Furniture store		X		
Garment manufacturing shop			X	
Golf course				S
Health club and fitness facilities		X		
Hotel				
Janitorial service company			X	
Junkyard			X	

**NONRESIDENTIAL LAND USE MATRIX
WORKFORCE HOUSING FEE DETERMINATIONS AND EXEMPTIONS**

NON-RESIDENTIAL USE	OFFICE	RETAIL	IND	OTHER
Laboratory--Medical, dental, optical	X			
Laboratory--Research and experimental			X	
Laundromat--Self service center		X		
Lumber--Retail		X		
Machine shop			X	
Major medical care facility/hospital				S
Marinas				S
Medical clinic or office	X			
Metal fabrication			X	
Monument works, stone			X	
Mortuary/crematorium				S
Motel				
Nursery for flowers and plants		X		
Offices	X			
Parking lot, garage of facility				E
Pest control company			X	
Photographic studio		X		
Prescription pharmacy/optician		X		
Printing--Non-retail			X	
Printing and copying--Retail		X		
Private club--Social center				S
Private trade schools		X		
Public utility yard				E
Railroad yard or shops				S
Recycling center--Public access			X	
Recycling plant			X	
Residential care facility--Nonprofit				E
Residential care facility--Private				S
Restaurant/bar		X		
Retail stores and services		X		
School--Nonprofit				E
Service station		X		
Shop for building contractor			X	
Sign shop		X		
Tire shop, including recapping		X		
Towing service			X	
Truck and tractor repair			X	
Veterinary office/animal hospital or dog kennel	X			
Wholesale stores and distribution				S
Wine offices	X			
Wine production, including bottling			X	
Wine storage			X	
Wine tank area and crush pads (indoor areas only)			X	
Wine tasting room, visitor center, conference or dining room		X		

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403

AGREEMENT FOR DEFERRAL OF PAYMENT
OF CERTAIN DEVELOPMENT FEES

_____[Developer]_____
AND
COUNTY OF SONOMA

This Agreement is made and entered into this ____ day of _____, 200__,
by and between _____ (“Developer”) and the County of
Sonoma, a political subdivision of the State of California (“County”).

RECITALS

A. Developer is developing the real property located at _____
_____, California, Assessor’s Parcel No. _____ (“the
Property”). A legal description of the Property is attached hereto as Exhibit A and
incorporated herein by this reference.

B. Developer is developing the Property as an affordable housing project
known as ___[project name]___ (“the Project”), which will provide [brief description of
housing to be provided].

C. Developer has requested that the County defer its collection of certain
County fees and charges (“development fees”) which are imposed and collected as
conditions of development within the unincorporated area of the County of Sonoma and
which would normally be paid prior to the issuance of building permits for the Property.
The County has agreed to defer payment of said fees, subject to the conditions and

requirements set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals set forth above and the covenants, conditions and promises contained herein, Developer and the County agree as follows:

1. Definitions

(a) “Deferred Fees,” for purposes of this Agreement, means the following development fees due for or in connection with the Project, the payment of which is deferred under this Agreement:

The actual amount of the Deferred Fees shall be determined in accordance with the usual manner in which the amount of such fees is determined and shall be calculated by the County as of the date each such fees would, but for this Agreement, have been paid. The amount of the Deferred Fees is currently estimated as set forth in Exhibit B.

(b) “Project” means _____ [Name and brief description] _____.

2. Payment of Deferred and Other Fees.

(a) Basic Payment Obligations:

This Agreement does not modify in any way the amounts of the Deferred Fees or any other development or impact fee due for or in connection with construction of improvements on the Property, as part of the Project or otherwise. Developer, on behalf of itself and its successors and assigns, hereby unconditionally agrees to pay, when due, all application, inspection, processing, development and impact fees and charges for or in connection with construction of improvements on the Property, as part of the Project or otherwise, except for the Deferred Fees, which shall be paid by Developer in the amounts and at the time set forth in this Agreement.

(b) **Payment of Deferred Fees:**

Developer shall pay the Deferred Fees within twenty-four (24) months of the date of issuance of the first building permit for the Project, upon securing permanent financing for the Project, or upon sale of the first housing unit, whichever date occurs first. County will release its lien when all Deferred Fees are paid.

3. Security for Payment of Deferred Fees.

The payment obligations of Developer to County under this Agreement shall be secured by a Deed of Trust on the Property in the standard form customarily used in Sonoma County commercial real estate transactions at the time this Agreement is executed. The Deed of Trust securing Developer's payment obligations under this Agreement may be junior in priority only to those liens and encumbrances against the Property which secure acquisition and construction loans, which are as follows:

In obtaining and recording the Deed of Trust required by this paragraph, Developer shall pay all recording costs, escrow fees and the cost of an ALTA lender's policy of title insurance in favor of the County in an amount equal to the total amount of all the Deferred Fees as estimated by County at the time of this Agreement. The Deed of Trust, with the County as beneficiary, shall be recorded prior to the issuance of any building permit for the Project.

The Director of the Permit and Management Department may execute a subordination agreement, if requested by the lender, for the loans listed above.

4. Further Conditions

Notwithstanding any other provision of this Agreement to the contrary, the County shall not be obligated in any way to do the final building inspection and/or give final approval(s) for any structure constructed on the Property, as part of the Project or otherwise, if the Deed of Trust securing this Agreement is rendered worthless by foreclosure, a deed in lieu of foreclosure or by any other means, including foreclosure of a superior lien, or in the event the Project fails in any manner or is likely to fail its intended purpose of providing affordable housing because of events which now or

hereafter occur, unless the foreclosing Lender or the Developer first pays all fees deferred under this Agreement.

5. No Joint Venture Relationship

The relationship between County and Developer under this Agreement is that of a creditor/debtor and not that of a joint venture. Developer is not the agent of the County for any purpose in connection with this Agreement, the Property or the Project.

6. Entire Agreement

This Agreement, together with the exhibits hereto, constitutes the entire Agreement between the parties respecting the matters covered, and supersedes all prior agreements and representations concerning the subject matter hereof, whether written or oral.

7. Severability

If any term, provision, covenant, or condition of this Agreement is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

8. Notices

Any notices and payments called for by this Agreement shall be personally delivered or served by first-class mail on the parties at the following addresses:

To County: _____

To Developer: _____

9. Conditions to Assignment

The rights and obligations of the parties under this Agreement are based upon the special skills and abilities of each party and there shall not be any assignment of such rights or obligations by one party without the prior written consent of the other party.

10. Remedies

In addition to any other remedy provided by law or granted elsewhere under this Agreement, the County may elect to seek in a court of appropriate jurisdiction such injunctive orders or other relief as County considers may be necessary to secure the performance by Developer, its successors and assigns, of its commitments and obligations under this Agreement. In any such action, the County shall, in addition to injunctive relief, be entitled to the full scope of remedies afforded by law, including such damages as are provable and allowed for breach of this Agreement.

11. Default

(a) Developer agrees to comply with all of the terms, conditions and requirements of any note, loan, or other obligation, secured by a deed of trust or otherwise constituting a lien or encumbrance on the Property, which lien or encumbrance is superior in priority to the Deed of Trust securing the performance and payment obligations of Developer under this Agreement. In the event that Developer shall fail to comply with all of the terms, conditions, and requirements of any such deed of trust or other obligation secured by, or constituting such a superior lien on the property so as to result in a default thereunder, such a failure on the part of Developer shall constitute a substantial and material default by Developer under this Agreement and shall entitle County at its option, to exercise any and all remedies available to it in the event of a default by Developer hereunder.

(b) In the event of any default by Developer under this Agreement, including, but not limited to, the failure to pay the Deferred Fees when due, interest shall be due and shall be paid to County on the actual amount of each Deferred Fee from the date each Deferred Fee would have been paid to County under this Agreement until the date each Deferred Fee is actually paid to County, or, alternatively, until a court judgment concerning this Agreement is entered in favor of County and against Developer, whichever event occurs first. The annual rate of interest shall be 10 percent per annum.

12. Headings Not Part of Agreement

The headings used in this Agreement are not part of the Agreement and will not be considered in its interpretation.

13. Modifications to Agreement; Administration and Enforcement of Agreement

This Agreement may be modified or amended only by subsequent written agreement(s) signed by each of the parties to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date set forth in the first paragraph hereof.

COUNTY OF SONOMA

[Developer]

By: Peter Parkinson
Director, Permit and Resource
Management Department

By:

NOTE: ACKNOWLEDGMENTS MUST BE ATTACHED FOR ALL SIGNATORIES.

APPROVED AS TO FORM:

Dated: _____

By: _____
Deputy County Counsel