

CITY OF STEAMBOAT SPRINGS
AGENDA
REGULAR MEETING NO. 2009-05
TUESDAY, FEBRUARY 10, 2009
5:05 P.M.

WORKSESSION MEETING LOCATION: Citizens' Meeting Room, Centennial Hall; 124 10th Street, Steamboat Springs, CO

WORKSESSION MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the work session meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled work session meeting items will be heard **following** the presentation or the internal deliberation. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 9:00 p.m.

A City Council work session meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, whichever comes first. CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

A. ROLL CALL (5:05 P.M.)

B. CITY COUNCIL REVIEW TOPIC

- 1. Affordable Housing: Council policies and philosophy.
Direction on potential amendments to the Community
Housing Ordinance.**

C. ADJOURNMENT

BY: JULIE FRANKLIN, CMC
INTERIM CITY CLERK

AGENDA ITEM # 1

CITY COUNCIL COMMUNICATION FORM

FROM: Nancy Engelken, Community Housing Coordinator (Ext. 253)
Tony Lettunich, City Attorney
Bob Litzau, Interim Finance Director (Ext. 239)

THROUGH: Tom Leeson, AICP, Director of Planning & Community Development (Ext. 244)
Wendy Dubord, Interim City Manager (Ext. 228)

DATE: February 10, 2009

ITEM: Affordable Housing: Council policies and philosophy

NEXT STEP: Direction to Staff for preparation of any Amendments to the Community Housing Ordinance

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

I. REQUEST OR ISSUE:

City Council has requested a second work session to discuss the City's Community Housing Ordinance, possible amendments to that Ordinance, and dispersal of payment in lieu funds.

II. RECOMMENDED ACTION:

Discussion and Direction to Staff.

III. FISCAL IMPACTS:

None at this report.

IV. BACKGROUND INFORMATION:

The City of Steamboat Springs passed an Inclusionary Zoning Ordinance on February 26, 2006 following extensive public process, recommendation and review by Planning Commission and City Council. The Inclusionary Zoning Ordinance was amended on June 19, 2007 to add Commercial and Residential Linkage, increase the target Area Median Income for Inclusionary Zoning units and add an exit strategy for units not sold in 12 months.

The Community Housing Ordinance follows recommendations in the **Steamboat Springs Community Area Plan**, a document developed through an extensive public process that guides community development policy for the City. Similar recommendations and policy are contained in the Vision 2020 document and the adopted Implementation Program for Community Housing. The Housing Vision in the Community Area Plan is as follows: *"The Steamboat Springs community will allow the majority of people who work in Steamboat Springs to afford to live here, if they so choose. This also applies to those who have worked for many years in the community and have retired."* Under Policy H-1.2, "Support a variety of affordable housing options that are integrated throughout the community, but protect the character of existing neighborhoods", the Community Area Plan specifically calls for the following strategies:

- Strategy H-1.2 (a): Develop Inclusionary Zoning Standards
- Strategy H-1.2 (b): Develop a Jobs-to-Housing Linkage Program
- Strategy H-1.2 (c): Re-evaluate Affordable Housing Incentives
- Strategy H-1.2 (d): Establish Provisions to Ensure Permanently Affordable Housing

Inclusionary Zoning and Linkage are a part of a larger community housing strategy to meet the housing needs of the workforce at all income levels. In 2007, City Council adopted the **Steamboat Springs Community Housing Implementation Program** after public discussion before Planning Commission and City Council. The Community Housing Implementation Program is intended to "guide implementation of the Steamboat Springs Area Community Plan adopted May 2004" and states a goal that *"Housing will be provided within the community for 70% of new employees, which will gradually increase the proportion of employees housed up from the level in 2000 of 56%."*

According to data used for the Workforce Housing Demand Analysis, the City has already fallen behind on this goal. In their Interim Report for the Workforce Housing Demand Analysis, **RCLCO noted in 2004, less than 1 in 3 Steamboat Springs workers (31.4%) lived inside the City limits.** The Community Indicators Report for Routt and Moffat County affirms these statistics through commuter and income import and export data.

The Steamboat Springs Community Housing Implementation Program outlines two distinct objectives: **Catch Up and Keep Up strategies** to address affordable housing needs. Linkage and Inclusionary Zoning were designed to address "Keep Up" Demand, or the increase in demand for employee housing as growth occurs, for households below 80% Area Median Income (Linkage) and between 80-120% Area Median Income (Inclusionary Zoning.) "Catch Up" Strategies to address existing deficiencies in residential unit demand as well as Strategies to Address the housing needs for households with incomes greater than 120% AMI are the responsibility of the City of Steamboat Springs in cooperation with private developers, the Yampa Valley Housing Authority and others.

Since the Community Housing Ordinance was amended in 2007, significant national and international economic issues have affected the ability to market units and provide mortgage financing for homebuyers for some of the affordable housing units that have been built or are under construction. Tightened lending requirements, limited financing available for any residential unit (deed restricted and free market) if less than 51% of all units in a new development are under contract, new appraisal standards that restrict financing for owner-occupied units in condo-tels, and increased interest rates for homebuyers that apply down payment assistance funding in any form are among the financial and mortgage lending changes and challenges in the last 6 months.

While the Ordinance provides considerable flexibility to meet community housing obligations in multiple ways including mixing affordable and free market units within a development (an option Staff has suggested for the First Tracks at Wildhorse Meadows development, for example), *all real estate transactions for deed restricted and free market housing have been affected by changes in the mortgage lending and financial industries.*

Attached please find a memo to guide Council discussion. The memo is divided into the following categories:

- A summary of affordable housing created under the City's Inclusionary Zoning and Linkage program;
- Options for Amending the City's Community Housing Ordinance;
- Options for Payment in Lieu funds;
- A Preliminary Analysis of a Voluntary Real Estate Transfer Fee;
- An outline of residential linkage requirements applied to different size additions and new construction;
- U.S. Department of Housing and Urban Development Area Median Income Levels for Routt County for 2008;
- A spreadsheet that indicates maximum purchase prices for residential units based upon income.

City Council initially should determine:

1. What, if any, changes it wants to make to the City's Community Housing Ordinance. Four options are presented for consideration.
2. Should City Council recommend proceeding with Options 1, 2 or 3, City Council should then determine how payment in lieu funds are to be distributed and used. Three options are presented for consideration.

Staff is also presenting a preliminary analysis of a voluntary real estate transfer fee submitted by a Housing Developer Task Force of the Yampa Valley Housing Authority. City Staff was not involved in this Task Force process and has not had the opportunity to prepare more than a preliminary analysis of this option.

Significant public comment has been received on this issue and discussion. Letters received are attached for City Council consideration.

V. LEGAL ISSUES:

None at this report.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None at this report.

VII. SUMMARY AND ALTERNATIVES:

Provide direction to Staff for any amendments to the Guidelines and/or additional information required for policy discussions and decisions.

Community Housing Ordinance: Summary of Program Results to Date and Options for Reform

Affordable Housing Created under the Community Housing Ordinance:

Since passage of the Inclusionary Zoning Ordinance in 2006:

- **16 units** have been created and obtained CO
 - Of the 16, 8 have closed and are being occupied and 2 are under contract.
 - The remaining 6 units have been marketed according to an approved development agreement for a month and a half (since late November 2008.) Sale of those units has been severely impacted by new lending and appraisal standards enacted in summer 2008. City Council will be reviewing a request for payment in lieu for these units under the Alternative Compliance Section of 26-149 in the CDC for Community Housing.
- **47 units** are under construction at First Tracks at Wildhorse Meadows
 - Of the 47, 15 are under contract.
 - CO is expected in mid-summer 2009.
 - Staff has been working with the developer on a revised Community Housing Plan that conforms to the Community Development Code and meets the needs of the developer.
- **77 affordable units** are scheduled to be developed as a part of 8 different approved development projects including off-site compliance for two projects (e.g. Phase 2 of First Tracks, Sundance North, Riverwalk, Fulton Ridge, Steamboat Barn Village.) These units are primarily composed of 2 and 3 bedroom units and for households between 80-120% AMI.
- **Payment in lieu collected to date:** \$328,175.95 for Inclusionary Zoning; \$324,326.92 for Residential Linkage; \$0 for Commercial Linkage (though approved projects do include commercial linkage funds) = \$652,502.87. Payment in lieu for Linkage has all been collected since the Ordinance was amended to include Residential and Commercial Linkage on June 19, 2007.

Colorado Communities with Inclusionary Zoning Programs (only): Boulder, Durango, Carbondale, Denver, Glenwood Springs, Garfield County, Lafayette, Longmont.

Colorado Communities with Inclusionary Zoning and Linkage Programs: Aspen, Basalt, Crested Butte, Frisco, Gunnison County, Mt. Crested Butte, San Miguel County, Snowmass Village, Steamboat Springs, Telluride.

Options for Amending the Community Housing Ordinance

Summary: City Council initially should determine what, if any, changes it wants to make to the City's Community Housing Ordinance. Four options are presented for consideration.

Should City Council recommend proceeding with Options 1, 2 or 3, City Council must then determine how payment in lieu funds are to be distributed and used. Three options are presented for consideration.

Option 1:

Make major amendments to the Ordinance

- Allow more flexibility for developers and creation of housing demanded by the market by calculating IZ requirements as a percentage of overall square footage being developed as opposed to the current 15% of all new units requirement. This allows developers to submit community housing plans for a certain amount of square footage and accommodate unit size and type within that square footage.
- Increase incentives for IZ compliance including waiving of City building permit fees for affordable units (approved through the new Routt County Building Department IGA in 12-08), consideration of possible financial compensation for or deferral of some building-related fees for affordable units (fee deferral dependent on County approval), and City administration of federal housing program funding applications and distribution of funds that would provide subsidies to developers for affordable housing.
- Allow payment in lieu for developments that require less than 3 units.
- Allow payment in lieu for any development deemed a “condo-tel” that allows nightly rental of units within the building.
- Amend off-site compliance to allow off-site development within a certain radius of the new development and with no additional affordable housing requirements.
- Amend land and off-site lot dedication to equal 100% of the payment in lieu requirement.
- Allow employer purchase of deed-restricted units for rent to income qualified employees.
- Recommend discussion of density bonuses for onsite Inclusionary Zoning by City Council and during the Steamboat Springs Area Community Plan update process.

Advantages:

- Follows example and documentation of reforms to similar inclusionary zoning and linkage programs in Colorado.
- Promotes a cost-neutral approach to the development of affordable housing within proposed new developments.
- Achieves mix of housing throughout the City by including units in scattered developments rather than in one concentrated area.
- Allows affordable housing to be developed concurrent with market rate housing;
- Responds to developer and lender concerns about marketability and financing of affordable housing within certain developments.
- Conforms to the Steamboat Springs Area Community Plan.

Disadvantages:

- Current City financing options for development incentives for IZ are limited. Fee deferral to final inspection or CO significantly complicates administrative procedures and means the City is a financial partner. If a project isn't completed or goes into foreclosure, the deferred fees are lost.
- Requires free market developer to develop and market an affordable housing product or partner with an experienced affordable housing developer.
- Requires a complex administrative process.

Option 2:

Make payment in lieu a right for all Inclusionary Zoning compliance and Increase Incentives for development of housing through Inclusionary Zoning

- Payment in lieu calculation will need to be amended to properly reflect HOA fees in older condominiums and townhomes with deferred maintenance as well as new developments.
- Payment in lieu collected to date: \$328,175.95 for Inclusionary Zoning; \$324,326.92 for Residential Linkage; \$0 for Commercial Linkage (though approved projects do include commercial linkage funds) = \$652,502.87.
- Payment in lieu potential based upon approved projects (if submitted today): First Tracks at Wildhorse Meadows (includes One Steamboat Place off-site units) -- 94 units = \$11,056,656; Sundance North – 3 units = \$352,872.
- Increase incentives for IZ compliance including waiving of City building permit fees for affordable units (approved through the new Routt County Building Department IGA in 12-08), consideration of possible financial compensation for or deferral of some building-related fees for affordable units (fee deferral dependent on County approval), and City administration of federal housing program funding applications and distribution of funds that would provide subsidies to developers for affordable housing.

Advantages:

- Payment in lieu funds can be potentially be leveraged with governmental and private funding to produce and preserve affordable housing.
- Allows land banking and development that responds to a demonstrated need for housing and particular types of housing.
- Balanced approach that still gives developers the option to build affordable housing with additional incentives or pay payment in lieu.
- Allows affordable housing development experts to finance and develop affordable housing.
- Conforms to the Steamboat Springs Area Community Plan.

Disadvantages:

- Affordable and buildable land for development is scarce.
- Payment in lieu represents only the subsidy needed to make a unit affordable, not the total cost of land and construction; hence, fewer total ownership units are likely to be developed should payment in lieu only be collected. For example, the \$11,056,656 for First Tracks at Wildhorse Meadows might produce around 51 affordable ownership units for households at 100% AMI after land and construction costs are considered (estimated in today's dollars and based upon an appraised 2.5 acre parcel within the City limits.)
- The ability to leverage funds for rental housing is limited because of economic conditions and corresponding financing options. Under a low income housing tax credit deal (rental housing for households at or below 60% AMI), the \$11,056,656 for First Tracks at Wildhorse Meadows might produce about 75-80 rental units because tax credit pricing is currently so low. Land availability, zoning and FAR also dictates the number of units that can be built.
- Governmental and private funding available for leveraging of payment in lieu funds are distributed through competitive processes and not guaranteed.
- While one option is to purchase existing lower cost units with payment in lieu funds, this approach takes units out of the free market, attainable pool.
- Current City financing options for development incentives for IZ are limited. Fee deferral to final inspection or CO significantly complicates administrative procedures and means the City is a financial partner. If a project isn't completed or goes into foreclosure, the deferred fees are lost.
- Potential of concentrating all the affordable housing in one location rather than mixed throughout the City.

Option 3:

Repeal or Suspend Inclusionary Zoning and Maintain Commercial and/or Residential Linkage

or

Repeal or Suspend Commercial and/or Residential Linkage and Maintain Inclusionary Zoning (with increased incentives for developers)

Advantages:

- Simplifies requirements for developments.

Disadvantages:

- Reduces options to meet the needs of the workforce at multiple income levels. Commercial and residential linkage (and the corresponding Nexus/Proportionality Analysis for Employee Housing Mitigation) specifically addresses the housing needs of members of the workforce earning less than 80% AMI. Repealing both or either commercial or residential linkage reduces funding options for housing for the service industry workforce and other members of the workforce earning less than 80% AMI.
- Council will need to determine how to address approved development projects that have paid payment in lieu or developed units should changes be made to either Inclusionary Zoning or Commercial and Residential Linkage. The decisions will include whether or not to compensate developers that have constructed Inclusionary Zoning units and/or refund payment in lieu funds collected.
- Unclear what happens to Inclusionary Zoning units under contract but not built if Inclusionary Zoning is repealed.

Option 4:

Repeal the Community Housing Ordinance

Advantages:

- Will test if the private sector and free market can and will provide affordable housing for the community's workforce.
- Eliminates affordable housing requirements for developers.

Disadvantages:

- Unclear what happens to the deed-restricted housing under contract but not built (e.g. First Tracks).
- Council will need to determine how to address approved developments that have complied with Inclusionary Zoning and Commercial and Residential Linkage requirements.
- If the private sector doesn't provide affordable housing, area employers and the City's economic base would suffer as recruitment and retention of employees – particularly at lower income levels – is impacted by the lack of housing.
- The workforce that can't afford to live in Steamboat Springs will increasingly commute from surrounding communities and this will impact traffic and congestion, sales tax revenues (as members of the permanent and seasonal workforce buy more goods in their home communities outside Steamboat Springs), and long-term environmental and community vitality issues.
- Does not conform with the Steamboat Springs Area Community Plan (Adopted 2004), Vision 2020 (1994), and Implementation Program for Community Housing (Adopted 2006) documents or address affordable housing needs documented in the Routt County Housing Needs Assessment (2003), and Workforce Housing Demand Analysis (2008).

Analysis of Payment in Lieu Options:

Option 1:

Distribute payment in lieu funds through a City administered Request for Proposals (RFP) process with a set-aside for funding needs outside the RFP timeline

Advantages:

- This option has been considered during three City Council public hearings -- on March 18, June 10 and October 21, 2008 – and therefore has been through a public review process. City Council made a unanimous motion to proceed with an RFP and set-aside process for payment in lieu at its October 21, 2008 meeting.
- The RFP and set-aside allows consideration of proposals from multiple affordable housing developers for different types of projects and funding of the best proposals and ideas.
- A category of “preservation of affordable housing” under the RFP could allow for some administrative funding as well as necessary maintenance expenses associated with existing affordable housing including infrastructure at mobile home parks, significant and unforeseen expenses at affordable housing complexes that could displace residents, and some YVHA administrative costs.
- Staff has preliminarily arranged for review of RFP applications by a committee of financing and lending professionals in conjunction with Staff. All funding recommendations would be approved by City Council.
- An RFP and set-aside application process insures compliance with the City auditing and financial reporting requirements, the “City of Steamboat Springs Financial Policies.”

Disadvantages:

- Involves a complex administrative process.
- Requires the YVHA apply for funds through an RFP process and doesn’t guarantee the organization funds for development and/or preservation activities.

Option 2:

Distribute all payment in lieu funds to the YVHA or another entity to be spent at the organization’s discretion or with a City-approved process

Advantages:

- Allows one organization to be the point organization for affordable housing funding programs in the City.
- Provides a funding source for the YVHA.

Disadvantages:

- Does not conform to the City auditing and financial reporting requirements, the “City of Steamboat Springs Financial Policies.”
- Would require City monitoring of funds distribution for compliance with the Ordinance through another organization.
- Doesn’t allow other affordable housing development organizations, private and not for profit, the same access to housing development and preservation funds as the YVHA or necessarily any funding from payment in lieu funds. This includes local organizations such as Habitat for Humanity, Advocates Against Battering and Abuse, Horizons and statewide organizations, MGL Partners, Mercy Housing, Coburn Development, Ted Guy and Associates, Medici Communities and Archdiocesan Housing (all of whom responded to the Iron Horse RFQ), among others.
- Potential conflict of interest if the YVHA distributes funds to a developer that has partnered or is partnering with the YVHA in any capacity.

Option 3: Allow Payment in Lieu for Down Payment Assistance:

Advantages:

- Could provide housing subsidies for households at multiple income levels.
- Offers flexibility to purchase housing of choice in the community rather than just housing that is created as affordable.

Disadvantages:

- Payment in lieu is designed per the Ordinance for the acquisition or development of new affordable housing. Down payment assistance doesn't create new housing stock or acquire land for new housing stock.
- Affordability of housing and funds available for down payment assistance are entirely a product of free market prices. As free market housing costs increase (including HOA fees and deferred maintenance in older units), fewer options exist for lower income households if a standard amount of down payment assistance is available or, if funds are used to buy down housing costs to the point housing is affordable, few down payment assistance grants are available overall for household purchase.
- Under current lending and mortgage requirements, households using down payment assistance programs may be viewed as higher financial risks by lenders and those lenders, in turn, may charge higher interest rates – up to 1% -- for households participating in these programs. Currently, therefore, down payment assistance is not a solution for all households.
- Other funding sources may be better suited for down payment assistance. For example, other Colorado communities use Colorado Division of Housing funds for down payment assistance and require repayment either as a second mortgage or as a monthly payment into a revolving loan fund that is redistributed to other income-eligible households. This fund distribution is often administered by a Housing Authority, Community Housing Development Organization (CHDO) or non-profit affordable housing development organization.
- Other Colorado communities have also worked with employers to establish a revolving loan fund for down payment or rental assistance. This can be combined with a lease to own model and can be done concurrently with Colorado Division of Housing down payment assistance funds. This type of funding program has been established through Community Development Financial Institutions, non-profit affordable housing development organizations and Housing Authorities. This encourages greater employer involvement in workforce housing development for their employees.
- Payment in lieu for down payment assistance would require eligibility guidelines, repayment monitoring, administration of fund distribution and refunding.

Preliminary Analysis of the Application of a Proposed Voluntary Real Estate Transfer Fee:

- This type of proposal is currently allowed under Alternative Compliance Method under Section Sec. 26-149 Community Housing in the Community Development Code pending determination of legality. One developer had, in fact, submitted a voluntary real estate transfer fee proposal for consideration. Sec. 26-149 (g) (7): Alternative Compliance Methods. *“The City Council shall have the discretion to accept in-lieu consideration in any form so long as the value of that consideration is equivalent to or greater than the payment in lieu contribution required by this Section and that the acceptance of an alternative form of consideration will result in additional benefits to the City of Steamboat Springs consistent with the purpose of this Section.”*
- Fees are distributed only at the point of sale and only on a per unit basis and therefore do not correspond to the Ordinance’s intent of developing affordable housing in correspondence with market rate housing and responding to the increased demand for workers in relationship with new residential and commercial development.
- On a per unit basis, the real estate transfer fee does not equal payment in lieu or provide the subsidy of payment in lieu.
- Based upon preliminary analysis of information submitted by the YVHA Task Force, fewer units are produced for dollars generated over 30 years than on a project basis under Inclusionary Zoning and those units come on-line at a much slower rate. .
 - Based upon the YVHA Task Force-cited Trailside Village project (225 units with average unit sizes of 1,012 square feet), if submitted today, the project would generate **33.75 units under Inclusionary Zoning** and \$387,027 in residential linkage.
 - The developer indicated the estimated market value of the project is \$105,000,000 which translates to an average cost of \$466,667 per unit. Under today’s HUD Area Median Income (AMI) guidelines, a unit priced at \$466,667 – with HOA fees of \$303 a month -- would require a payment in lieu subsidy of \$259,981 to make it affordable to a household of 2 at 100% AMI. The developer estimated a voluntary real estate transfer fee of 1% would generate \$7,720,588 over 30 years. If the \$7,720,588 were in one lump sum as payment in lieu, this would allow subsidy of **29.7 units** at Trailside Village for households of 2 at 100% AMI.
 - Real Estate Transfer fees are different than Payment in lieu, however, because funds are generated over time rather than in one lump sum. Consequently, the ability to apply Real Estate Transfer fees for affordable housing must be analyzed differently from payment in lieu and take into account changing housing market and land prices and the effect on affordability, the per unit real estate transfer fee amount generated and the total value of the real estate transfer fee vs. units and payment in lieu alternatives (per the CDC requirements.)

*City Council Work Session
February 10, 2009*

City of Steamboat Springs Residential Linkage Fees

Examples:

- **1000 square foot addition to an existing structure:** “For additions of 500 hundred square feet or greater, the employee generation rate shall be based on the size of the addition in excess of 500 square feet rather than the total size of the unit or development on which the addition is made.”

Calculation: 1000 s.f. (minus) 500 s.f. = **500 s.f.** consideration for residential linkage = **\$189.00**

- **2500 square foot addition to an existing structure:** “For additions of 500 hundred square feet or greater, the employee generation rate shall be based on the size of the addition in excess of 500 square feet rather than the total size of the unit or development on which the addition is made.”

Calculation: 2500 s.f. (minus) 500 s.f. = **2000 s.f.** consideration for residential linkage = **\$1,311.00**

- **4000 square foot addition to an existing structure:** “For additions of 500 hundred square feet or greater, the employee generation rate shall be based on the size of the addition in excess of 500 square feet rather than the total size of the unit or development on which the addition is made.”

Calculation: 4000 s.f. (minus) 500 s.f. = **3500 s.f.** consideration for residential linkage = **\$6,922.00**

- **5000 square foot new construction:** **\$14,160.00**

- **10,000 square foot new construction:** **\$45,153.00**

Mitigation Rate used to Calculate Residential Linkage Requirements:

Sq Ft. of Proposed Units	Mitigation Rate	Sq Ft. of Proposed Units	Mitigation Rate
<500 SF	0%	3,500 - 3,999	20%
500 - 1,499	1%	4,000 - 4,499	25%
1,500 - 1,999	1%	4,500 - 4,999	25%
2,000 - 2,499	5%	5,000 - 5,499	30%
2,500 - 2,999	10%	5,500 - 5,999	30%
3,000 - 3,499	15%	6,000 +	35%

2008 Area Median Income for Routt County

Household Size and Income Limits	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
150%	79,500	90,900	102,150	113,550	122,700	131,700	140,850	149,850
120%	63,600	72,720	81,720	90,840	98,160	105,360	112,680	119,880
100%	53,000	60,600	68,100	75,700	81,800	87,800	93,900	99,900
80%	42,400	48,450	54,500	60,550	65,400	70,250	75,100	79,950
60%	31,800	36,360	40,860	45,420	49,080	52,680	56,340	59,940
50%	26,500	30,300	34,050	37,850	40,900	43,900	46,950	49,950
30%	15,900	18,150	20,450	22,700	24,500	26,350	28,150	29,950

EXHIBIT B

Affordable Housing - Maximum purchase price using 2008 Annual Median Income (AMI) for Routt County

Assumptions

Interest rate	6.25%	Note: Calculated maximum housing prices are based on "affordable" criteria. Standard mortgage lending practices (32% of gross income dedicated to mortgage with no other debt) would typically allow a borrower to purchase somewhat more expensive property than indicated by this chart. "Attainable" mortgage chart included on next sheet.
Term (months)	360 (30-year mortgage)	
Maximum payment = 30% of gross income for mortgage & taxes		
Decent credit rating		

Household size	1	2	2.5	3	4	5	6	7	8
150% AMI	\$ 79,500	\$ 90,900	\$ 96,525	\$ 102,150	\$ 113,550	\$ 122,700	\$ 131,700	\$ 140,850	\$ 149,850
Total payment	\$ 1,988	\$ 2,273	\$ 2,413	\$ 2,554	\$ 2,839	\$ 3,068	\$ 3,293	\$ 3,521	\$ 3,746
Taxes/Insurance/HOA (20%)	\$ 398	\$ 455	\$ 483	\$ 511	\$ 568	\$ 614	\$ 659	\$ 704	\$ 749
Mortgage payment	\$ 1,590	\$ 1,818	\$ 1,931	\$ 2,043	\$ 2,271	\$ 2,454	\$ 2,634	\$ 2,817	\$ 2,997
Max Price - 100% financing	\$258,235	\$295,265	\$313,537	\$331,808	\$368,838	\$398,560	\$427,794	\$457,515	\$486,749
Max Price - 95% financing	\$271,147	\$310,029	\$329,214	\$348,399	\$387,280	\$418,488	\$449,183	\$480,391	\$511,087
Max Price - 90% financing	\$284,059	\$324,792	\$344,890	\$364,989	\$405,722	\$438,416	\$470,573	\$503,267	\$535,424
Max Price - 80% financing	\$309,883	\$354,319	\$376,244	\$398,170	\$442,606	\$478,272	\$513,353	\$549,018	\$584,099
120% AMI	\$ 63,600	\$ 72,720	\$ 77,220	\$ 81,720	\$ 90,840	\$ 98,160	\$ 105,360	\$ 112,680	\$ 119,880
Total payment	\$ 1,590	\$ 1,818	\$ 1,931	\$ 2,043	\$ 2,271	\$ 2,454	\$ 2,634	\$ 2,817	\$ 2,997
Taxes/Insurance/HOA (20%)	\$ 318	\$ 364	\$ 386	\$ 409	\$ 454	\$ 491	\$ 527	\$ 563	\$ 599
Mortgage payment	\$ 1,272	\$ 1,454	\$ 1,544	\$ 1,634	\$ 1,817	\$ 1,963	\$ 2,107	\$ 2,254	\$ 2,398
Max Price - 100% financing	\$206,588	\$236,212	\$250,829	\$265,447	\$295,071	\$318,848	\$342,235	\$366,012	\$389,400
Max Price - 95% financing	\$216,918	\$248,023	\$263,371	\$278,719	\$309,824	\$334,790	\$359,347	\$384,313	\$408,870
Max Price - 90% financing	\$227,247	\$259,834	\$275,912	\$291,991	\$324,578	\$350,732	\$376,459	\$402,613	\$428,340
Max Price - 80% financing	\$247,906	\$283,455	\$300,995	\$318,536	\$354,085	\$382,617	\$410,682	\$439,215	\$467,279
100% AMI	\$ 53,000	\$ 60,600	\$ 64,350	\$ 68,100	\$ 75,700	\$ 81,800	\$ 87,800	\$ 93,900	\$ 99,900
Total payment	\$ 1,325	\$ 1,515	\$ 1,609	\$ 1,703	\$ 1,893	\$ 2,045	\$ 2,195	\$ 2,348	\$ 2,498
Taxes/Insurance/HOA (20%)	\$ 265	\$ 303	\$ 322	\$ 341	\$ 379	\$ 409	\$ 439	\$ 470	\$ 500
Mortgage payment	\$ 1,060	\$ 1,212	\$ 1,287	\$ 1,362	\$ 1,514	\$ 1,636	\$ 1,756	\$ 1,878	\$ 1,998
Max Price - 100% financing	\$172,157	\$196,844	\$209,025	\$221,205	\$245,892	\$265,706	\$285,196	\$305,010	\$324,500
Max Price - 95% financing	\$180,765	\$206,686	\$219,476	\$232,266	\$258,187	\$278,992	\$299,456	\$320,261	\$340,725
Max Price - 90% financing	\$189,373	\$216,528	\$229,927	\$243,326	\$270,481	\$292,277	\$313,715	\$335,511	\$356,950
Max Price - 80% financing	\$206,588	\$236,212	\$250,829	\$265,447	\$295,071	\$318,848	\$342,235	\$366,012	\$389,400
90% AMI	\$ 47,700	\$ 54,540	\$ 57,915	\$ 61,290	\$ 68,130	\$ 73,620	\$ 79,020	\$ 84,510	\$ 89,910
Total payment	\$ 1,193	\$ 1,364	\$ 1,448	\$ 1,532	\$ 1,703	\$ 1,841	\$ 1,976	\$ 2,113	\$ 2,248
Taxes/Insurance/HOA (20%)	\$ 239	\$ 273	\$ 290	\$ 306	\$ 341	\$ 368	\$ 395	\$ 423	\$ 450
Mortgage payment	\$ 954	\$ 1,091	\$ 1,158	\$ 1,226	\$ 1,363	\$ 1,472	\$ 1,580	\$ 1,690	\$ 1,798
Max Price - 100% financing	\$154,941	\$177,159	\$188,122	\$199,085	\$221,303	\$239,136	\$256,676	\$274,509	\$292,050
Max Price - 95% financing	\$162,688	\$186,017	\$197,528	\$209,039	\$232,368	\$251,093	\$269,510	\$288,235	\$306,652
Max Price - 90% financing	\$170,435	\$194,875	\$206,934	\$218,993	\$243,433	\$263,049	\$282,344	\$301,960	\$321,255
Max Price - 80% financing	\$185,930	\$212,591	\$225,746	\$238,902	\$265,563	\$286,963	\$308,012	\$329,411	\$350,460
80% AMI	\$ 42,400	\$ 48,450	\$ 51,475	\$ 54,500	\$ 60,550	\$ 65,400	\$ 70,250	\$ 75,100	\$ 79,950
Total payment	\$ 1,060	\$ 1,211	\$ 1,287	\$ 1,363	\$ 1,514	\$ 1,635	\$ 1,756	\$ 1,878	\$ 1,999
Taxes/Insurance/HOA (20%)	\$ 212	\$ 242	\$ 257	\$ 273	\$ 303	\$ 327	\$ 351	\$ 376	\$ 400
Mortgage payment	\$ 848	\$ 969	\$ 1,030	\$ 1,090	\$ 1,211	\$ 1,308	\$ 1,405	\$ 1,502	\$ 1,599
Max Price - 100% financing	\$137,726	\$157,377	\$167,203	\$177,029	\$196,681	\$212,435	\$228,189	\$243,943	\$259,697
Max Price - 95% financing	\$144,612	\$165,246	\$175,564	\$185,881	\$206,515	\$223,057	\$239,599	\$256,140	\$272,682
Max Price - 90% financing	\$151,498	\$173,115	\$183,924	\$194,732	\$216,349	\$233,679	\$251,008	\$268,337	\$285,667
Max Price - 80% financing	\$165,271	\$188,853	\$200,644	\$212,435	\$236,017	\$254,922	\$273,827	\$292,732	\$311,637
70% AMI	\$ 37,100	\$ 42,420	\$ 45,045	\$ 47,670	\$ 52,990	\$ 57,260	\$ 61,460	\$ 65,730	\$ 69,930
Total payment	\$ 928	\$ 1,061	\$ 1,126	\$ 1,192	\$ 1,325	\$ 1,432	\$ 1,537	\$ 1,643	\$ 1,748
Taxes/Insurance/HOA (20%)	\$ 186	\$ 212	\$ 225	\$ 238	\$ 265	\$ 286	\$ 307	\$ 329	\$ 350
Mortgage payment	\$ 742	\$ 848	\$ 901	\$ 953	\$ 1,060	\$ 1,145	\$ 1,229	\$ 1,315	\$ 1,399
Max Price - 100% financing	\$120,510	\$137,791	\$146,317	\$154,844	\$172,124	\$185,994	\$199,637	\$213,507	\$227,150
Max Price - 95% financing	\$126,535	\$144,680	\$153,633	\$162,586	\$180,731	\$195,294	\$209,619	\$224,182	\$238,507
Max Price - 90% financing	\$132,561	\$151,570	\$160,949	\$170,328	\$189,337	\$204,594	\$219,601	\$234,858	\$249,865
Max Price - 80% financing	\$144,612	\$165,349	\$175,581	\$185,813	\$206,549	\$223,193	\$239,565	\$256,209	\$272,580
60% AMI	\$ 31,800	\$ 36,360	\$ 38,610	\$ 40,860	\$ 45,420	\$ 49,080	\$ 52,680	\$ 56,340	\$ 59,940
Total payment	\$ 795	\$ 909	\$ 965	\$ 1,022	\$ 1,136	\$ 1,227	\$ 1,317	\$ 1,409	\$ 1,499
Taxes/Insurance/HOA (20%)	\$ 159	\$ 182	\$ 193	\$ 204	\$ 227	\$ 245	\$ 263	\$ 282	\$ 300
Mortgage payment	\$ 636	\$ 727	\$ 772	\$ 817	\$ 908	\$ 982	\$ 1,054	\$ 1,127	\$ 1,199
Max Price - 100% financing	\$103,294	\$118,106	\$125,415	\$132,723	\$147,535	\$159,424	\$171,118	\$183,006	\$194,700
Max Price - 95% financing	\$108,459	\$124,011	\$131,685	\$139,359	\$154,912	\$167,395	\$179,673	\$192,156	\$204,435
Max Price - 90% financing	\$113,624	\$129,917	\$137,956	\$145,996	\$162,289	\$175,366	\$188,229	\$201,307	\$214,170
Max Price - 80% financing	\$123,953	\$141,727	\$150,498	\$159,268	\$177,042	\$191,309	\$205,341	\$219,607	\$233,640
50% AMI	\$ 26,500	\$ 30,300	\$ 32,175	\$ 34,050	\$ 37,850	\$ 40,900	\$ 43,900	\$ 46,950	\$ 49,950
Total Payment	\$ 663	\$ 758	\$ 804	\$ 851	\$ 946	\$ 1,023	\$ 1,098	\$ 1,174	\$ 1,249
Taxes/Insurance/HOA (20%)	\$ 133	\$ 152	\$ 161	\$ 170	\$ 189	\$ 205	\$ 220	\$ 235	\$ 250
Mortgage Payment	\$ 530	\$ 606	\$ 644	\$ 681	\$ 757	\$ 818	\$ 878	\$ 939	\$ 999
Max Price - 100% financing	\$ 86,078	\$ 98,422	\$ 104,512	\$ 110,603	\$ 122,946	\$ 132,853	\$ 142,598	\$ 152,505	\$ 162,250
Max Price - 95% financing	\$ 90,382	\$ 103,343	\$ 109,738	\$ 116,133	\$ 129,093	\$ 139,496	\$ 149,728	\$ 160,130	\$ 170,362
Max Price - 90% financing	\$ 94,686	\$ 108,264	\$ 114,963	\$ 121,663	\$ 135,241	\$ 146,139	\$ 156,858	\$ 167,756	\$ 178,475
Max Price - 80% financing	\$ 103,294	\$ 118,106	\$ 125,415	\$ 132,723	\$ 147,535	\$ 159,424	\$ 171,118	\$ 183,006	\$ 194,700

CITY COUNCIL COMMUNICATION FORM

FROM: Nancy Engelken, Community Housing Coordinator (Ext. 253)

THROUGH: Tom Leeson, AICP, Director of Planning & Community Development (Ext. 244)

DATE: February 10, 2009

ITEM: Yampa Valley Housing Authority Memos as background for the City Council Discussion of the Community Housing Ordinance

NEXT STEP: Direction to Staff for preparation of any Amendments to the Community Housing Ordinance

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

I. REQUEST OR ISSUE:

The Yampa Valley Housing Authority has prepared information for City Council consideration as a part of its discussion of the Community Housing Ordinance.

II. RECOMMENDED ACTION:

Discussion and Direction to Staff.

III. FISCAL IMPACTS:

None at this report.

IV. BACKGROUND INFORMATION:

Attached please find the following documents for the discussion about the Community Housing Ordinance:

- A Memo from a Developer Task Force through the Yampa Valley Housing Authority regarding a voluntary real estate transfer fee
- A Memo from the Yampa Valley Housing Authority Board of Directors regarding alternative compliance methods under the Community Housing Ordinance

V. LEGAL ISSUES:

None at this report.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None at this report.

VII. SUMMARY AND ALTERNATIVES:

Provide direction to Staff for any amendments to the Guidelines and/or additional information required for policy discussions and decisions.

December 9, 2008

Yampa Valley Housing Authority Board of Directors

Via: Email and Hand Delivered:

Dear Board of Directors:

Extraordinary times offer all of us a chance to rethink how we can accomplish our individual organizations' missions' in different ways and through new strategic thinking. Strategic alliances with people who can accomplish goals through collective cooperation are one way to meet the communities housing goals in the short and long-term.

A group of developers have met with your staff and a Board Sub-Committee to respond to the impending housing and funding difficulties faced by the YVHA, the City of Steamboat, and all of our projects. We believe we have an innovative concept proposal for your Board's consideration which then would be drafted as a Housing Ordinance amendment for city council when they meet in February to discuss this issue. If you agree that you support this strategy and concept ordinance, as your ally we would also support an emergency ordinance which you draft and submit to receive temporary funding for your operations.

The key components of our Housing Ordinances modifications (Inclusionary Zoning and Linkage) are briefly described below: The centerpiece of this proposal:

- We will be proposing that Compliance Methods for IZ and Linkage will include a .5% to 1% voluntary transfer fee in perpetuity for a community housing trust fund (also known as an Enterprise Fund). The developer will provide documentation and pro-forma estimates as why this compliance method will produce targeted community housing, increase the housing trust funds, and provide more stable long-term cash flow for housing. All of this is designed to provide a diverse inventory of affordable and attainable housing units for sale and for rent.

Associated recommendations and requirements for our group's support include:

1. The City Housing Trust fund will be administered by the city council in its fiduciary role to the community. The Trust Fund likely would have an appointed board with focus on governance, transparency, and fiduciary oversight on funds allocation to the YVHA operations and strategic plan implementation.
2. Routt County would be invited to continue their financial commitment and strategic input by partial funding of the YVHA operations budget. If the voluntary transfer fee is successful, they may consider offering optional compliance methods within the county for funding outlying communities and housing impacts within the Trust Fund allocations.
3. Yampa Valley Housing Authority will be the primary public agency in charge of administering Housing Programs, Deed Restrictions, Education, Grants, Compliance, Employer Partnering, Developer Partnering, Rental controls, Down-payment Assistance, and the whole range of housing related daily tasks currently fulfilled by the YVHA and City's Housing Specialist.
4. The YVHA will be accountable to the City Council and Trust Fund. They will have performance measures with benchmarks, statistical dashboard indicators, and strategic initiative implementation tasks. Operating expense ratios will be monitored on percentage basis including performance relating to the number of existing affordable and attainable units, new units produced, AMI ranges served, employer assistance provided, and a number of other measurements. These performance standards will be provided to the community that the structure is much more efficient and effective than our current administration in two operations.
5. The YVHA would be afforded long term funding expectations which help them partner on projects which are viable long term solutions to the housing difficulties we face. Having the ability and flexibility to produce real Request For Partnership (RFP) proposals to for-profit and non-profit partners will extend the scope of influence and effectiveness of the dollars collected.

We believe the voluntary transfer fee option is also simple to understand and administer. The perpetual turnover of those transfers when coupled with the Housing Trust Fund concept (Enterprise Funds), even at conservative rates, will provide more net funds for housing when projections are annualized for 10 to 50 years. If those funds are spent effectively as outlined in the efficiency and accountability performance standards (#4), the community will see more affordable and attainable housing units which provide for the long-term stability and openness of our neighborhoods. Appendix A gives you a quick snapshot of the preliminary revenue estimates some of us have produced to support our position. We will be refining those numbers and formatting them for the council presentation of our ordinance proposal in February. The revenue forecast does give you an idea about the scope of our proposal and the opportunity to produce units with YVHA's assistance. In closing we ask for your Board's support in proposing the ordinance amendment and the structural changes we have suggested. We understand that it would require YVHA to change the way you have operated but we believe the community needs will be more effectively served and more quickly responded to through our proposals.

Respectfully Submitted,

Housing Authority –Developer Task Force Participants

Tony A. Connell/Randall Hannaway

Wilton West Development – 360 Village and The Bridges at Steamboat

James Cook
Riverwalk/Howelson Place
Joyce Hartless
Sundance North

Michael Hurley
Trappeurs Crossing
Peter Kreissig/Jamie Morgan
Rollingstone Village

Danny Mulcahy
Steamboat 700

Brian Olsen
Trailside Village

Ken Otterman
Eco Corral

Chris Paoli/Jon Wade
The Alpiner/Steamboat 40 LLC



Date: December 30, 2008

To: Steamboat Springs City Council

From Yampa Valley Housing Authority (YVHA) Board of Directors

RE: Alternative Compliance Methods for the City of Steamboat Springs Community Housing Guidelines

CC: Interim City Manager Wendy DuBord and City Planning Director Tom Leeson
Tony Connell, Wilton West Development (for distribution to Developer Task Force Participants)

On December 18, 2008, the YVHA Board of Directors held a special meeting to discuss the general concept of an alternative compliance method for the Community Housing Guidelines. Scott Myller and Loui Antonucci were at this meeting and we appreciate their participation in our discussion.

The alternative compliance method that was presented involved a perpetual voluntary real estate transfer fee of up to 1% that would be designated for affordable housing through a City Housing Trust Fund. This concept was discussed by YVHA's New Projects Committee and some local developers prior to bringing it to the full YVHA Board. Attached with this memo is a December 9, 2008 memo from the Developer Task Force to YVHA that outlines their initial proposal. While there are many details and possible legal issues to resolve related to this mechanism, the YVHA Board of Directors feels that this is a proposal that should be seriously considered by City Council.

When the City was developing the Inclusionary Zoning and Linkage Ordinances, YVHA sent a letter strongly encouraging Council to allow developers as much flexibility as possible in meeting their affordable housing requirements. Our position regarding this issue has not changed and we feel that any mechanism that creates a pool of money for the construction of affordable housing will be a benefit to the community. YVHA has successfully built and sold deed restricted housing units in the past and we can do that in the future if there is a dedicated funding source to assist with the development of affordable housing.



As City Council begins its discussion of possible changes to the Inclusionary Zoning and Linkage Ordinances, YVHA respectfully requests that our organization be included as a partner in those discussions. We have several Board members that would be very interested in reviewing any and all options that will further affordable housing opportunities for our citizens. It is important for us all to work together to create innovative solutions that work for our community and the Developer Task Force has expressed a strong desire for YVHA to be the lead contact and primary public agency for affordable housing issues and programs. Please let us know how we can have “a seat at the table”.

Thank you for your time and consideration.

January 6, 2009

Steamboat Springs City Council
PO Box 775088
137 10th Street
Steamboat Springs, CO 80477

Dear City Council Members,

This letter is written in an effort to find solutions to the community's affordable housing challenge, an issue that affects all residents of the City. The City Council, with all good intentions, originally adopted an inclusionary housing ordinance ("IZ") in June of 2007. To date, that IZ ordinance, by broad consensus, has not met its original goals. It has not been workable for the intended beneficiaries, for developers, or for the community at large. Council has been presented recently with numerous examples of the current ordinance's failure to provide the desired affordable housing for target markets. Although developers have attempted to work with the City to present alternatives to the current IZ, the City has been slow to react. In retrospect, the IZ was unsuitable for Steamboat Springs when it was adopted and experience has confirmed that hypothesis. The continuing tightening of credit, the distress in the housing market and the global financial collapse have simply exacerbated these problems.

A legal review of the IZ has been conducted at our request and has concluded that the ordinance is subject to challenge. Attached, please find a letter from Thomas Ragonetti of Otten Johnson Robinson Neff and Ragonetti describing potential areas of legal challenge.

The undersigned fully support the goal of providing affordable workforce housing and are committed to work with the City to develop a workforce housing plan that is viable over the long term and appropriate for our community. We would value the opportunity to meet with the Council to discuss further our proposal to replace the current IZ and linkage ordinance with a community housing ordinance tailored to the needs of this community.

We suggest that any new ordinance provide two compliance options:

- Option 1: The City would create an affordable housing impact fee equal to one percent (1%) of sales or market value on new residential, commercial and industrial development within the City payable at the earlier of (1) the initial sale of such developed property or (2) 100 days after the later of the issuance of a certificate of occupancy for such development or the termination of active efforts to sell the property. This development impact fee would be secured by

development agreement entered into between the developer and the City at the time of issuance of a building permit. Payment of this development impact fee would be required unless the developer voluntarily agreed to Option 2 described herein.

- Option 2: At the issuance of a building permit, developer would enter into a development agreement with the City requiring the payment of a real estate transfer assessment of one half of one percent (1/2 of 1%) on the initial sale and each resale of the property. Option 2 would be available to all developments subject to Option 1. It would be voluntary, so we do not believe it would run afoul of the TABOR prohibitions on real estate transfer taxes.


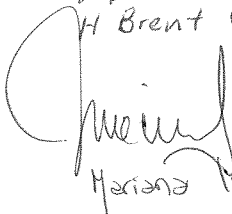
All funds from either option 1 or 2 would be invested as the City chooses for housing purposes, but we recommend that the funds be dedicated to YVHA thereby avoiding duplication of efforts by City and County.




This proposal can help create a realistic housing solution for the long term and keep those responsible for affordable housing focused on affordable housing. There is no solution that will solve all housing problems. However, the most flexible of all solutions is to create a housing fund that can be deployed where the needs are greatest at any given time. This could result in a wide range of programs, from developing affordable communities to buying down units in specific developments, to creation of rental assistance, to additional down payment assistance programs. This new strategy would also take the entire burden of the affordable housing issue off a single industry as there could be room to create other revenue sources that would feed into this overall fund, including an appropriate tax exempt component.

The undersigned look forward to working collaboratively with council to find new solutions to the challenge of affordable housing. We also must emphasize that while it is not our desire to take the path suggested in the attached letter, the status quo is not acceptable. If we are unsuccessful in moving toward new solutions in the near term, we will pursue other options.

Sincerely,

Concerned Citizens for Affordable Housing



H Brent Pearson

Mariana Ishida


Robert E. Mike, President Stambout Pearl's


Michael Hurley

Ron Murray



Brian Olson

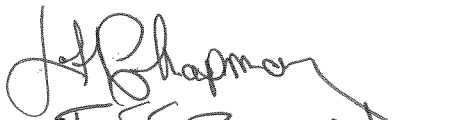

TERRY DRAHOTA


Jane Denning
Jane Denning



Paul Franklin


Jon Peddie



DAVID BALONITER JR.


JEFF CHAPMAN



PAUL CLAVADETSCHER



Ed MacArthur
Ed MacArthur
jm

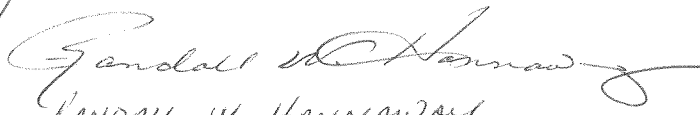

James M Temple

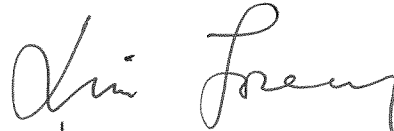

MARK E. SCALLY



ROBERT WEISS


Chris Diamond


B. MARK HALVORSON


RANDALL W. HANNAWAY


Jim Lorez


Mary T Brown

OTTENJOHNSON
ROBINSON NEFF + RAGONETTI^{PC}

January 7, 2009

THOMAS J. RAGONETTI
303 575 7509
TJR@OTTENJOHNSON.COM

Concerned Citizens for Affordable Housing
610 Marketplace Plaza, Suite 210
Steamboat Springs, CO 80487

Re: Steamboat Springs Community Housing Provisions

Dear Ladies and Gentlemen:

The City of Steamboat Springs, Colorado (the “City”) has adopted a community housing ordinance (the “Ordinance”) which is now codified at Section 26-149 of the City’s Municipal Code (the “Code”). The City has also adopted the Community Housing Guidelines – 2008 (the “Guidelines”) to implement the Ordinance. You have asked us to advise you whether the Community Housing Ordinance and the Guidelines are subject to challenge under C.R.S. § 29-20-104.5 (the “Impact Fee Statute”), C.R.S. § 29-20-201 through 205 (the “Regulatory Impairment Statute”) or either the federal or state constitution. While we believe the Ordinance is probably outside of the scope of the Regulatory Impairment Statute, features of the Ordinance do violate both the Takings Clauses of the United States and Colorado constitutions as well as the Impact Fee Statute. Alternatively, to the extent the in-lieu fees required in the Ordinance are not “impact fees” subject to the Impact Fee Statute, they are taxes which have been imposed in violation of Article X, § 20 of the Colorado Constitution, also known as the Taxpayer’s Bill of Rights (“TABOR”). This letter starts with a brief description of the Ordinance and proceeds with a discussion of the various possible challenges.

THE ORDINANCE

Subsection (a) of the Ordinance describes its purpose as follows:

The purpose of this Section is to ensure that a reasonable amount of Community Housing is provided to the City of Steamboat Springs that meets the needs of all economic groups. This is accomplished through the establishment of regulations that require the set-aside of a portion of new residential development for Community Housing purposes and require new residential and nonresidential development to mitigate a percentage of the impact its [sic] generates for Community Housing demand as a condition of approval. (Code, § 26-149(a)).

The set-aside requirement is referred to in the Ordinance as “inclusionary zoning” which is defined as “the mandatory provision of Community Housing units, or financial set-aside, as a quid pro quo for development

approval.” (Code, § 26-149(b)). The mitigation requirement is described in the Ordinance as either “commercial linkage” or as “residential linkage,” which is defined in each case as “the mandatory provisions of Community Housing units, or financial set-aside, to satisfy a certain percentage of the demand for work force housing that is generated by the proposed [non-residential/residential] development.” (Code, § 26-149(b)).

The inclusionary zoning requirement applies to any development of three or more residential units. (Code, § 26-149(c)(1)). For single-family developments the percentage required to be set aside for sale or rent to eligible households is 15%. (Code, § 26-149(e)(1)). For multi-family developments the percentages range from 15% for units with a gross floor area under 2,000 square feet up to 25% for housing units with a gross floor area of 4,001 or greater square feet. *Id.*

Under the commercial linkage requirement, a developer is required to complete or ensure the completion of development of a percentage of the workforce housing units “for which demand is generated by the proposed development.” (Code, § 26-149(e)(2)). The applicable percentage is five percent for the first 5,000 square feet of development and 10% for any square footage over 5,000. *Id.* The Code contains a formula to determine the number of housing units required to be provided which include variable factors for the average number of employees per leasable space, average number of jobs per employee and average number of employees per housing unit. *Id.* The annual Guidelines then set forth the variables to be used each year. In 2008, the variables are set at 2.8 for the average number of employees per 1,000 square feet, 1.2 for the average number of jobs per employee, and 1.64 for the average number of employees per unit. (Guidelines, at 3).

Because a different percentage requirement is assigned to the first 5,000 square feet of development and a higher percentage requirement to square footage above that number, to determine the linkage requirement of a commercial development larger than 5,000 square feet, you would need to perform two calculations. Take for example a proposed development of 10,000 square feet. To determine the requirement applicable to the first 5,000 square feet, you start multiplying 2.8 (average number of employees per 1,000 square feet of leasable space), by 5,000, which equals 14,000. That number would then be divided by 1,000 to give you 14 employees. That number is then divided by 1.2, the average numbers of jobs per employee. This results in a number of 11.67. That number is then divided by 1.64, the average number of employees per unit, resulting in 7.11. This number is then multiplied by the applicable mitigation percentage (5%) to arrive at .36 housing units required to be provided for the first 5,000 square feet. An identical calculation would be done for the additional 5,000 square feet of leasable space except that the percentage used is 10%, resulting in .71 housing units. The total number of units for the entire development would be 1.07 units.

For hotels, the calculation is based upon the assumption that each new hotel room generates a need for .5 employees. The number of employees is then taken through the same calculation as for other types of commercial uses. (Guidelines, at 3).

The residential linkage requirement starts with a table of employee generation rates based upon the square footage of the proposed residential unit. (Code, § 26-149(e)(3)). The employee generation rates range from .17 for residential units under 500 square feet to 1.66 for residential units between 11,500 and 12,000 square feet. *Id.* at Table 2. The total number of residential units in a development is multiplied by the employee generation rate, and the sum is then divided by the average number of employees per unit. *Id.* The resulting number is then multiplied by an applicable mitigation rate to determine the community housing units required. *Id.* The

Ladies and Gentlemen
January 7, 2009
Page 3

mitigation rate again varies depending upon the square footage of the unit. The mitigation rate is zero for units under 500 square feet, 1% for units between 500 and 1,499 square feet, and ranges up to 35% for units over 6,000 square feet. *Id.* at Table 1.

The Ordinance offers multiple ways by which the housing requirements can be satisfied, including direct on-site development of units in connection with the inclusionary zoning requirement, off-site development at 125% of the required number of units, dedication of on-site lots with a value equal to 100% of the payment in lieu contribution, dedication of off-site lots or other land with a value equal to 125% of the payment in lieu contribution, or payments in lieu. (Code, § 26-149(g)). Payment-in-lieu fees are adjusted annually based upon the difference in the market rate cost per unit and the purchase prices that are affordable for income-eligible households, plus an administrative fee of up to 15%. (Code, § 26-149(g)(6)a.). The payment-in-lieu fees are accepted as a right to satisfy the linkage requirements, but for inclusionary zoning payment-in-lieu fees are accepted only for fractional units. (Code, § 26-149(g)(6)). There is a further exception for inclusionary zoning for developments within the area defined as the base area, but the fee is then increased to 125% of the in-lieu fee. *Id.* The Guidelines have currently set the per unit in-lieu fee at \$172,012 per unit for linkage and \$117,621 per unit for inclusionary zoning. (Guidelines, at 15).

A developer providing community housing units must execute and record a deed restriction in a form approved by the City. (Code, § 26-149(f)). The approved form runs in favor of the City and its program administrator and is a covenant which runs with the land. If a community housing unit cannot be sold to a qualified buyer within one year, it must be offered for sale to the City or the Yampa Valley Housing Authority subject to the same price and deed restrictions. If neither the City nor the housing authority elect to purchase the unit, it may be sold without deed restriction and, at closing of the sale, the City will release the deed restriction in exchange for payment of an amount equal to 100% of the then current payment-in-lieu fee. (Code, § 26-149(h)).

POTENTIAL CHALLENGES

The deed restriction required by the Ordinance is a real property interest which a developer is required to convey to the City as a condition of development. Because the Ordinance requires the landowner to convey a real property interest to the government, it is subject to review under the Takings Clauses of the federal and state constitutions. The United States Supreme Court has analyzed such requirements in two leading cases, *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). In *Nollan*, a property owner challenged the requirement of the California Coastal Commission that he dedicate a lateral easement for public access across his beachfront property in exchange for approval of a permit for renovations to his beach house. The Supreme Court struck down the easement requirement as unconstitutional because the Court could find no nexus between the requirement of granting the easement in order to secure the permit and the stated public purpose for the easement, preserving visual access to the beach and alleviating psychological barriers to the use of the beach. *Nollan*, 483 U.S. at 836-37. The Court stated that an exaction imposed as a condition of development approval must first promote a legitimate governmental interest and there must exist an essential nexus between the governmental interest and the actual condition imposed. *Id.* In *Dolan*, the Court extended the holding of *Nollan* and went a step further and required not only some kind of relationship between the nature of the impact and the exaction imposed, but a relationship between the extent of the impact and the exaction imposed. *Dolan*, 512 U.S. at 391.

Ladies and Gentlemen
January 7, 2009
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Although some commentators have suggested that *Dolan* applies only to *ad hoc* impositions, as opposed to legislatively mandated exactions, that suggestion is simply incorrect. In fact, the dedication requirements at issue in *Dolan* were mandated by the city's community development code. *Id.* at 377-79 ("the CDC requires that new development facilitate this plan by dedicating land for pedestrian pathways . . ." and "the CDC establishes . . . the city shall require dedication of sufficient open land for greenway adjoining and within the flood plain.") By contrast, the scope of Regulatory Impairment Statute is limited to dedication or fee requirements imposed on an ad hoc basis, as opposed to legislatively mandated dedications and fees. Although the statute was generally designed to codify *Nollan* and *Dolan*, with respect to this aspect of *Nollan* and *Dolan*, the statute's application is actually narrower than the cases. It is for this reason that we believe the Ordinance is probably not subject to challenge under the Regulatory Impairment Statute, even though it does violate *Nollan* and *Dolan*.

Under a *Nollan-Dolan* analysis, the major problem with the Ordinance is that its requirements are disproportionately greater than the impacts of the projects to which it is applied. *Nollan* and *Dolan* are concerned with fundamental fairness. The lesson of the cases is that a developer can only be required to convey real property to address a governmental need to the extent the need is caused by the proposed development. The City commissioned a nexus/proportionality study from RRC Associate, Inc. and Rees Associates, Inc. (the "Study") with respect to the linkage requirement. The Study itself incorrectly states that no similar analysis has been done for the inclusionary zoning requirement "given that a nexus/ proportionality analysis is not required for inclusionary programs." (Study, at 1). Because the inclusionary zoning requirement mandates a conveyance of a real property interest to the City as a condition of development approval, it falls squarely within the requirements of *Nollan-Dolan*. The failure to assess the impact of residential development on the need for affordable housing violates the *Nollan-Dolan* requirements. Had a study been done, it is unlikely that it would have determined that the provision of housing units causes a need for housing units. The economic laws of supply and demand suggest that the provision of housing units satisfies, rather than causes, the need for housing.

As it relates to the linkage requirement, the Study contains a number of flaws. First, it confuses the existing percentage of residents who earn within the targeted income range to be assisted by affordable housing as a level of service. Level of service refers to a service that has been or is being provided by a government. To say that a certain percentage of residents earn within the targeted income range and live in the community is not the same thing as saying that the City has been providing a housing service to those individuals. The very definition of "median" means that 50% of residents in any given area will make less than the area median income. Under the logic of the Study, then, every community provides a housing service to half its residents because the lower 50% live in the community.

Second, there are problems with respect to the Study's determination of job generation rates. The Study determined overall job generation rates for various types of commercial uses, including government and school uses. The Code exempts institutional uses, such as government and school uses from the linkage requirement. (Code, § 26-149(d)(4)). Nevertheless, it uses the overall job generation rate from the Study. (See Guidelines, at 3). Additionally, the Study found a difference between job generation rates in Routt County and those in a merged study of numerous resort communities. Nevertheless, it elected to use the merged level rather than the actual generation rates experienced in Routt County. These aspects of the Study violate the requirement of *Dolan* that the government must make an individualized assessment of the impact to be caused by a proposed

Ladies and Gentlemen
January 7, 2009
Page 5

development and set the fee accordingly. *Id.* The Ordinance certainly contains no individualized assessment. Finally, although the Study recites that the City must be careful not to charge new development for existing deficiencies and not to double charge, it does not correctly implement these requirements.

The Code deviates from the Study in two important particulars. While allowing a number of ways of satisfying the inclusionary zoning and linkage requirements, it arbitrarily requires 125% of the units or in-lieu fees in certain circumstances. For example, a residential developer with enough land to be able to provide on-site units must only provide 100% of the required units, while another developer providing off-site units is required to provide 125% of the required units. (Code, § 26-149(g)(1) and (2)). The same is true with respect to developers dedicating lots; an on-site dedication requires lots with a value equal to 100% of the in-lieu fee, while an off-site dedication requires lots with a value equal to 125% of the fee. (Code, § 26-149(g)(3) and (4)). Finally, a developer within the base area paying an in-lieu fee must pay 125%. (Code, § 26-149(g)(6)). The impact of a proposed development does not depend upon how the dedication or fee requirement is met. The arbitrary increase in certain circumstances violates the rough proportionality requirement. Similarly, the Study did not address whether larger commercial developments resulted in a higher job generation rate, but the Code imposes a greater percentage requirement on square footage in excess of 5,000 square feet than it does on the first 5,000 square feet of development.

In contrast to the Ordinance's dedication requirement, the in-lieu fees required under the Ordinance must be analyzed not under the Takings Clause, but under constitutional and statutory provision governing fees and taxes. Generally, a charge imposed by a local government is characterized as either a fee, tax or special assessment. *See e.g. Bloom v. City of Ft. Collins*, 784 P.2d 304, 307 (Colo. 1989). If the in-lieu fees are deemed to be taxes, the Ordinance violates TABOR, which requires that taxes be approved by a popular vote. If the charges are characterized as fees, the Ordinance violates the Impact Fee Statute.

The Colorado Supreme Court has described a fee as a charge imposed by the government in exchange for a service and which is reasonably related to the cost of providing such service. *Bloom*, 784 P.2d at 308. If no service is provided or if the amount of the charge greatly exceeds the cost of the service, the charge is a tax. *Id.* There are two recent district court opinions from Idaho which hold that fees similar to those imposed in the Ordinance are taxes on the theory that no service is provided to the person paying the fee. *See Schaefer v. City of Sun Valley, Idaho*, Case No. CV-060882 (5th Judicial Dist., 2007); *Mountain Central Bd. of Realtors, Inc. v. City of McCall*, Case No. CV 2006-490-C (4th Judicial Dist. 2008). While these cases have no precedential import in Colorado, the logic of the cases is similar to that followed by the Colorado Supreme Court in *Bloom*. As indicated by the Idaho cases, there is a good argument that the charges imposed by the Ordinance are taxes because the person paying the charges receives no service in exchange.

Even if charges are determined to be a fee, however, the Ordinance violates the Impact Fee Statute. The statute restricts the ability of local governments to impose "impact fees or other similar development charges." C.R.S. § 29-20-104.5. The reference in the statute to "similar development charges" is certainly broad enough to cover the fees due with respect to fractional units under the Ordinance and probably broad enough to cover the actual dedication requirements.

The Impact Fee Statute states that an impact fee may only be imposed by a local government to fund expenditures by such local government on capital facilities needed to serve new development. C.R.S. § 29-20-

Ladies and Gentlemen
January 7, 2009
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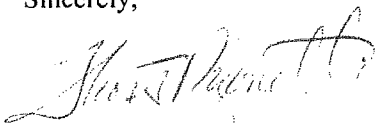
104.5(1)(c). The local government is required to quantify the reasonable impacts of a proposed development on existing capital facilities and establish the impact fee at a level no greater than necessary to defray such impacts directly related to the proposed development. C.R.S. § 29-20-104.5(2). The statute prohibits the imposition of an impact fee to remedy any existing deficiency in capital facilities that exist without regard to the proposed development. *Id.* As far as we can discern, the City made no effort to discern what existing deficiencies existed in the stock of community housing. The failure to do so violates the Impact Fee Statute. While the Study attempts to determine the need for community housing attributable to commercial development, it makes no effort to do so with respect to the inclusionary housing requirement. Once again, the failure to do so violates the Impact Fee Statute. Finally, as described above, the Study is flawed with respect to its determination of the need for community housing attributable to the commercial development.

By focusing solely on new development, the Ordinance also overlooks the fact that many new businesses may be created and located in existing developments which are not subject to the Ordinance or Guidelines. This strongly suggests that under the Ordinance, new development may be subsidizing the affordable housing needs generated by new businesses fortunate enough to locate within an existing development. Again, this violates the statute. In short, the Ordinance fails the quantitative relationship test by exacting more affordable housing than would be generated by any particular new development.

In addition, under the Impact Fee Statute, an impact fee must be collected and accounted for in accordance with C.R.S. § 29-1-801 – 804, which mandates that such money be deposited in an interest bearing account and used only to fund a capital expenditure for which such charge was imposed. It is unclear from a review of the Ordinance whether this is being done.

In summary, we believe the Ordinance violates both the federal and state constitutions and the Impact Fee Statute. As we discussed, we are prepared to proceed with a legal challenge to the Ordinance on your behalf.

Sincerely,



Thomas J. Ragionetti
for the Firm

TJR/abm

873536 3

10_AffordableHousing_Brower.txt

From: Anja Tribble
Sent: Wednesday, January 14, 2009 10:49 AM
To: Cari Hermacinski; Jon Quinn; Loui Antonucci; Meg Bentley; Scott Myller; Steve Ivancie; Walter Magill; Wendy DuBord; Tony Lettunich; Tom Leeson; Nancy Engelken
Cc: Julie Franklin
Subject: FW: [City Council] Inclusionary Zoning and Linkage

-----Original Message-----

From: Anja Tribble
Sent: Wednesday, January 14, 2009 10:48 AM
To: 'dbrowerco@yahoo.com'
Subject: RE: [City Council] Inclusionary Zoning and Linkage

Dear Diane
Unfortunately, we didn't receive your e-mail until after the start of the meeting last night.
I have forwarded your message to City Council and the appropriate staff members for consideration in future discussions.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net]
On Behalf Of: dbrowerco@yahoo.com
Sent: Tuesday, January 13, 2009 8:29 PM
To: Anja Tribble
Subject: [City Council] Inclusionary Zoning and Linkage

Diane Brower sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Dear City Council Members:

I'm not able to attend this evening's discussion on workforce housing because of my work schedule.
Therefore, I hope you will consider my written comments as a part of your deliberations.

I've lived in Steamboat Spgs. since 1980. I've seen our town change from a place where people who worked here had to struggle to find or buy a home, but were still able to do so with some effort and sacrifice. We've all seen that situation change over the years, with the result that over 50% of the homes in our town are owned by people who don't live or work here. And we've all seen friends and co-workers leave the area with regret because they knew that there was no chance that they could have the lives they wanted for their families due to the high prices of land and real estate. This situation is changing the face of our community. We clearly are gradually losing the "real

Page 1

town", inclusive character that surveys (Vision 2030 among them) show we (and our visitors) value.

A few years ago the City paid experienced and well-respected consultants to advise on the City's long-standing workforce housing shortfall. I hope if you haven't reviewed their report that you will do so before you consider changes to the IZ and linkage ordinances. My recollection is that these consultants were (respectfully) amused that Steamboat Springs had talked for so long about affordable housing but hadn't (up to that point) taken the steps necessary to actually do something about it. They cited numerous communities in Colorado which have instituted IZ and linkage ordinances, most of which were in place and effective long before the ordinances which were passed by Steamboat Springs. I know people living in some of those units. The IZ and linkage ordinances have the potential to create homes that studies have shown are needed. They have hardly been given enough time to prove their worth. I'm concerned that developers who claim that there is no demand for these units have a financial interest in there being no demand for them.

Finding land within or near the City for workforce housing is an increasingly difficult problem. If developers are allowed to pay in lieu of providing workforce housing within their developments -- where will the City find land to build those units? If units built to meet the workforce housing requirements are not deed restricted or eventually become non-deed restricted, then where will the City find the land or the homes in the future to replace those units when they return to the elevated market price of all the other units in our area?

I probably don't need to remind you that our existing IZ and linkage ordinances require developers to provide only a fraction of the need for workforce housing generated by their developments. They aren't making up for past neglect of workforce housing; they aren't in fact even providing for the need they are creating. Although I'm enough of a realist to know that "no growth" is not a viable option, it's worth considering that if developers insist that they can't afford to or shouldn't be required to provide sufficient workforce housing on-site, then perhaps we need to insist that they not build their high-end developments at all. These types of developments simply exacerbate the current shortage of housing that is even remotely attainable by much of our essential workforce.

Pay-in-lieu should remain a very limited option within the toolbox for providing workforce housing. It creates too much uncertainty in terms of land availability and actual costs to build units. And loosening deed-restriction requirements is very short-sighted and, I think irresponsible, given that it will simply push the housing crunch to a future time.

Sincerely,
Diane Brower

11_AffordableHousing_Guler.txt

From: Anja Tribble
Sent: Friday, January 16, 2009 10:19 AM
To: Cari Hermacinski; Jon Quinn; Loui Antonucci; Meg Bentley; Scott Myller; Steve Ivancie; Walter Magill; Wendy DuBord; Tony Lettunich; Julie Franklin; Nancy Engelken; Tom Leeson
Subject: FW: [City Council] Affordable Housing

-----Original Message-----

From: Anja Tribble
Sent: Friday, January 16, 2009 10:18 AM
To: 'kathleenguler@gmail.com'
Subject: RE: [City Council] Affordable Housing

Dear Kathleen

This is to let you know that your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of kathleenguler@gmail.com
Sent: Thursday, January 15, 2009 3:44 PM
To: Anja Tribble
Subject: [City Council] Affordable Housing

Kathleen Guler sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Normally I would not venture to make a statement, but after reading years of articles in the paper about affordable housing, I am compelled to make a comment. Why on earth don't you ever consider creating an incentive for apartment buildings to be built here? I'm talking about simple affordable rental units, not condos that people have to buy--rental units that are a reasonable size, not fancy, just functional. If the people who work in our tourist industry can't afford to buy a place even in Craig--they certainly won't be able to afford to buy any of the so-called affordable units here either. They will have to rent. Apartments would certainly make more sense than the trailer parks, too.

The linkage and inclusionary zoning ordinances obviously don't work. As a long time resident, I ask you to think on this alternative housing option that no one has ever mentioned to my knowledge and be a little more business-minded. If you cut into the existing businesses, and that includes the developers, you will lose a large part of the town. As an example, years ago we lived in San Francisco, and we watched companies leave in droves to other cities that were much more astute to attracting and keeping businesses in their town. The City of San Francisco made the business climate incredibly expensive and difficult to survive. Please do not do the same to Steamboat Springs.

12_AffordableHousing_Aigner.txt

From: Anja Tribble
Sent: Wednesday, January 21, 2009 10:11 AM
To: Cari Hermacinski; Jon Quinn; Loui Antonucci; Meg Bentley; Scott Myller; Steve Ivancie; Walter Magill; Wendy DuBord; Tony Lettunich; Tom Leeson; Nancy Engelken; Dan Foote
Cc: Julie Franklin
Subject: FW: [City Council] Please note, the change of the 2nd sentence("encourage"), 2nd paragraph

-----Original Message-----

From: Anja Tribble
Sent: Wednesday, January 21, 2009 10:08 AM
To: 'smyaig@gmail.com'
Subject: RE: [City Council] Please note, the change of the 2nd sentence("encourage"), 2nd paragraph

Dear Steve

This is to let you know that your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of smyaig@gmail.com
Sent: Tuesday, January 20, 2009 10:07 PM
To: Anja Tribble
Subject: [City Council] Please note, the change of the 2nd sentence("encourage"), 2nd paragraph

steve aigner sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

20 January 2009

Mr. President and Members! What a beautiful day!

Let me thank the City Council for inviting the Community Alliance to participate in last week's work session on the Community Housing Ordinance and options for reform. I will paraphrase President Obama this morning - the Community Alliance would like to think that last week we gathered here in Citizen's Hall because we chose "unity of purpose over conflict and discord."

It is clear that you are undertaking a revision of our community housing plan. As you continue this revision process, we encourage the Council to articulate an intent and goal that are as clear as the present community housing intent and goal.

The intent of the present SbS Community Housing Program with its corresponding implementation guidelines is to provide a diverse inventory of permanently affordable housing units for sale and rent. This intent rests on the foundation the Steamboat Springs Community Area Plan, which I think we all know is a document developed through an extensive public process that guides community development policy for the City.

Jon Roberts, incoming City Manager, has described The Steamboat Springs Community
Page 1

Area Plan as a social contract:

In order to facilitate workers to live in the community where they have worked for many years, the community will "support a variety of affordable housing options that are integrated throughout the community, but protect the character of existing neighborhoods." (from Background Information, page 2, City Council Communication From, January 13, 2009)

The Community Alliance agrees. The strategies include Inclusionary Zoning, a Jobs-to-Housing Linkage Program and 7 different compliance methods.

Thus, if you are going to alter the social contract, the community deserves to know your new intent and goals so we can listen, reflect and assess your alternative intent and goals, as well as your strategies to reach them.

Please, before you introduce revisions to alter the existing social contract, on behalf of the community, the Community Alliance asks the City Council to provide a document enumerating its affordable, workforce housing goals, its "catch-up" and "keep-up" objectives, and the proportions of affordable housing units for ownership and rental.

We look forward to just such a goal statement prior to your further consideration of any revisions.

Stephen Aigner

Organizer

DEAR EDITOR;

AFTER READING LETTERS TO THE EDITOR , IN PARTICULAR VIEW POINTS JULY16 AFFORDABLE HOUSING, I HAVE A COMPLAINT AND POSSIBLY THE CURE FOR MR. MINER.

COMPLAINT: WHY WON'T THE CITY COUNCIL PUT SOME KIND OF PROTECTION IN PLACE FOR TRAILOR OWNERS. THIS COULD BE DONE BY CHANGING THE WORDING IN THE EXCLUSIONARY ZONING ORDINANCE. ALL DEVELOPERS MUST START A GROUND ZERO FOR SUPPLYING AFFORDABLE UNITS. THAT IS TO SAY THAT THOSE WHO REMOVE AFFORDABLE UNITS FOR REDEVELOPMENT MUST EITHER LEAVE THE EXISTING AFFORDABLE UNITS IN PLACE, PROVIDE EQUAL NUMBER OF UNITS OFFSITE, OR PAY CURRENT MARKET VALUE TO ALL TRAILOR OWNERS. THIS, IN MY OPINION, WOULD GIVE TRAILOR OWNERS AN OPPORTUNITY TO MAKE THESE TRULY AFFORDABLE UNITS, RATHER THAN AN EYESORE. PEOPLE WOULD BUY THESE UNITS, FIX THEM UP, SELL THEM, AND MAKE A SMALL PROFIT. THEN MAYBE, JUST MAYBE, MAKE IT UP THE LADDER TO "AFFORDABLE LIVING".

WE CAN SEE WHAT HAS HAPPENED AT HILLTOP. THERE ARE VERY FEW OLD UNITS LEFT. IT ACTUALLY LOOKS GOOD. IF THERE WAS SOMETHING IN WRITING TO PROTECT OUR UNITS IT WOULD DEFINITELY OPEN UP A WHOLE NEW AFFORDABLE HOUSING MARKET. THE "EYESORE" WOULD DEFINITELY ~~SLOW AND~~ CHANGE INTO NICE AFFORDABLE COMMUNITIES SIMILAR TO HILLTOP.

IF THE PURPOSE OF THE EXCLUSIONARY ZONING ORDINANCE IS SO AFFORDABLE UNITS KEEP PACE WITH HIGHEND UNITS THEN THE DEVELOPERS ARE STARTING AT ZERO ARE BEING DISCRIMINATED AGAINST BY THE DEVELOPERS WHO REMOVE AFFORDABLE UNITS AND STILL ONLY CONTRIBUTE 15%. I BELIEVE THIS GOES AGAINST THE REASON FOR THE ORDINANCE.

AS IT STANDS I BELIEVE THAT MOST TRAILERS IN STEAMBOAT SPRINGS SIT IN LIMBO NOT KNOWING WHETHER THEY WILL BECOME "DUMPSTER FILL". IT IS KILLING THE OWNERS AND POTENTIALLY A HUGE MARKET FOR AFFORDABLE HOUSING, NOT TO MENTION THE SELF ESTEEM OF HARDWORKING PEOPLE JUST TRYING TO MAKE IT. HOW ABOUT BUYING THE FEW REMAINING TRAILER PARKS AND SELL THE LOTS TO THE OWNERS? HOW ABOUT ANY STEP TO MAKE IT SAFE TO BUY AND SELL THE LAST REMAINING AFFORDABLE UNITS IN THIS TOWN?

MAYBE IT'S JUST EASIER TO SIT AND WAIT UNTIL SOME DEVELOPER RIDES THE TOWN OF THESE SO CALLED "EYESORES".

I DON'T KNOW MR. MINER, BUT IF THINGS CONTINUE AS THEY ARE THE CITY WILL COME OUT THE LOSERS. AS IT STANDS NOW, IT IS ONLY A MATTER OF TIME UNTIL THE TRAILERS DISAPPEAR. GOING WITH THEM THE PEOPLE WHO WORK TWO OR THREE JOBS TO LIVE AND PLAY HERE. IS THIS THE DIRECTION CITY COUNCIL WANTS TO GO?

I THINK WE ARE MISSING "THE BOAT"

CONFUSED AT #55,

RAY UHL
THIRTY YEAR RESIDENT

PSS

ANYBODY WANT TO BUY ANICE AFFORDABLE TRAILER?

THIS LETTER WAS WRITTEN BUT NOT SENT TO PILOT.

LATELY READING SO MANY ARTICLES ABOUT THE AFFORDABLE ~~HOUSING~~ HOUSING CRUNCH! (CRISES), IT JUST BAFLEING TO ME THAT THE REMAINING TRAILERS ARE NEVER MENTIONED! HOW ABOUT TAKING A PAGE FROM OUR NEW ADMINISTRATION (BARACK OBAMA)- LET'S START FROM THE BOTTOM UP. THESE PARKS WILL FIX THEMSELVES NOT COSTING THE CITY ANYTHING. PUTTING 100-200 AFFORDABLE UNITS ON LINE WOULD BE A HUGE STEP TO SOLVE THE HOUSING CRUNCH. LETS PUT OUR HEADS TOGETHER AND COME UP WITH A SECURITY BLANKET FOR THESE TRIALERS, 99 YEAR LEASE, OWNERSHIP OF LOTS, WORDING IN AN ORDINANCE ECT.

To: City Council
Subject: Affordable Housing policies
From: John Spezia
Date: Jan 22, 2009

As I watched the Inaugural ceremonies and the crowd of Americans on the Mall, I was brought to tears with the hope and kindness expressed for the future of all the people of our country. After the elections in November, our City, our County, our State and our Nation voted for hope, to be kind to all, to have compassion for all, to lend a hand up to those in need, to redefine the role of government, to make sure as our tide rises, all Americans rise on that tide of prosperity and success through hard work.

In contrast to this message, last week a number of City Council members made comments about the Inclusionary Zone and Affordable Housing policies that seem to contradict the American's people choice for the future

They suggested that government was the problem and should get out of way, that our affordable housing policies were unacceptable social engineering of our community, that our affordable housing was cumbersome and that caring for our community and workforce was bad for the economy.

Have we forgotten that the sub prime loan scam, the Wall St. greed, the Savings Loan and Enron debacle or the bail out of GM, Wall St. and other financial institutions occurred because the government relinquished oversight, because of the lack of regulations, because of the disregard for the individual needs and the social compassion for all Americans, not just the few, the powerful and the well-to-do?

Bringing these concerns closer to home, in 1993, I was attending the Steamboat Springs Affordable Housing Commission made up of leading bankers, builders, developers, real estate and businessmen of the community. They were given the draft of the Community Plan and asked to comment on the affordable housing section. Every one of the forward thinking methods to solve the housing problem were found unacceptable except letting the free market solve the problem. All these solutions in the Community Plan were rejected and the affordable housing problems were passed onto the future.

If it were not for the IZ and linkage ordinance we wouldn't have accomplished anything to provide affordable housing?

If the free market is so effective why hasn't it solved the problem after 15-20 years of talking?

If the free market is so effective why is it threatening to waste all our and their time and money suing us, the government of the community?

If the free market is so effective why does it need all the City, County, State and Federal subsidies to keep it going?

If the free market is so effective why is it blaming the IZ ordinance instead of the market downturn as the problem for their economic woes?

The past City Council's decisions of the 1990s have put us back a decade and half and it appears that the present Council is on the verge of repeating the same mistakes....relying on an unregulated free market to solve our affordable housing problems.

When are we going to have the leadership and the political will to do the right thing so the whole community, not just the few, the powerful and the well-to-do have a future in our community?

I hope our City Council members were watching and listening intently to what the American people have said about what they value in a President and what they want for the communities of our country now and in the future.

Sincerely, John Spezia

Resorts see housing urgency

Colorado mountain towns struggle with affordability

Chris Outcall
THE ASPEN TIMES

VAIL

Officials in Vail and the surrounding valley don't have to look hard to find other communities struggling to offer affordable housing.

Aspen, Steamboat Springs, Telluride and Summit County all have affordable housing deficiencies and are trying a variety of ways to provide more homes and rentals that people who work in the communities can afford.

"The problem takes on a different flavor depending on where it is," said Shirley Greve, executive director of the San Miguel Regional Housing Authority, which includes the town of Telluride. "I think as other resort regions come along, you try to learn from them."

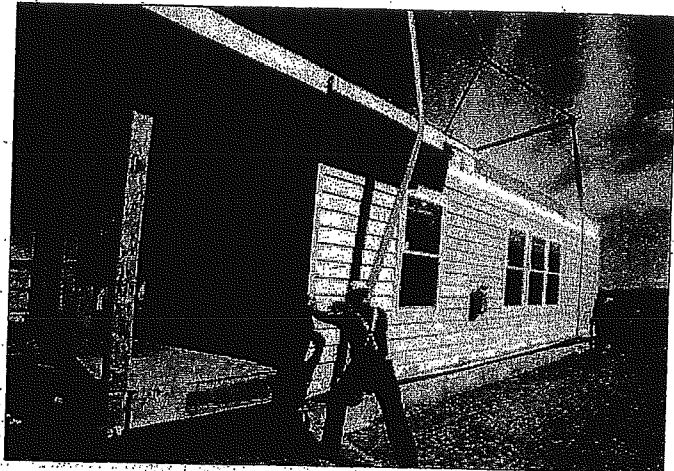
Affordable housing in Telluride has been a growing problem for years, Greve said. The town's ski resort and summer festivals have attracted more and more visitors to the town, and a lot of them decided they wanted to stay, Greve said.

"That combination has definitely created more of a seasonal urgency" for housing, Greve said. "Coupled with that you have people that come here and don't want to go."

The growth also creates a higher demand for service industry jobs, which strains the affordable housing market, Greve said.

"Pricewise, I think it was somewhat of an issue even back in the early '90s, but the number of people that it's an issue or has definitely grown," Greve said.

Telluride and the immediate area surrounding it has about 1,100 deed-restricted units, but it's not enough. A recent demand analysis study said the town was short about 222 affordable units, and could need as many as 887



Workers deliver a prefabricated home at the Stratton Flats development in Gypsum, one of the Vail area's newest affordable housing projects. VAIL DAILY

New and old

Few workers would be living in Aspen today if the town hadn't started requiring developers to provide some employee housing 30 years ago.

"Any development that goes on, they have to mitigate for potential employees that their development generates," said Cindy Christensen, operations manager for the Aspen/Pitkin County Housing Authority. "We had very forward-thinking officials."

Aspen's goal is to have 60 percent of its employees living in the city and the area immediately outside it. They're at about 35 percent right now, Christensen said.

"We still have a ways to go," she said.

In Steamboat Springs, creating enough affordable housing is a recent problem, said Nancy Engelken, the city's community housing coordinator.

The city adopted rules similar to Aspen's affordable housing requirements in 2006.

"The impact of affordability didn't hit this community as soon as it did in Vail," she said.

"We're one of the new kids on the block."

Free-market home prices in Steamboat are still well below prices in other mountain communities.

"You can enter an older free-market condo at an initial price point that's below \$300,000," Engelken said.

Officials are trying to offer more lease-to-own options and downpayment assistance programs in Steamboat, Engelken said.

Cheap housing is pricey

Land prices in mountain towns make building affordable housing a tough sell to developers, officials said.

The demand for high-end second homes is partly to blame for the problem, said Melanie Rees, of Rees Consulting, who did a housing study for Eagle County last year and specializes in housing in mountain towns.

"There's no correlation between wages and cost of housing," Rees said. "You've got wealth coming from outside the area driving them up."

BACK PAGE

new affordable units by 2020.

There's definitely a shortage," Greve said.

The wait list for affordable rentals around Telluride has more than 100 people on it. And when an affordable home becomes available, they don't last long, she said.

"They never even have to get a Realtor involved to sell them," Greve said. "You can walk into a restaurant or bar and say 'hey, I got a new job and I have to sell my house' and there's five people right there interested."

Summit's restrictions

Summit County is short about 2,500 affordable housing units, said Jennifer Kermode, executive director of the Summit County Housing Authority.

But Kermode doesn't call them affordable homes. She prefers "middle class housing."

"Affordable units tend to carry some negative connotations," she said. "I'm tired of sitting at meetings and hearing people calling them poor."

The county's affordable units are targeted at a family of four making \$81,000, Kermode said.

"That's middle class income anywhere else you go," she said. "But our housing costs are so out of whack."

The county's biggest problem is it doesn't have the land to provide the homes, she said. About 85 percent of the buildable land in Summit County already is developed.

"Whatever land is left, we have competition for it from private developers who want to build something," Kermode said.

Which is why the county wants to give incentives to developers that build homes with apartments attached to them. The idea, said Kermode, is to relax some of the building guidelines or reduce building fees in exchange for homes that have an apartment attached to it. The developer also would have to let the county deed-restrict the apartment and agree to rent it to a local worker.

"We're really big on deed restrictions because we have such a limited chance for getting the units and keeping them," she said. "We can't just keep building — it's a game of finders keepers."

RETURN TO COLUMN #2

Previously e-mailed

February 4, 2009

Dear City Council;

The main reason for this letter is that in this affordable housing discussion, I don't feel like the affordable housing candidate or potential buyer's voice has been heard. I have been in Steamboat for over five years. I consider myself an active and involved member of our community. I love Steamboat and want to be able to stay in our valley.

As soon as I heard about all the upcoming affordable housing being built downtown, I raced to get on every waiting list I could. I love our downtown, it is one of my favorite things about Steamboat. I love doing my errands on foot and I love all of our locally owned shops. I was on a number of waiting lists for affordable housing for over three years. In July 2007 I got the call and signed a contract for an affordable unit at Howelsen Place. In July 2008 I gave up my Howelsen Place for numerous reasons including a twenty percent increase in the price from my original signed contract. My signed contract was for \$191,000 and when I broke the contract the price had gone up to \$238,000 for the unit. Lucky, in September 2008, I was notified that I had one of the three affordable units at the Olympian. That was my last hope of owning something downtown and I love the unit.

There are a number of reasons why the Olympian was a better deal for me. The Olympian unit is about 150 square feet larger than my Howelsen unit and almost \$20,000 less than the Howelsen unit. The Howelsen units are priced for 120% AMI and the Olympian units are priced at 90% AMI. I still can't figure out who in their right mind who makes \$62,000+ a year in Steamboat would consider living in an overpriced deed restricted shoebox of a unit at Howelsen when there are plenty of market value units that are cheaper on the open market. It makes absolutely no sense. Even though people think that under \$250,000 for a condo is a screaming deal, for those of us in this income bracket, it's a lot of money, a huge burden and it's hard to justify for a tiny, 700 square foot unit. I saw the unit that I was supposed to buy at Howelsen, felt claustrophobic and broke my contract. Remember, I was on a list and planning for this unit for three years because from the beginning I was told I had a unit because the list was first come, first serve.

In my opinion, the AMI calculations are completely bogus. These units have set their pricing for a two income AMI not considering single income pricing. I was actually really surprised to learn through this process that predominately single women were applying and trying to buy these affordable units, including myself. At Howelsen Place when the original contracts were signed there were four single women with signed contracts and originally all three women who were going to buy the Olympian units were all single women. Most of these people have since dropped out of affordable housing for various reasons. Having stated that, representatives at the bank told me that it is a known fact that women have a better credit score than men in the similar age bracket which makes it easier or even possible for women to qualify for a loan. I think these statistics weren't even researched or taken into account during the development of affordable housing.

The first obvious fact is that our affordable housing is just too expensive and not affordable. From what I understand the AMI calculations were made without taking TAXES into consideration which easily accounts for about 30% of anyone's gross pay. So although the AMI was determined so that people were only paying 25% of their total income towards housing once you take into consideration that I'm single AND I pay taxes, I'm easily looking at 60%+ of my pay going

Previously e-mailed

Previously e-mailed

towards my housing. What bank in their right mind will loan to me? My debt to income ratio is considered too high.

Here's another little hiccup. I currently have a total of \$2800 in personal debt and so most of my debt would be housing debt but my debt to income ratio is TOO HIGH. Stop and think about that. How many people do you know have only \$2800 in total debt? That means that the cost of the housing is too high for my income level. Having said, that I had to battle with the Housing Authority to get my qualification letter because Curtis Church originally thought I made too much to qualify for affordable housing at 90% AMI. Basically what ended up happening is that I just qualified for my affordable unit but I don't make enough money to pay for the mortgage in the bank's eyes. The bank told me I would have to make \$56,000 in order to afford my mortgage with 5% down. I told her if I made that much money I wouldn't qualify for the unit. It's a \$12,000 income discrepancy!

I purposely went to Millennium Bank for a mortgage so that I could work with Elizabeth Black who has a ton of experience working with affordable housing buyers. I have found our most current Housing Authority less than helpful and downright discouraging. I wanted to work with Elizabeth because she is still passionate about affordable housing. She took the time to explain the different programs and really guide me through the affordable process. Unfortunately, I've come across one stumbling block after another. Here are a few examples:

1. My developer didn't have a Fannie Mae or Freddie Mac approval letter on the building. These apparently REALLY help facilitate the mortgage process...who knew?? Apparently not the developer because neither the Olympian nor Howelsen Place have these approval letters.
2. My whole building (both Olympian and Howelsen Place) didn't qualify for the USDA direct loan process because it's a mixed use building with commercial, single family and affordable housing under one HOA. I WISH someone had looked into that before I did!
3. Working with down payment assistance programs, you end up paying a higher interest rate on your mortgage than with a traditional mortgage but I can't get a traditional mortgage because I don't make enough money to qualify for the loan amount.
4. My debt to income ratio is too high even though I have less than \$3,000 in personal debt. Basically the cost of the affordable housing is too high.
5. The building that I'm trying to buy into is not 51% sold and shows no signs of being more than 51% sold because contracts keep falling through for reason number 1 or reason number 5. It's a catch 22, contracts keep falling through because there's not enough units sold but I can't get a mortgage because there's not enough units sold. Hmmm.
6. I was told after I couldn't get a mortgage through Millennium to go through the banks that hold the construction loans for the building because they already approved the buildings but they don't work with affordable programs like down payment assistance because they just don't.

What you need to know is that from a buyer's perspective affordable housing is just too expensive. It's a community joke. Affordable housing costs a quarter of a million dollars. That's not affordable especially if you make \$40,000! And if you've tried to find a job lately, it's very difficult to find a job that pays \$40,000 in Steamboat! Plus, it's too hard to qualify for affordable housing. Only a small percentage of people actually qualify because of credit scores or personal debt. I have been told that I am one of the few that truly qualifies because I have excellent credit and low debt but I still can't get a loan.

Previously e-mailed

Previously e-mailed

I want you to know that I have been very fortunate to find Nancy Engelken early on in this process. She has been instrumental and I would've given up a long time ago without her. Nancy has gone to bat for me, she has not given up on me and she is determined to help make affordable housing work. For example, I didn't know and my developer didn't know that HOA fees were supposed to be included in the purchase price. This was a huge breakthrough for me because it lowered my debt to income by \$200/month. The Housing Authority never mentioned anything about that, the YVHA have not been advocates on my behalf. It was Nancy who made sure that all the affordable units came with a parking place when they all tried not to or in Howelsen Place's case; they tried to lease a parking space back to us. When I went to the Housing Authority they couldn't understand why I was making such a big deal out of parking and never looked into it or followed up for me. Nancy made them offer parking for all affordable units per the original planning agreement. Nancy has called banks on my behalf, has researched alternate lenders and has worked to find solutions to get me into my unit. Every week she has more ideas and continues to work to make this program work.

I am disgusted to hear that the developers are going trying to get out of affordable housing and I'm disappointed that more potential buyers aren't speaking out in outrage. I know they're outraged but they're complacent. They've given up hope. Quite frankly, I'm a fighter and I'm starting to give up hope and I'm exhausted by this process. I've been trying to find a way to get a loan on this affordable unit for over four months now. Luckily Nancy Engelken is working on it on my behalf because I have run out of ideas. Every year I watch my friends leave the valley because they are sick of fighting so hard to make ends meat. They are sick of the struggle. Every year we lose great members of our community because of the high cost of living and low paying jobs. Right now I know three people that have signed contracts for First Tracks and don't want to tell anyone about it because they're embarrassed they won't qualify for a mortgage. It's too hard to qualify! It's not that the demand isn't there it's that the cost is too high and people can't qualify for a mortgage. If it were truly affordable you would see that there would be a demand for affordable housing. If the available units were desirable like the Olympian units there would be demand for them. The Howelsen units are tiny afterthoughts. It's not worth the money that they want for them. It does not mean that affordable housing isn't wanted; it's that \$230,000 is a lot of money and you don't want to regret your purchase or be unable to sell your unit down the road.

I would be happy to share my experiences or answer any questions the Council might have on this topic. I strongly believe you NEED to hear from the public and potential buyers. Of course in an ideal world I want to have a three bedroom house but I will settle for a one bedroom condo that I love because I love Steamboat and want to be here. My desire to be here is stronger than my desire for a multi room house somewhere else. Please continue to work on affordable housing. We need it to keep our sense of community and keep Steamboat special. I agree that what we're currently doing is not working but don't throw it all away....keep working to keep affordable housing in Steamboat. We need it. I need it.

Sincerely,

Jody Anagnos

Previously e-mailed

Anja Tribble

From: Anja Tribble
Sent: Wednesday, February 04, 2009 11:54 AM
To: Cari Hermacinski; Jon Quinn; Loui Antonucci; Meg Bentley; Scott Myller; Steve Ivancie; Walter Magill; Wendy DuBord; Tony Lettunich; Tom Leeson; Nancy Engelken; Dan Foote
Subject: FW: [City Council] Public Comment on the Legal Premises of Inclusionary Zoning

-----Original Message-----

From: Anja Tribble
Sent: Wednesday, February 04, 2009 11:53 AM
To: 'smyaig@gmail.com'
Subject: RE: [City Council] Public Comment on the Legal Premises of Inclusionary Zoning

Dear Steve

I have forwarded your e-mail to City Council and the appropriate staff members.
Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of smyaig@gmail.com
Sent: Wednesday, February 04, 2009 12:02 AM
To: Anja Tribble
Subject: [City Council] Public Comment on the Legal Premises of Inclusionary Zoning

steve aigner sent a message using the contact form at
http://steamboatsprings.net/contact/City_Council.

Mr. President and Members, Good Evening.
3 February 2009

I am Steve Aigner, I live on Anglers Drive and I am the organizer for the Community Alliance of Yampa Valley. On January 13 we discussed Affordable Housing. I recall some question about whether a City has the authority to pass inclusionary zoning.

The Community Alliance has read the inclusionary zoning policies of the 18 Colorado entities, i.e. municipalities and counties, with inclusionary zoning. We notice that they rest their decisions on both the U.S.

Constitution (the 5th amendment that prohibits against taking without just compensation, the 14th amendment regarding due process and equal protection) and the Colorado State Constitutions (see the Colorado Revised Statutes - C.R.S., §§ 31-15-401, et seq; C.R.S., § 31-15-103; and C.R.S., §31-23-301).

The legal analyses we have read support the argument that communities have the power to take action and adopt laws and policies that protect the public's health, safety and welfare through the enactment of zoning ordinances that address a socio-economic balance within the community and the welfare of a region that needs affordable housing for workers. There are certain constitutional elements inclusionary zoning ordinances must have for fairness to developers. It seems, we believe, the Steamboat IZ ordinance has those elements.

We have also read the Nollan/Dollan opinions on which Mr. Ragonetti in his Dec 31 2008

letter to the Concerned Citizens for Affordable Housing seems to depend when giving his opinion. It doesn't seem that those two cases apply to Steamboat Springs because our City did not apply its ordinances in an ad hoc fashion targeting one property owner.

Anja Tribble

From: Anja Tribble
Sent: Thursday, February 05, 2009 9:54 AM
To: Cari Hermacinski; Jon Quinn; Loui Antonucci; Meg Bentley; Scott Myller; Steve Ivancie; Walter Magill; Wendy DuBord; Tony Lettunich; Tom Leeson; Nancy Engelken; Dan Foote
Cc: Julie Franklin
Subject: FW: [City Council] Workforce Housing

-----Original Message-----

From: Anja Tribble
Sent: Thursday, February 05, 2009 9:52 AM
To: 'dbrowerco@yahoo.com'
Subject: RE: [City Council] Workforce Housing

Dear Diane

This is to let you know that your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of dbrowerco@yahoo.com
Sent: Wednesday, February 04, 2009 1:59 PM
To: Anja Tribble
Subject: [City Council] Workforce Housing

Diane Brower sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

2/4/09

City Council Members:

I continue to be alarmed by rumors and newspaper reports that some City Council members are pushing to weaken current inclusionary zoning regulations and possibly even get rid of linkage regulations. I e-mailed you a few weeks back with some thoughts about the importance of the current requirements of developers in providing workforce housing in our community. Specifically, I pointed out that the current requirements only require developers to provide housing for a small fraction of the jobs they are projected to generate in their commercial or residential development. These requirements are not asking developers to make up for past neglect of AH but to simply provide for a fraction of the need they will be generating.

The private sector has not provided any truly reasonably-priced homes in all the time that affordable housing has been under discussion in our area. My recollection is that the one private, nominally affordable development (Red Tail, was the name, I believe) was ultimately too expensive to be considered a part of the solution to the affordable housing problem. In our resort environment, affordable housing doesn't apparently happen unless it is a requirement within higher end developments (that are an underlying source of the problem).

I'm really uneasy about the argument that there seems to be no market for the affordable units in Wildhorse Meadows. I truly wonder if as much effort has been exerted to market those units and to appeal to those who might be interested in buying them as is necessary. We see ads all over the place for the most expensive units opening up in town, but I've

never seen an ad for these affordable units. And since they will be primary home units, some family's full-time home, not secondary home units, it's unlikely that many people would be willing to buy them in an unfinished state, especially in the economic climate that we've been moving toward for at least a year now.

What is the "better idea" to the current regulations? It's not a better idea to leave it to the market; that hasn't worked. It's not pay-in-lieu-- that leaves us without the land. It's not loosening deed restrictions; that eliminates the affordable unit after a few years (when the AH problem will be even worse).

Don't change the regulations until you find a better solution. If linkage is truly a deterrent to small, new businesses, then tweak the regulation so that it is less onerous to small, new businesses. But don't weaken it for businesses above a certain size, that are already established, that are speculative, that will create significant numbers of new jobs for which there is no affordable housing.

Thank you for considering my comments.

Sincerely,
Diane Brower

CITY COUNCIL COMMUNICATION FORM

FROM: Anthony B. Lettunich, City Attorney (879-0100)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 228)
Tom Leeson, Director of Planning Services and Community
Development (Ext. 244)

DATE: Tuesday, February 10, 2009

RE: Discussion of a proposed ordinance amending the existing
Inclusionary Zoning/Linkage regulations to suspend all of the
regulations related to linkage fees currently being assessed on new
commercial and residential housing construction. (Lettunich)

NEXT STEP: Give direction to the City Attorney as to the preferred language to be
brought back to the City Council at its regular meeting on February
17, 2009 as the first reading of an Ordinance to suspend all
regulations related to linkage fees currently being assessed on new
commercial and residential housing construction.

INFORMATION
 DIRECTION

I. REQUEST OR ISSUE:

To discuss and give direction to the City Attorney as to the preferred language to be brought back to City Council on February 17, 2009 as a first reading of an ordinance to suspend the applicability of the linkage fee regulations.

II. BACKGROUND INFORMATION:

City Council has requested that a draft of ordinance language suspending linkage fees be prepared and discussed at the February 10th work session.

III. LEGAL ISSUES:

The primary legal questions are:

(a) After the effective date of the ordinance, who is relieved of any further obligation to pay linkage fees? In the current draft that is answered as follows: Anyone who would otherwise be obligated to pay linkage fees, but who has not yet paid them, shall be relieved of any obligation to pay any linkage fees.

(b) What happens to the linkage fees already paid and in possession of the City? In the current draft that is answered as follows: Any linkage fees already paid to the City shall remain the property of the City and there shall be no refunds of linkage fees paid.

IV. SUMMARY AND ALTERNATIVES:

Give direction to the City Attorney as to preferred language in the ordinance scheduled for first reading on February 17, 2009. The second reading will be scheduled for March 3, 2009. The effective date, which is five days after publication (which is the Sunday after the Tuesday adoption) will be Friday, March 13, 2009.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. 2111

AN ORDINANCE AMENDING CHAPTER 26, ARTICLE 148 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE PERTAINING TO COMMUNITY HOUSING, ~~MODIFYING—INCLUSIONARY RESIDENTIAL—REQUIREMENTS,~~ ADOPTING ~~SUSPENDING PREVIOUSLY ADOPTED~~ REGULATIONS FOR THE PARTIAL MITIGATION OF IMPACTS ON HOUSING FROM COMMERCIAL AND RESIDENTIAL DEVELOPMENTS (HOUSING LINKAGE), AND ~~ADDING INCENTIVES AND CONCESSIONS FOR DEVELOPMENTS THAT MEET CERTAIN COMMUNITY HOUSING STANDARDS AND ESTABLISHING AN EFFECTIVE DATE.~~

WHEREAS, the City of Steamboat Springs, by and through its duly elected City Council, hereafter "City", adopted an Inclusionary Zoning ordinance number 2041 ("IZ Ordinance") at second reading on or about February 21, 2006~~the Housing Element of the Steamboat Springs Area Community Plan was amended in May, 2004 to update information on housing conditions with research data from the 2003 Routt County Housing Needs Assessment, the 2000 US Census, real estate sales transactions and on the City Council's future plans for the community;~~ and

WHEREAS, the City amended the IZ Ordinance on or about June 19, 2007 to impose residential and commercial linkage fees to offset a portion of the demand for employee housing generated by new development (Ordinance No. 2111); and the eighteen (18) strategies identified by the adopted May 2004 Steamboat Springs Community Area Plan for affordable housing included the regulations and incentives contained in this ordinance; and

WHEREAS, the City is now concerned about the financial burden being placed on residential and commercial development by the linkage fees, particularly in light of the dramatic fiscal and economic crisis now confronting our economy, both at the national and local levels; and ~~Implementation Program for Community Housing adopted April 17, 2007 by the City Council called for 42% of all housing units to be built in Steamboat Springs to be affordable for low and moderate income households with incomes no greater than 120% of the Area Median Income in order to keep up with housing demand generated by employment growth and to preserve the community's income diversity as it grows;~~ and

WHEREAS, the City desires to suspend the requirement for the collection of linkage fees as approved by in Ordinance No. 2111 until further action by the City; provided, however, the Director of Planning and Community Development shall, no more often than annually, schedule a review of the suspension on the City Council agenda to

~~consider all relevant circumstances; it is appropriate to modify Community Housing regulations adopted February 21, 2006 to respond to experience gained since their enactment; and,~~

~~**WHEREAS,** there is a substantial, direct and rational connection between the need for Community Housing generated by new residential, commercial and accommodations development and the requirements for the provision of workforce housing set forth herein as documented in the report entitled, "City of Steamboat Springs Nexus/Proportionality Analysis for Employee Housing Mitigation Programs", 2006, prepared for the City of Steamboat Springs by RRC Associates, Inc., and Rees Consulting, Inc.; and~~

~~**WHEREAS,** the Steamboat Springs City Council believe the provision of a reasonable and appropriate percentage of new affordable workforce housing is the responsibility of new residential and nonresidential developments which have a nexus to new job generation; and~~

~~**WHEREAS,** the City Council is not requiring developers to address existing deficiency problems through the requirements of this ordinance; and~~

~~**WHEREAS,** opportunity for information about and comments on the proposed changes contained in this ordinance was provided at a public meeting to discuss affordable housing options on March 13, 2007 as well as a Planning Commission public hearing on April 12, 2007; and~~

~~**WHEREAS,** due notice was given that the City Council of the City of Steamboat Springs would meet to hear and consider the adoption of the subject amendments in public hearings on April 17, 2007 and May 15, 2007; and~~

~~**WHEREAS,** the City Council of Steamboat Springs recognizes that the balance of regulatory mandated affordable housing and market affordable housing is a dynamic issue, and it reserves the right to revise the conditions, ratios, and percentages contained herein whenever data indicate the need for such action, and~~

~~**WHEREAS,** the City of Steamboat Springs intends for units that are constructed or otherwise provided through the Community Housing Program to be deed restricted or, through other methods, regulated to remain affordable over time and made permanently protected community assets; and~~

~~**WHEREAS,** upon adoption, the regulations of this ordinance apply uniformly to development, as specified herein, in the City of Steamboat Springs; and~~

~~**WHEREAS,** the City Council of Steamboat Springs has heard and considered all evidence and testimony presented with respect to the amendments and has determined,~~

~~subsequent to said public hearings, that the adoption of this Ordinance is in the best interest of the Citizens of the City of Steamboat Springs.~~

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO, THAT:

SECTION 1

The City Council finds that this ordinance is necessary for the health, safety, and welfare, peace, and prosperity of the community. The language that has been stricken is suspended as of the effective date of this ordinance until further action of the City Council; provided, however, the Director of Planning and Community Development shall, no more often than annually, schedule a review of the suspension on the City Council agenda to consider all relevant circumstances. The new language sets forth the effect on existing applications and approvals. The unchanged language is merely reprinted to set forth the context of the revisions and to clarify what parts of the regulations are suspended.

SECTION 2

The Municipal Code of the City of Steamboat Springs shall be amended as follows:

CHAPTER 26-148 COMMUNITY HOUSING

SECTION:

- 26-148(a): Purpose
- 26-148(b): Definitions
- 26-148(c): Applicability
- 26-148(d): Exemptions
- 26-148(e): Minimum Requirements
- 26-148(f): Income Eligibility
- 26-148(g): Compliance Methods
- 26-148(h): Exit Strategy
- 26-148(i): Unit Sizes
- 26-148(j): Timing of Occupancy
- 26-148(k): Quality Standards
- 26-148(l): Community Housing Plan Required
- 26-148(m): Variances
- 26-148(n): Incentives
- 26-148(o): Administration
- 26-148(p): No Taking of Property without Just Compensation
- 26-148(q): Administrative Regulations
- 26-148(r): Monitoring
- 26-148(s): Repeal and Reenactment and Transition Rules

Sec. 26-148(a). Purpose.

The purpose of this Section is to ensure that a reasonable amount of Community Housing is provided in the City of Steamboat Springs that meets the needs of all economic groups. This is accomplished through the establishment of regulations that require the set-aside of a portion of new residential development for Community Housing purposes ~~and require new residential and nonresidential development to mitigate a percentage of the impact its generates for Community Housing demand~~ as a condition of approval. This Section also provides incentives and concessions for Community Housing. It is the City’s intent that Community Housing is intermingled throughout the City and is not concentrated in one area of the City. Where alternatives to the on-site provision of such housing is determined to be more practical, efficient, and equitable, this Section will set forth standards for off-site housing and the dedication of land.

Sec. 26-148(b). Definitions.

When used in this Section, the following words and phrases shall have the specific meaning as defined in this section:

Accommodations shall mean any hotel, lodge or similar building in which rooms without kitchens are rented on a nightly basis; each room in which beds are located shall be considered a room.

Affordable shall mean is the total monthly housing payment that can be managed comfortably by low to moderate income households so as not to encounter financial difficulties that jeopardize their overall financial status or lead to foreclosure.

AMI shall mean the area median income for Routt County as published annually by the Department of Housing and Urban Development and updated annually.

~~*Commercial Linkage* shall mean the mandatory provision of Community Housing units, or financial set aside, to satisfy a certain percentage of the demand for work force housing that is generated by the proposed non-residential development.~~

Community Housing shall mean units restricted for occupancy by eligible households that meet size, rental and for-sale price requirements and that are deed restricted in accordance with a covenant approved by the City Council of the City of Steamboat Springs.

Community Housing Guidelines shall mean the document that contains procedures and guidelines for complying with the requirements of this Section, updated at least annually.

Deed Restriction shall mean a contract entered into between the City of Steamboat Springs or their designee with the owner or purchaser of real property which is developed or to be developed for permanently affordable community housing and identifies the conditions of occupancy, rental, sale and resale. Deed Restrictions for rental units shall include a provision conveying an interest in the unit or units to the Program Administrator meeting the requirements of §38-12-301, 10 C.R.S. (1999). Such interest may include:

1. A fractional undivided ownership or trustee interest provided that Program Administrator shall be indemnified against any and all liability by reason of its interest.
2. A lease to Program Administrator of the unit or units with authorization to Program Administrator to sublet pursuant to Community Housing Guidelines, provided that Program Administrator assumes no liability by reason thereof. Program Administrator may in its sole discretion accept or reject any proposed conveyance or lease pursuant to this Section.

Development shall mean:

1. The construction, improvements, alterations, installation, erection, restoration, change of color or building materials, or expansion of any building, structure or other improvement including utility facilities;
2. The demolition or destruction by voluntary action of any building, structure, or other improvement;
3. The grading, excavation, filling or similar disturbance to the ground level, change of drainage without limitation, change of grade, change of ground level, change of drainage pattern, or change of stream bed;
4. Landscaping, planting, clearing, or removing of natural vegetation or revegetation including trees, shrubs, grass, or plants; or
5. Any change in use that may alter the character, use, or appearance of a parcel of land.

Eligible Household shall mean a household that is comprised entirely of one or more residents of Routt County with gross income that does not exceed guidelines established annually based upon the AMI; 80% of the household's income must consist of wages and salaries earned within Routt County or distribution of profits from business operations within Routt County unless the household is headed by a retired [or disabled](#) resident.

Employee Unit shall mean a unit that is rented and, that is restricted on the deed of the property for continuous occupation by at least one employee employed at least 30 hours per week at one or more businesses (or self-employed) located within Routt County, or a retired employee who has ceased active employment but was a full-time employee in Routt County for a minimum of two years immediately prior to his or her retirement.

Existing Unit shall mean a unit located within the City, which existed prior to the development which requires Community Housing.

Free Market Units shall mean residential units upon which there are no restrictions on the occupancy, price or resale.

Full Time Equivalent (FTE) shall mean the conversion of part-time work hours to the equivalent number of full-time work hours based on a forty (40) hour work week.

Gross Income shall mean the total income of a household derived from employment, business, trust or other income producing assets including wages, alimony and child support, distributions and before deductions for expenses, depreciation, taxes and similar allowances.

Household shall mean all individuals who will be occupying the unit regardless of legal or familial status.

HUD shall mean the US Department of Housing and Urban Development

Inclusionary Zoning shall mean the mandatory provision of Community Housing units, or financial set-aside, as a quid pro quo for development approval.

Income Limits shall mean the income amounts on which the eligibility of households is based expressed as percentages of the AMI and in absolute dollar amounts, updated annually and contained in the Community Housing Guidelines.

Interim Covenant shall mean a covenant placed on lots or parcels that conveys the conditions of the deed restrictions that will be filed upon Community Housing units built on the lots or parcels.

~~*Leasable Square Feet* shall mean the sum of the gross horizontal floor areas of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings minus the gross floor area of bathrooms, storage areas, garages, mechanical rooms, staircases, elevators, loading docks, and distribution or processing areas in which employees are present on average no more than ten (10) percent of time that the space is used for commercial operations.~~

Off Site shall mean a location for Community Housing units other than the parcel, or lot where the residential development that generates the requirement for Community Housing units is located. Off site location is to be within the municipal boundaries of the City of Steamboat Springs.

Permanently Affordable shall mean a unit that is deed-restricted and available to income-eligible households. This may be accomplished through income limitations,

contractual agreements, restrictive covenants, and resale restrictions, subject to reasonable exceptions, including, without limitation, subordination of such arrangements, covenants, and restrictions to a mortgagee. No unit shall be considered as permanently affordable until the City Council has approved the location and techniques used to ensure that the unit will remain affordable.

Plat shall mean a map and supporting materials of described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the county clerk and recorder.

Price-Cap shall mean a deed-restriction limiting maximum resale price to an annual increase as defined in the Community Housing Guidelines.

Program Administrator shall mean the City of Steamboat Springs, or its designee.

Redevelopment shall mean the removal or demolition of existing structures buildings, residential units, rental units, and commercial units for the purpose of reconstruction of a new development on the same site.

Resale Controls shall mean deed restrictions or mortgage provisions that limit the maximum resale price of a Community Housing unit.

~~*Residential Linkage* shall mean the mandatory provision of Community Housing units, or financial set aside, to satisfy a certain percentage of the demand for work force housing that is generated by the proposed residential development.~~

Square Feet shall mean the sum of the gross horizontal floor areas of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings.

Unit shall mean a structure or portion of a structure, other than a mobile home, that is designed, occupied or intended to be occupied as living quarters and includes facilities for cooking, sleeping and sanitation; but not including hotels, motels, clubs, boarding houses, or any institution where human beings are housed by reason of illness or under legal restraints.

Duplex Unit shall mean a single building containing two (2) separate single family residential dwelling units where the two units are connected by heated enclosed space, such as a garage, mud-room or other fully enclosed space that results in a common wall a minimum of twelve (12) feet in length.

Multi-family Unit shall mean a residential building designed for or occupied by three (3) or more families, maintaining independent access to each unit and separate living, kitchen and sanitary facilities.

Single-family Unit shall mean a dwelling designed for, or used as a dwelling unit exclusively by one family as an independent housekeeping unit. A Single Family Dwelling Unit contains no more than one dwelling unit and does not include Mobile Homes.

Sec. 26-148 (c). Applicability.

Community Housing shall be required as a condition of approval as specified below:

1) Inclusionary: All development that contains the addition of three (3) or more residential units, including, without limitation: annexations, development plans, final development plans, preliminary plats, and final plats. The provisions of this Section 26-148, entitled "Community Housing" shall not apply to any development for which a completed application has been received prior to the effective date of the ordinance adopting these provisions.

~~2) Commercial and Residential Linkage: All new non-residential buildings, new residential units over 500 square feet, and non-residential and residential additions increasing size by more than 500 square feet for which a building permit is required shall be subject to linkage requirements. The provisions of this Section 26-148, entitled "Community Housing" shall not apply to any development for which a completed application has been received prior to the effective date of the ordinance adopting these provisions.~~

Sec. 26-148 (d). Exemptions.

The following development is exempt from the requirements of this Section:

1) *Community Housing.* Community Housing units as defined herein are exempt from the requirements of this Section.

2) *Secondary Units.* Secondary units shall be exempt from the requirements of this Section.

~~3) *Industrial Uses.* Industrial uses listed in Sec. 26-92, Use Classification Table, shall be exempt from the requirements of this Section.~~

~~4) *Institutional Uses.* Institutional uses listed in Sec. 26-92, Use Classification Table, shall be exempt from the requirements of this Section.~~

~~5) *Additions and Remodels.* Additions to and remodels of existing units or non-residential buildings that result in a net increase of no more than 500 square feet shall be exempt from this Section, unless such addition or remodel requires a development plan or final development plan approval. For additions of 500 hundred square feet or greater, the employee generation rate shall be based on~~

~~the size of the addition in excess of 500 hundred square feet rather than the total size of the unit or development on which the addition is being made.~~

~~6)4)~~ *Redevelopment.*

- a. Inclusionary Zoning: For developments that involve demolition of existing residential units, the minimum requirements of this Section shall apply to the increase in net saleable square footage divided by 1,450 square feet multiplied by 15% provided that construction of the new development commences within three years of the demolition.
- ~~b. Residential Linkage: For developments that involve demolition of existing residential units, the minimum requirements of this Section shall apply only to the incremental increase in the additional number of units above what was originally on the site provided that construction of the new development commences within three years of the demolition. If the time period between demolition and new construction is longer than three years, no special consideration for redevelopment in calculation of the minimum requirements of this Section shall be applied.~~
- ~~c. Commercial Linkage: For developments that involve demolition of existing non-residential buildings, the minimum requirements of this Section shall apply only to the incremental increase in the additional square footage above what was originally on the site provided that construction of the new development commences within three years of the demolition. If the time period between demolition and new construction is longer than three years, no special consideration for redevelopment in calculation of the minimum requirements of this Section shall be applied.~~

~~7)5)~~ *Employee Units.* Employee units shall be exempt from the requirements of this Section.

~~8)6)~~ *Change of Use.* The change from one use to another are exempt, ~~unless additions or remodels increasing square footage by more than 500 square feet are required to accommodate the change.~~

~~9)7)~~ *Vested Approvals.* Development permits with vested approvals and development in accordance with development permits with vested approvals pursuant to Section 26-4(d)(1), development in substantial conformance with development permits with vested approvals pursuant to Section 26-4(d)(1), and development in accordance with revised vested approvals in accordance with Section 26-4(d)(2), shall all be exempt from this Section.

~~10)8)~~ *Existing Agreements.* All residential developments for which agreements for the development of Community Housing had been executed prior to the adoption of this ordinance shall be exempt from the requirements of this Section

unless major alterations as defined by Sec. 26-402 (a) Substantial Conformance are made.

Sec. 26 – 148 (e). Minimum Requirements.

The minimum Community Housing requirement for development in all zoning districts shall be determined according to the following:

- 1) Inclusionary: All new developments with three (3) or more additional residential units shall set aside units for Community Housing, as follows:
 - a. Fifteen percent (15%) of all single-family units shall be developed as Community Housing for sale or rent to eligible households;
 - b. The following percentages of all new multi-family units shall be developed as Community Housing for sale or rent to eligible households:

Market Rate Unit Size (Gross Floor Area)	Number of Affordable Housing Units to be Provided Per Market Rate Unit
≤ 2,000	.15
2,001-3,000	.17
3,001-4,000	.20
≥ 4,001	.25

~~2) Commercial Linkage: For non residential development, an applicant shall be required to complete development or ensure the completion of development of 5% (for the first 5,000 square feet of development) and 10% (for any square footage over 5,000) of the workforce housing units for which demand is generated by the proposed development.~~

~~Calculation of Requirement: To calculate the number of Community Housing units to be provided in accordance with the provisions of this Section, the developer shall utilize the following formulas:~~

Non residential Uses

~~Leasable square footage of development
x average number of employees per 1,000 net square feet of leasable space~~

~~÷ 1,000 square feet~~
~~÷ average number of jobs per employee~~
~~÷ average number of employees per unit~~
~~x applicable mitigation percentage (see above)~~
~~= Community Housing Units Required~~

Accommodations

~~Number of rooms~~
~~x average number of employees per room~~
~~÷ average number of jobs per employee~~
~~÷ average number of employees per unit~~
~~x 10 %~~
~~= Community Housing Units Required~~

The job generation ratios and averages for number of jobs per employee and number of employees per unit shall be specified in the Community Housing Guidelines and updated as data becomes available through the US Census or other primary research.

3) ~~Residential Linkage: A residential development, addition or redevelopment resulting in a net increase of more than 500 square feet (excluding garage space), including single family and/or multi family units, shall be required to develop or ensure the development of a percentage of the housing units for which demand is generated by the development according to the following mitigation rates based on unit size:~~

**Table 1
Residential Mitigation Rate by Size of Unit**

Sq Ft. of Proposed Units	Mitigation Rate	Sq Ft. of Proposed Units	Mitigation Rate
<500 SF	0%	3,500—3,999	20%
500—1,499	1%	4,000—4,499	25%
1,500—1,999	1%	4,500—4,999	25%
2,000—2,499	5%	5,000—5,499	30%
2,500—2,999	10%	5,500—5,999	30%
3,000—3,499	15%	6,000+	35%

Calculation of Requirement: ~~For residential development, the number of Community Housing units required by the application shall be calculated using the following formula:~~

~~Number of residential units~~
~~x appropriate FTE employees per unit (Table 2)~~

- ÷ average number of employees per unit
- x mitigation rate applicable for size of units proposed (Table 1)
- = Community Housing Units Required

The figures for Full Time Equivalent (FTE) employees based on the size of a proposed dwelling are specified in Table 2 below. Future modifications to these figures may be made upon the receipt of updated information and are to be specified in the Community Housing Guidelines.

Table 2
Employee Generation Rates per Size of Residential Unit

Square-foot	FTE Employees	Square-foot	FTE Employees
←500	0.17	6,000—	
		6,499	0.55
500—999	0.18	6,500—	
		6,999	0.61
1,000—1,499	0.20	7,000—	
		7,499	0.67
1,500—1,999	0.22	7,500—	
		7,999	0.74
2,000—2,499	0.25	8,000—	
		8,499	0.82
2,500—2,999	0.27	8,500—	
		8,999	0.91
3,000—3,499	0.30	9,000—	
		9,499	1.00
3,500—3,999	0.33	9,500—	
		9,999	1.11
4,000—4,499	0.37	10,000—	
		10,499	1.23
4,500—4,999	0.41	10,500—	
		10,999	1.36
5,000—5,499	0.45	11,000—	
		11,499	1.50
5,500—5,999	0.50	11,500—	
		12,000	1.66

Sec. 26 – 148 (f). Income Eligibility.

Community Housing required by this Chapter shall be permanently deed restricted, in accordance with a deed restriction enforceable in the State of Colorado, as approved by the City Council, to rental or ownership and occupancy by eligible households with incomes as follows:

1) Inclusionary Requirements: Between eighty-one percent (81%) and one-hundred and twenty percent (120%) of AMI, with an average of the Community Housing units being permanently deed restricted for ownership or rental and occupancy by eligible households with incomes at one-hundred percent (100%) of AMI.

~~2) Commercial and Residential Linkage Requirements: Equal to or less than eighty percent (80%) of AMI, with an average of the Community Housing units being permanently deed restricted for ownership or rental and occupancy by eligible households with incomes at fifty percent (50%) of AMI.~~

The mix of units within these ranges shall be adjusted annually to meet community need as determined by the Program Administrator so long as the averages specified are not exceeded.

Sec. 26 – 148 (g). Compliance Methods.

There are multiple ways by which each of the housing requirements can be satisfied. Options are provided to allow flexibility, maximize project-financing alternatives, and provide opportunities to creatively achieve the City’s goals and objectives for housing.

1. **Develop Units.** In the case of single-family/duplex subdivisions, directly develop the lots with single-family detached or duplex units priced initially in targeted range, or transfer ownership of lots to builders who, in accordance with the interim covenants filed on the lots, must develop them in accordance with this Section. In the case of multi-family developments, directly develop the multi-family dwellings priced for sale to eligible households.
2. **Develop Units Off-Site.** In the case of single-family/duplex subdivisions, develop single-family detached or duplex units priced initially in targeted range off-site, but within the municipal boundaries of the City of Steamboat Springs. In the case of multi-family developments, develop the multi-family dwellings off-site, but within the municipal boundaries of the City of Steamboat Springs priced for sale to eligible households. The number of Community Housing units developed must equal 125% of the required number of units.
3. **Dedication of Lots On-Site.** Dedicate lots on site to the City of Steamboat Springs provided that there are no covenants, restrictions, or issues that would limit the construction of Community Housing units on the lots. Land dedicated in

lieu of Community Housing Units must be of an equivalent or greater value to the payment in lieu contribution.

4. **Dedication of Lots Off-Site.** Dedicate lots off-site, provided lots are within the municipal boundaries of the City of Steamboat Springs, to the City of Steamboat Springs, provided that there are no covenants, restrictions, or issues that would limit the construction of Community Housing units on the lots. Land dedicated in lieu of Community Housing Units must be valued at 125% of the payment in lieu contribution.
5. **Dedication of Land.** With the approval of the City Council, dedicate land to the City of Steamboat Springs. The land may be off site but within the municipal boundaries of the City of Steamboat Springs provided there are no covenants or other restrictions placed on, or issues associated with the land that would limit the appropriateness for Community Housing. Land dedicated in lieu of Community Housing Units must be valued at 125% the payment in lieu contribution.
6. **Payment in Lieu.** ~~Payment in lieu fees are accepted as a right to satisfy the Commercial and Residential Linkage Requirements.~~ For the Inclusionary Zoning requirements, payment in-lieu fees are accepted only for any partial unit when the calculation to determine the number of units to be produced to meet Community Housing requirements results in a fractional unit, except for those properties located within the Base Area and highlighted in Appendix C of the Community Housing Guidelines, where payment in-lieu fees are accepted as a right to satisfy the Inclusionary Zoning requirements at 125% of the calculated amount.
 - a. The fees are to be based on the difference between the market rate cost per unit and the purchase prices that are affordable for income-eligible households, plus an administration fee of up to 15%. The fee per unit of Community Housing shall be stipulated in the Community Housing Guidelines and updated ~~semi~~-annually.
 - b. Unless otherwise agreed to, fees shall be due and payable anytime after development approvals and prior to the issuance a building permit for the development that triggered the requirement.
7. **Alternative Compliance Methods.** The City Council shall have the discretion to accept in-lieu consideration in any form so long as the value of that consideration is equivalent to or greater than the payment-in-lieu contribution required by this Section and that the acceptance of an alternative form of consideration will result in additional benefits to the City of Steamboat Springs consistent with the purpose of this Section.

Sec. 26-148 (h). Exit Strategy.

In the event buyers cannot be found for the Community Housing Units that meet the income eligibility requirements of this Section within twelve (12) months of the date the Community Housing units are made available for contract, and no less than twelve (12) months after issuance of Certificate of Occupancy, in accordance with the Community Housing Guidelines, any unsold Community Housing units may be offered to the City of Steamboat Springs or the Yampa Valley Housing Authority, subject to Community Housing price and deed restrictions. The offer price to the City or the Yampa Valley Housing Authority shall be equivalent to the purchasing ability of a purchaser at either 50% AMI, or 100% AMI, whichever is applicable (a 2.5 person household size shall be utilized to determine the appropriate AMI). If the City or the Yampa Valley Housing Authority does not agree in writing to purchase the units within sixty (60) days of the offer, the units may be sold without deed restrictions and at the time of closing a payment-in-lieu shall be made at 100% of the rate in effect at the time of closing.

Sec 26-148 (i). Unit Sizes.

The Community Housing units required under this Section shall meet the minimum and average size requirements as specified below:

1) Inclusionary Requirements: a minimum of five-hundred (500) square feet, with an average of nine-hundred (900) square feet.

~~2) Commercial and Residential Linkage: a minimum of four hundred (400) square feet, with an average of seven hundred, fifty (750) square feet.~~

Sec. 26-148 (j). Timing of Occupancy.

The Community Housing units shall be ready for occupancy no later than the issuance of certificates of occupancy for the non-residential portion or the free market residential units within the project. If the development is to occur in phases, Community Housing units shall be phased to coincide with employment generation or other performance indicators specified in the Community Housing Plan.

Sec. 26-148 (k). Quality Standards.

Community Housing units shall meet local building codes and be built to a standard that will enhance durability over time. Building designs, appliances and heating systems that meet nationally recognized standards for energy efficiency are encouraged so that the long-term affordability of Community Housing is enhanced.

Sec. 26-148 (l). Community Housing Plan Required.

An applicant for any new development that is required to provide Community Housing within the City of Steamboat Springs shall submit a Community Housing Plan or Statement of Exemption to the City of Steamboat Springs for approval.

1. The Community Housing Plan shall include the following:
 - a. Calculation Method. The calculation and method by which housing is to be provided.
 - b. Unit Descriptions. A site plan and building floor plans (if applicable), illustrating the number of units proposed, their location, the number of bedrooms and size (s.f.) of each unit, the rental/sale mix of the development, and the categories to which each unit is proposed to be restricted. A tabulation of this information shall also be submitted.
 - c. Lot sizes. Average lot size of proposed Community Housing units and average lot size of market rate housing units.
 - d. Schedules. The timeline for construction of Community Housing units shall be proposed accompanied by the schedule for the entire development and a description of any performance factors that are to be used to set the schedule for satisfaction of Community Housing requirements.
 - e. Terms. Terms for the development agreement that would provide surety to insure that any Community Housing units scheduled for future development ultimately get developed.
 - f. Sale Price or Rent Rates. Computation that clearly delineates how the initial sales price or the proposed rents for the Community Housing units were derived to meet the requirement of this Section.
 - g. Payment-in-lieu. Computation for any payment-in-lieu for fractional units, or in the case of linkage where applicants have chosen to make payment-in-lieu, all required units plus any fraction thereof.
 - h. Variances. A description of any requested variance, as well as an explanation as to how the overall outcome will advance the goal of obtaining community housing in a manner which meets or exceeds the requirements herein.
2. The Community Housing Plan shall be submitted to and approved by the City of Steamboat Springs prior to, or concurrent with, application to the City of Steamboat Springs for the development. After review and recommendation by the Planning Commission, the City Council shall approve, approve with revisions, or deny the Community Housing Plan. The City Council may approve a Community Housing Plan

prior to receiving an application for, or prior to approving, a development plan; provided, however, the Community Housing Plan shall expire one (1) year after final approval by the City Council, unless within that one (1) year period, the applicant files a complete application for a development plan for the property covered by the approved Community Housing Plan. If the complete application for the development plan is made more than one (1) year after the approval of the Community Housing Plan, that approval lapses and the applicant must resubmit the Community Housing Plan. If the submitted development application changes the obligations of the applicant under this chapter, applicant must submit a revised Community Housing Plan. An approved Community Housing Plan will become part of the development application and development agreements subsequently executed by the City of Steamboat Springs for any approved project. Any amendment to the Community Housing Plan deemed to be significant by the Director of Planning Services shall require the approval of the City Council.

Sec. 26-148 (m). Variances.

The City Council shall have the authority to grant variances from this Section when it is deemed to be in the best interest of the community and when it furthers the overall goal or promoting community housing to Steamboat Springs citizens.

The City Council shall have the sole authority to grant variances to this Section. In doing so, the City Council shall approve variances only in the instances where the overall outcome will advance the goal of obtaining community housing in a manner which meets or exceeds the requirements herein.

All requests for variances shall be submitted with the Community Housing Plan as required in Sec. 26-184 (l).

Sec. 26-148 (n). Incentives.

Developments that provide Community Housing units above and beyond the minimum requirements shall be eligible for incentives/concessions as specified in the following matrix. These incentives/concessions shall only be provided for the number of Community Housing units above and beyond the minimum requirements.

Community Housing Incentives/Subsidies Matrix			
	Developer Contribution	City Incentives/ Subsidy	Net Total to Developer
F.A.R. Bonus			

<70% of AMI	1 Additional Square Foot of Floor Area Constructed in Community Housing Units	2.5 Additional Square Feet of Floor Area	1.5 additional square foot of market rate floor area
70 - 79% of AMI	1 Additional Square Foot of Floor Area Constructed in Community Housing Units	2.25 Additional Square Feet of Floor Area	1.25 additional square foot of market rate floor area
80 - 120% of AMI	1 Additional Square Foot of Floor Area Constructed in Community Housing Units	2.0 Additional Square Feet of Floor Area ¹	1 additional square foot of market rate floor area

Maximum Bonuses

The maximum amount of bonus FAR achieved through a defined affordable housing incentive shall be **25%** of the floor area allowed based on the underlying zone of the subject property.

Dimensional Standards Modification – built in to the application of the FAR bonus

Maximum Lot Coverage	Lot coverage may be increased by up to 5% over the maximum lot coverage permitted by the underlying zone district.
Overall Height	Overall height containing affordable housing units may be increased by up to 6 feet.
Required Setback	Structures containing affordable housing units may encroach up to 5 feet into any required setback.
Minimum lot size	Minimum lot size may be reduced by up to 5% as permitted by the underlying zone district.

Permit Fee Calculation

Fee Exemption	<p>Applicants proposing bonus units of affordable housing units are eligible for exemption from the following fees*:</p> <ul style="list-style-type: none"> • Building Fee • Plan Review • Planning Dept fees • City Tap Fees • Building Use Tax • Excise Tax <p>*Fee are exempted from the bonus affordable housing units only, not to the overall project.</p>
Expedited Plan Review	Projects proposing bonus affordable housing units shall be given the highest priority and processed in an expedited manner.

Sec. 26-148 (o). Administration.

The City of Steamboat Springs Director of Planning Services shall be responsible for the administration of this Section. The Director of Planning Services, or his/her designee shall have the authority and duty to:

1. Exercise administration of this Section pertaining to all building and developments where applicable.
2. Enforce all terms of the Section.
3. Review and recommend approval or denial of all Community Housing Plans submitted in accordance with this Section.
4. Review and recommend approval or denial of all variance requests submitted pursuant to the provisions of this Section, subject to the approval of the City Council.

The City of Steamboat Springs may also enter into contracts with other agencies, including the Yampa Valley Housing Authority, to administer this Section, subject to approval of the City Council.

Sec. 26-148 (p). No Taking of Property without Just Compensation.

1. *Purpose:* It is the intention of the City of Steamboat Springs that the application of this Section not result in an unlawful taking of private property without the payment of just compensation.
2. *Request for Review:* Any applicant for the development of a housing project who feels that the application of this chapter would effect such an unlawful taking may apply to the City Manager for an adjustment of the requirements imposed by this Section.

3. *City Manager Review:* If the City Manager determines that the application of the requirements of this chapter would result in an unlawful taking of private property without just compensation, the City Manager may alter, lessen or adjust permanently affordable unit requirements as applied to the particular project under consideration such that there is no unlawful uncompensated taking.
4. *Hearing:* If after reviewing such application, the City Manager denies the relief sought by an applicant, the applicant may request an hearing before City Council with which to seek relief from the provisions of this Section. Such hearing shall be a "quasi-judicial" hearing and conducted according to the City's rules and regulations regarding "quasi-judicial" hearings. At such hearing, the burden of proof will be upon the applicant to establish that the fulfillment of the requirements of this Section would effect an unconstitutional taking without just compensation pursuant to the applicable law of the United States and the State of Colorado. If it is determined at such hearing that the application of the requirements of this Section would effect an illegal taking without just compensation, the City Council shall alter, lessen or adjust permanently affordable unit requirements as applied to the particular project under consideration such that no illegal uncompensated taking takes place.

Sec. 26 - 148 (q). Administrative Regulations.

To the extent that Director of Planning Services deems necessary, rules and regulations pertaining to this Section will be developed, maintained and enforced in order to assure that the purposes so this Section are accomplished.

Sec. 26 – 148 (r). Monitoring.

At least annually, the Director of Planning Services will present sufficient information to the City Council so that it can effectively review the operation of this Section and determine whether any of the provisions of this Section should be amended, adjusted or eliminated. Such information should be sufficient to allow the City Council to evaluate the following:

1. The effectiveness of this Section in contributing to the purpose of this Section;
2. The appropriateness of goals, objectives and actions for Community Housing development specified in the Community Housing Implementation Program adopted by the City Council April 17, 2007; and,
3. The level of integration of the provisions of this Section with other tools being utilized by the City of Steamboat Springs as part of a comprehensive approach toward obtaining the goals of this Section.

Sec. 26 – 148 (s). Repeal and Reenactment and Transition Rules.

Upon the effective date of the ordinance adopting the provisions of this Chapter 26-148, entitled "Community Housing," the affordable housing provisions in Steamboat Springs Municipal Code section 26-86(c)(2), including table 26-86(a), all as set forth in Section 3 of City Ordinance No. 2029, shall be deemed repealed, and shall be replaced and reenacted by this Chapter.

Sec. 26-148 (t). Effect of Suspension of Linkage Fees on Existing Applications; Reinstatement of Linkage Fees.

Upon the effective date of this ordinance, all requirements for payment of as yet unpaid linkage fees shall be voided and the person obligated to make such payments shall be relieved of any payment obligation. For example, if a development permit application has been granted, which required the payment of a linkage fee, but the payment of the linkage fees has not been made, then the requirement to make any linkage fee payments is hereby voided and the person obligated to make such payment shall be relieved of any payment obligation. Linkage fees already paid shall remain the property of the City and shall not be refunded.

SECTION 3

If any section, subsection, clause, phrase, or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

SECTION 4

This Ordinance shall take effect five (5) days after publication following final passage, as provided in Section 7.6 of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _
_____ day of _____, 2009.

**Paul Antonucci , President
Steamboat Springs City Council**

ATTEST:

Julie Franklin, City Clerk

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2009.

ATTEST:

**Paul Antonucci , President
Steamboat Springs City Council**

Julie Franklin, City Clerk