

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

**ITEM NUMBER:** 11 A-B

**DATE:** February 16, 1999

**STAFF:** Ken Waido/  
Ann E. Watts

### **SUBJECT:**

Items Relating to Affordable Housing.

### **RECOMMENDATION:**

Staff, the Affordable Housing Board and the Planning and Zoning Board recommend adoption of these Ordinances on Second Reading.

### **EXECUTIVE SUMMARY:**

A. Second Reading of Ordinance No. 19, 1999, Revising the Definitions for "Affordable Housing Project" and "Affordable Housing Unit," Revising the City's Development Review Fee Waiver Provisions for Affordable Housing and Revising the City's Impact Fee Delay Program for Affordable Housing.

Ordinance No. 19, 1999, which was unanimously adopted on First Reading on February 2, 1999, revises the definitions for "Affordable housing project," "Affordable housing unit for rent" and "Affordable housing unit for sale" in the Land Use Code, the Transitional Land Use Regulations, and the City Code. It revises Fort Collins' Development Review Fees Waiver for Affordable Housing in both the Land Use Code and the Transitional Land Use Regulations. Finally, this Ordinance revises Fort Collins' Impact Fee Delay Program for Affordable Housing in the City Code.

B. Second Reading of Ordinance No. 20, 1999, Repealing Article IX of Chapter 5 of the City Code Regarding the Offset of Impact Fees for Affordable Housing.

Ordinance No. 20, 1999, which was unanimously adopted on First Reading on February 2, 1999, eliminates the Rebate Program to eventually be replaced with a competitive process, except for eleven (11) projects that have received preliminary planning approval and have financially relied on receiving a rebate of fees from the City.

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

**ITEM NUMBER:** 22 A-B

**DATE:** February 2, 1999

**STAFF:** Ken Waido/  
Ann E. Watts

### SUBJECT:

Items Relating to Affordable Housing.

### RECOMMENDATION:

Staff, the Affordable Housing Board and the Planning and Zoning Board recommend adoption of these Ordinances on First Reading. Staff and the Affordable Housing Board recommend elimination of the City's Development Impact Fee Rebate Program to eventually be replaced with a competitive process to allocate the City's Affordable Housing Fund.

### FINANCIAL IMPACT:

**Definitions of Affordable Housing Projects and Affordable Housing Units:** The financial impact from this change is described below, as it affects the Impact Fee Delay Program. Other programs are not significantly affected by this revision.

**Development Review Fee Waiver:** There will be no significant impact.

**Impact Fee Delay:** To qualify as an Affordable Housing Project under the revised definition, a residential project would have to make at least 10% of its units affordable and restrict them for at least 20 years so they could only be sold (at an affordable price) to low-income households. Any project that meets that standard would be eligible for the delay of all impact fees on the entire project. Previously, at least 50% of the units had to be affordable to be eligible for this program, without any restrictions on occupancy or duration of affordability. Presumably, the reduction from the 50% to the 10% standard should increase the number of eligible projects. However, the addition of the 20-year occupancy/affordability restrictions may cause private for-profit developers of for-sale housing to avoid the program entirely.

Financial impacts from a deferral of certain impact fees fall into three categories: (1) permanent reduction in the fiscal year spending base (2) lost interest income for all funds, and (3) reduced debt service coverage for bonds. Lost interest income is the most significant impact to the City. However, this loss to the City is less than the savings generated for the developer. This program saves a typical project about \$500 per unit, at a cost to the City of about \$300-350 per unit. Over \$150 is "created" by the difference in interest rates between construction interest loans and the City's investments.

City staff knows of 590 rental units and 167 for sale units that either were built in 1997-1998 or will be built in 1999, for an average annual production of about 250 units. All of them would be eligible

for this program under the proposed regulations. If production continues at that level, Impact Fee Delays could cost the City roughly \$80,000 annually, but would save developers over \$120,000.

City staff hopes that there will be an increase in affordable housing production with the implementation of the "Goals and Strategies" detailed in the "Priority Affordable Housing Needs and Strategies" report. The ultimate goal is to fund 3,087 rental units and 1,329 homebuyers between 1999 - 2008. If this goal is realized, Impact Fee Delays on these units could cost the City about \$1.44 million over 10 years, or an average of roughly \$144,000 per year. The program could save developers almost \$2.16 million, or \$216,000 per year.

The chart on the following page demonstrates these calculations:

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**Financial Impact Analysis of the Impact Fee Delay Program**

PER UNIT		RENTAL	FOR SALE		
			restricted (min 10%)	unrestricted (max 90%)	
Estimated amount of fees delayed		7,000	14,000	14,000	
Length of delay/construction loan term		9	5	5	
Interest saved by Developers @	9%	473	525	525	
Cost to City of foregoing interest @	6%	315	350	350	
Difference		158	175	175	
<b>ESTIMATED ANNUAL PRODUCTION</b>					
		RENTAL	FOR SALE		TOTAL
			restricted (min 10%)	unrestricted (max 90%)	
Number of units built or planned, 1997-1999		590	72 <sup>1</sup>	95 <sup>2</sup>	757
average per year		197	24	32	252
Interest saved by Developers @	9%	92,925	12,600	16,625	122,150
Cost to City of foregoing interest @	6%	61,950	8,400	11,083	81,433
Difference		30,975	4,200	5,542	40,717
<b>10-YEAR PRODUCTION GOALS</b>					
		RENTAL	FOR SALE		TOTAL
			restricted (min 10%)	unrestricted (max 90%)	
Funding goal for 1999-2008		3,087	133 <sup>3</sup>	1,196 <sup>4</sup>	4,416
Interest saved by Developers @	9%	1,458,608	69,773	627,953	2,156,333
Cost to City of foregoing interest @	6%	972,405	46,515	418,635	1,437,555
Difference		486,203	23,258	209,318	718,778
<sup>1</sup> Only units that are restricted as affordable for 20 years are included in this column. <sup>2</sup> Units in this column are unrestricted, but eligible because they are part of an affordable project. <sup>3</sup> The City's goal is to fund 1,329 homebuyers, but that does little to create new construction. Therefore this estimate is very high. <sup>4</sup> Assumes the maximum, 90%, of the eligible for sale production will be unrestricted.					

**Impact Fee Rebate:** The current annual average of rebates is about \$113,000 per year. If the Ordinance is adopted, the Rebate Program would be eliminated except for eleven (11) projects which have received preliminary planning approval from the City and have financially relied on receiving a rebate of fees from the City. Thus, \$816,410 from the Affordable Housing Fund will need to be earmarked to cover the costs from these projects if they are completed. Assuming the Affordable Housing Fund continues to receive a budget of at least \$283,000 a year, there will be sufficient funds to cover the estimated costs.

#### EXECUTIVE SUMMARY:

- A. First Reading of Ordinance No. 19, 1999, Revising the Definitions for "Affordable Housing Project" and "Affordable Housing Unit," Revising the City's Development Review Fee Waiver Provisions for Affordable Housing and Revising the City's Impact Fee Delay Program for Affordable Housing.

On August 18, 1998, City Council adopted Resolution 98-125 identifying the City's priority affordable housing needs. The City Council intends to target City resources on priority needs. The existing affordable housing incentives offered in the Land Use Code and the City Code do not necessarily target those priorities. They do not share a common definition of affordable housing and so, in some ways, they function at odds with one another.

Staff has worked with the Affordable Housing Board to create definitions of an affordable housing project, rental unit and for sale unit. Applying those definitions throughout the Codes will help clarify the City's affordable housing incentive programs and make them easier to work with. Staff and the Affordable Housing Board have also agreed to propose revising the Development Review Fee Waiver so that the proportion of fees waived would equal the proportion of affordable units within an affordable housing project. The Planning and Zoning Board reviewed the proposed changes at its November 19, 1998 meeting. That Board requested the addition of a 20-year minimum affordability period and a more detailed analysis of financial impacts. The result is Ordinance No. 19, 1999, which revises the definitions for "Affordable housing project," "Affordable housing unit for rent" and "Affordable housing unit for sale" in the Land Use Code, the Transitional Land Use Regulations, and the City Code. It revises Fort Collins' Development Review Fees Waiver for Affordable Housing in both the Land Use Code and the Transitional Land Use Regulations. Finally, this Ordinance revises Fort Collins' Impact Fee Delay Program for Affordable Housing in the City Code.

- B. First Reading of Ordinance No. 20, 1999, Repealing Article IX of Chapter 5 of the City Code Regarding the Offset of Impact Fees for Affordable Housing.

One of the programs established by the City of Fort Collins to promote the development of affordable housing units inside the city limits is known as the Development Impact Fee Rebate Program. The program provides a partial rebate to an affordable housing developer of the impact fees paid to the City, other governmental entities, and/or special purpose utility districts. Currently, the amount of per unit rebate is based on a graduated scale dependent upon the commitment of the developer to provide units at certain income levels, with higher rebates given for housing units reserved for lower income families. In mid-1996, the City Council asked the Affordable Housing Board to re-examine the Rebate Program and to consider making rebates based on a percentage of fees paid instead of flat dollar amounts. The Board has reexamined the Program and in the context

of the recently completed "Priority Affordable Housing Needs and Strategies" report now believes the Rebate Program should be eliminated and eventually replaced with a competitive process. Elimination of the Rebate Program would not affect the Development Impact Fee Delay Program. If adopted, the proposed Ordinance would eliminate the Rebate Program except for eleven (11) projects that have received preliminary planning approval and have financially relied on receiving a rebate of fees from the City. Thus, \$816,410 from the Affordable Housing Fund will need to be earmarked to cover rebates for these projects if they are completed. Assuming the Affordable Housing Fund continues to receive a budget of at least \$283,000 a year, there will be sufficient funds to cover the estimated costs.

**BACKGROUND:**

- COPY**
- A. First Reading of Ordinance No. 19, 1999, Revising the Definitions for "Affordable Housing Project" and "Affordable Housing Unit", Revising the City's Development Review Fee Waiver Provisions for Affordable Housing and Revising the City's Impact Fee Delay Program for Affordable Housing.

The 1997-99 Staff Work Plan calls for an Affordable Housing Needs Study to be completed in the summer of 1998. The "Draft Priority Affordable Housing Needs and Strategies Study" was presented to City Council at its Study Session on June 9, 1998. This phase of the Study included an investigation of what kind of affordable housing exists in this community, what kinds are needed, and what the most urgent needs are. The revised study, with enhanced "Goals and Strategies," was presented to City Council at its Study Session on October 27, 1998. Since then, staff and the Affordable Housing Board have been working together to revise the "Goals and Strategies" and prepare them for adoption by City Council.

Staff believes there is sufficient information from the research to form a reasonable recommendation in regard to the community's priority affordable housing needs. City Council, at its August 18, 1998 meeting, approved Resolution 98-125 Establishing Affordable Housing Priorities.

To implement these priorities, staff and the Affordable Housing Board worked together to propose revisions to the City's existing Affordable Housing Programs. The Affordable Housing Board voted to support these revisions at its September 3, 1998 regular meeting. After learning of the Planning and Zoning Board's recommendations, it voted to support requiring minimum 20-year occupancy and affordability periods at its January 7, 1999 regular meeting.

Changes to the definitions of "Affordable housing project" and "Affordable housing unit," as well as revisions to the Development Review Fees Waiver and Impact Fee Delay Program for Affordable Housing are included in this Agenda Item.

**Definitions of Affordable Housing Projects and Affordable Housing Units:** All programs are proposed to use the same definition of affordable housing. This requires revision to the Land Use Code, the Transitional Land Use Regulations and the City Code.

Staff and the Affordable Housing Board recommend changing the definition of "Affordable housing project" as it exists in Section 5.1.2 of the Land Use Code. Currently, a project qualifies as affordable if 30% of its units will be affordable. The revised definition would decrease that to 10%, and would add 20-year occupancy and affordability restrictions. It would read as follows:

*Affordable Housing Project* shall mean a development project in which: (1) at least seventy-five (75) percent of the gross acreage to be developed under the plan is to be developed as residential dwelling units or mobile home park spaces; (2) ~~thirty (30)~~ at least ten (10) percent of said dwelling units or spaces (the "affordable housing units") are to be available for rent or purchase on the terms described in ~~Section 5-357 of the City Code~~ the definitions of "Affordable housing unit for sale" or "Affordable housing unit for rent" (as applicable); and (3) the construction of the dwelling units or spaces is to occur as part of the initial phase of the project and (i) prior to the construction of the market rate units or (ii) on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units; ~~and (4) the units will be required, by binding legal instrument acceptable to the City and duly recorded with the Larimer County Clerk and Recorder, to be occupied by and affordable to low-income households for at least 20 years.~~

Staff and the Affordable Housing Board also recommend adding new definitions of an "Affordable housing unit for rent" and an "Affordable housing unit for sale" to Section 5.1.2 of the Land Use Code. A variety of definitions of an "Affordable housing unit" are now found in different sections of the Land Use Code and the City Code. Instead, each program should adhere to a single, commonly accepted definition of an "Affordable housing unit." The new definitions would read as follows:

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*Affordable housing unit for rent* shall mean a dwelling unit which is available for rent on terms that would be affordable to households earning eighty (80) percent or less of the median income of city residents, as adjusted for family size, and paying less than thirty (30) percent of their gross income for housing, including rent and utilities. The unit must be occupied by and affordable to such low-income household(s) for a period of not less than twenty (20) years.

*Affordable housing unit for sale* shall mean a dwelling unit which is available for purchase on terms that would be affordable to households earning eighty (80) percent or less of the median income of city residents, as adjusted for family size, and paying less than thirty-eight (38) percent of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees. The unit must be occupied by and affordable to such low-income household(s) for a period of not less than twenty (20) years.

All three definitions should be added to Section 29-1 of the Transitional Land Use Regulations. They should also replace Section 26-631 of the City Code, which affects the Impact Fee Delay Program.

Affordable gross rents will be established by the City's Advanced Planning Department based on the Department of Housing and Urban Development's (HUD) estimate of Area Median Family

Income, which is generally released each January. The calculation of affordable gross rents assumes an average of 1.5 persons per bedroom. In 1998, affordable rents were:

AFFORDABLE GROSS MONTHLY RENTS						
(including utilities)						
NUMBER OF BEDROOMS						
INCOME	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
80% AMI	713.00	764.00	916.00	1,059.00	1,181.00	1,303.00
60% AMI	534.00	573.00	687.00	794.00	886.00	977.00
50% AMI	445.00	477.00	573.00	662.00	738.00	814.00

Affordable home sale prices will be estimated by the City's Advanced Planning Department based on the Department of Housing and Urban Development's (HUD) estimate of Area Median Family Income, which is generally released each January. The calculation may be modified more frequently to reflect changes in prevailing interest rates or other terms. In 1998, estimated affordable sale prices were calculated as follows:

ESTIMATED AFFORDABLE SALE PRICES								
NUMBER OF PERSONS IN HOUSEHOLD								
	1 person	2 people	3 people	4 people	5 people	6 people	7 people	8 people
Sale Price	\$ 96,200	\$ 110,300	\$ 124,300	\$ 138,200	\$ 149,200	\$ 160,000	\$ 170,800	\$ 181,700
Dpmt (5%)	4,810	5,515	6,215	6,910	7,460	8,000	8,540	9,085
Principle	91,390	104,785	118,085	131,290	141,740	152,000	162,260	172,615
Rate (7%)	0.0058	0.0058	0.0058	0.0058	0.0058	0.0058	0.0058	0.0058
Term	360	360	360	360	360	360	360	360
Payment	608	697	786	873	943	1,011	1,080	1,148
PMI	62	71	80	89	96	103	110	117
taxes	80	92	104	115	124	133	142	151
insurance	32	37	41	46	50	53	57	61
PITI total	782	897	1,010	1,123	1,213	1,301	1,388	1,477
utilities	120	135	150	165	180	195	210	225
Total Monthly								
Hsg Cost	\$902	\$1,032	\$1,160	\$1,288	\$1,393	\$1,496	\$1,598	\$1,702

**Development Review Fee Waiver:** Section 2.2.3(E)(3) of the Land Use Code and Section 29-3(c) of the Transitional Land Use Regulations provide for an "Affordable Housing Exemption" from Development Review Fees. It currently allows for these fees to be reduced by one-half (1/2) if at least fifty-one percent (51%) of the dwelling units within the project are affordable to individuals earning between 80% and 95% of median income. This is no longer consistent with the City's definition of affordable housing.

There is no need for these sections to contain the definitions of "Affordable housing project," "Affordable housing unit for rent," and "Affordable housing unit for sale." Readers should refer to the definitions in Section 5.1.2 of the Land Use Code or Section 29-1 of the Transitional Land Use Regulations (as applicable).

Staff and the Affordable Housing Board propose that fees be waived in direct proportion to the number of dwelling units within the project that are affordable. At least 10% of the dwelling units

must be affordable in order to meet the definition of "Affordable housing project" and receive any waiver. For example, if a project proposes 75% of its units as affordable housing, then the City would waive 75% of its normal development review fees and the project would pay only 25% of those fees.

The program would continue to require that the project verify the percent of units that are affordable prior to the issuance of a certificate of occupancy. If the project composition has changed so that fewer units meet the definition of affordable housing, then the developer would be required to pay development review fees for those units that are no longer affordable. If the project mentioned above drops from 75% affordable to 50% affordable, then it would owe an additional 25% of its normal development review fees before it could receive a certificate of occupancy.

**Impact Fee Delay:** "Deferral of Fees for Affordable Housing" currently exists in two places in the City Code. Section 7.5-26 authorizes the deferral of "...fees established under this Article..." No specific fees are mentioned in this section, but it is assumed that they include all capital improvement expansion fees, including Library, Community Parkland, Police, Fire, General Government, and Street Oversizing. Section 26-632 authorizes the deferral of fees related to utilities, and specifically lists "...the Water Plant Investment Fee ("WPIF"), Sewer Plant Investment Fee ("SPIF"), Storm Drainage Basin Fee and the Raw Water Requirement In-Lieu Cash Payment..."

Each Section of the City Code that describes this program should use the same definition of "Affordable housing project," "Affordable housing unit for rent" and "Affordable housing unit for sale" as the Land Use Code. Therefore Section 26-631 should be replaced by those definitions.

Ordinance No. 147, 1996, changed Section 26-632 to eliminate the requirement to secure the future payment of deferred fees by means of a letter of credit or certificate of deposit. A similar change was not implemented for Section 7.5-26, although it may have been the intent of the City Council to do so. This change should be made to keep the two sections consistent with each other.

Section 7.5-26 and Section 26-632 both state that "...fees...shall...be deferred until the date of issuance of a certificate of occupancy (whether temporary or permanent)..." There is an additional sentence at the end of Section 26-632 that states "The city shall not issue any certificate of occupancy, whether temporary or permanent, for the occupation of any building or structure for which a deferral of fees has been obtained pursuant to this Section until such time as such deferred fees have been fully paid." That sentence is redundant and unnecessary. In the interest of matching sections, it should be deleted.

Section 7.5-26 should be revised to read "With respect to any building permit for a dwelling unit which is contained within or which contains constitutes an affordable housing project..." This would match the existing phrase in Section 26-632.

B. First Reading of Ordinance No. 20, 1999, Repealing Article IX of Chapter 5 of the City Code Regarding the Offset of Impact Fees for Affordable Housing.

In 1994, the City Council established the Development Impact Fee Rebate Program as an administrative program permitting a partial rebate of City impact fees for the purpose of promoting the development of additional affordable housing units. Fees eligible for rebate include almost all City fees as well as fees from special purpose utility districts and the school district.



The Affordable Housing Board considered proposing a series of changes to the Rebate Program but in the context of the recently completed "Priority Affordable Housing Needs and Strategies" report now believes the Rebate Program should be eliminated and eventually replaced with a competitive process.

This Ordinance would eliminate the Rebate Program except for eleven (11) projects which have received preliminary planning approval from the City and have financially anticipated rebates.

The projects listed below, if completed, have an estimated cost of \$816,410.

\$103,070	CARE Eagle Tree (17 rental units @ 50% AMI, 5 @ 45% & 14 @ 40%)
35,040	FCHA, Parkway Townhomes (12 homeownership units @ 50% AMI)
19,710	C&A Scenic Views, Saddle Ridge (27 homeownership units @ 80% AMI)
10,220	Brandt, Willow Wood (14 homeownership units @ 80% AMI)
207,450	Brisben, Buffalo Run (13 rental units @ 40% AMI & 73 @ 50%)
179,580	Brisben, Bull Run (35 rental units @ 50% AMI & 141 @ 60%)
96,360	FCHA, Via Lopez (33 homeownership units @ 50% AMI)
2,920	Habitat for Humanity, Albion Way (1 homeownership unit @ 50% AMI)
2,920	Habitat for Humanity, Albion Way (1 homeownership unit @ 50% AMI)
86,140	Brisben, Country Ranch (118 rental units @ 60% AMI)
73,000	CARE, Windtrail (50 rental units @ 55% AMI)

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\$816,410      Approximate Total

Assuming the Affordable Housing Fund continues to receive a budget of at least \$283,000 a year, there will be sufficient funds to cover the estimated costs.

#### **AFFORDABLE HOUSING BOARD RECOMMENDATION:**

The Affordable Housing Board, at its regular monthly meeting on September 3, 1998, voted to support the proposed revisions to the Land Use Code and City Code. These revisions affect the definitions of "Affordable housing project" and "Affordable housing unit," the Development Review Fees Waiver and the Impact Fee Delay Program for Affordable Housing. After learning of the Planning and Zoning Board's recommendations, it voted to support requiring minimum 20-year occupancy and affordability periods at its January 7, 1999 regular meeting.

The Affordable Housing Board, at its regular monthly meeting on January 7, 1999, agreed that the Development Impact Fee Rebate Program should be eliminated and eventually replaced with a competitive process.