Meeting Date: July 20, 2015

Agenda Item No: 9.A.

Prepared By: David Mickaelian, City Manager

REQUEST FOR CITY COUNCIL ACTION

SUBJECT:

Rental Housing in the City of Healdsburg

STRATEGIC INITIATIVE:

Pathway to Sustainability/City of Healdsburg 2014-2019/Initiative 0.1 Quality of Life

RECOMMENDED ACTION(S):

Receive staff report regarding rental housing in the City of Healdsburg

BACKGROUND:

Housing shapes and defines our community. Increasing housing opportunities for a range of income levels and housing types is the subject of on-going public discussion and debate not only in Healdsburg but throughout the North Bay region and the State of California. A summary of actions taken by the City is provided below in order to provide a context for discussion of rental housing.

General Plan Housing Element Update - 2014

The City recognizes the need to address housing issues in our community. The Healdsburg 2030 General Plan Housing Element Update (HEU) was adopted by the City Council in 2014 and was certified by the State of California Department of Housing and Community Development . The HEU serves as the City's strategic housing plan and presents a comprehensive look at both existing housing needs and anticipated future housing demands; and includes policies and implementation measures to advance the City's housing goals. The City provided a number of public participation opportunities during the preparation of the HEU.

- May 2014 - Community Workshop to identify housing issues and potential solutions
- July 2014 - Community Workshop to discuss and evaluate emerging policies
- August 2014 - City Council received a presentation of the draft Housing Element Update
- November 2014 - City Council adopted the Housing Element Update

Housing Our Community Workshop Series - 2015

The City continued its community engagement efforts on housing topics by conducting a series of public workshops.

- o January 2015 - City Council Work Session: *Housing 101-Baseline and Best Practices*
- o February 2015 - Community Forum: *Industry panel on solutions and approaches to diversified housing*
- o March 2015 - Community Workshop: *Define direction and prioritize options*

Community Housing Committee - 2015

On May 18, 2015 the City Council adopted Resolution No. 61-2015 to establish a Community Housing Committee. As stated in the Resolution, the City recognizes the need to address the community's affordable and workforce housing needs. The City Council established the Community Housing Committee to advise and make recommendations to Council on how to best address workforce and affordable housing challenges in the City of Healdsburg. The focus of the Committee, listed in priority order, are to:

A. Draft language for a GMO amendment to be placed before the voters in June 2016 to incentivize affordable market-rate housing construction; and

B. Recommend measures such as reduced fees or streamlined building procedures to provide for housing diversification through infill development and construction of workforce housing.

Housing Action Plan - 2015

As an outcome of the HEU and the Housing Our Community workshop series, the City is in the process of developing a Housing Action Plan to implement the goals, policies and programs that have been included in the HEU.

Resources For Tenants

A resource that is available to tenants is the Sonoma County Housing Authority (SCHA) which is part of the Community Development Commission. The SCHA offers information about HUD-funded rental assistance programs, and an online application for the Housing Choice Voucher program/Section 8 waiting list: http://www.sonoma-county.org/cdc/s8waitlist.htm. As of July 16, 2015 it appears that the waiting list is currently open. The Sonoma County Community Development Commission's main information number is (707) 565-7500. For any tenants that may already participate in the Housing Choice Voucher/Section 8 program, it is very important that they contact the Housing Authority immediately to make arrangements for receiving continued rental assistance if/when they are required to move. Tenants who participate in the Housing Choice Voucher program can only be evicted for good cause. After the initial lease period, 'good cause' may include the owner's business or economic reasons; i.e., sale or major renovation of the property, or owner move-in. However, if the termination is not due to any fault of the tenant, the owner/landlord must provide a 90-day notice of termination of the tenancy before further legal action can be taken to evict the tenant. Tenants who have questions or concerns about their legal rights should seek appropriate advice. A list of free

and low-cost legal resources is available on the Sonoma County Superior Court's website, http://sonoma.courts.ca.gov/self-help/community-services.

DISCUSSION/ANALYSIS:

The need for increased workforce housing combined with the shortage of rental housing widens the economic divide in our community. While the City continues to make substantive progress at the housing policy level, the recent eviction of the tenants of a 21 unit multi-family property at 1301 Prentice Drive (corner of Prentice Drive and March Avenue) and the rent increases on rental units on Fitch Street have served as a catalyst for discussion of rent stabilization, i.e., rent control. In brief, the current tenants have been given notice to vacate the property in order for the property owner to complete repairs resulting from long-term deferred maintenance; and, to complete improvements that will enable the owners to obtain a higher rental rate once work is completed. As noted in the HEU, housing that is older than 30 years requires minor repairs and stabilization, and units that are 50 years of age and older require more extensive repairs, rehabilitation and modernization. Approximately 59 percent of the housing units in the city are over 30 years of age and 32 percent are over 50 years of age. Although most housing units in the city are generally structurally sound, it can reasonably be anticipated that due to the city's aging housing stock other properties may face similar issues in order to complete repairs that are needed to conserve existing housing units. Noted on page 23, table 13, of the HEU, of the City's approximate 4,378 total occupied housing units, 42% or 1,857 are occupied rental units.

The following information is intended to provide general information regarding rent control ordinances. The extent to which a city can control residential rents depends on whether it is a charter city or a general law city. Charter cities, including Santa Rosa, Petaluma, San Francisco, Berkeley, Richmond and Santa Monica, derive their authority from the California Constitution and their charter provisions when regulating "municipal affairs." General law cities, such as Healdsburg, have only those powers conferred by the California Constitution and state law. Although residential rent control is deemed to be within a city's general police power, general law cities are restricted by the 1995 Costa-Hawkins Rental Housing Act, California Civil Code section 1954.50 *et seq*. (the "Act").

The Act permits owners of residential real property to establish the initial and all subsequent rental rates for all dwelling units that had a certificate of occupancy issued after February 1, 1995; or that were previously exempt from a local residential rent control ordinance in place as of February 1, 1995. Therefore any rent control ordinance enacted by the City can only apply to apartment buildings issued a certificate of occupancy on or before February 1, 1995. The Act also prohibits regulation of rents for single family-homes and condominiums, and when tenancies change, in most cases.

A city's rent control ordinance may create a separate rent control board to administer it, or the city council and city departments can do so. A rent control ordinance must be constitutional, as evidenced by both a legitimate governmental purpose (such as protection of tenant welfare and from excessive rents, as demonstrated over a period of several months) and the ability for a landlord to earn a just and reasonable return. What constitutes a legitimate governmental purpose is determined on a case-by-case basis and is highly fact-

dependent. A court could find such purpose lacking in a citywide ordinance based on a one-time experience in a limited number of units, absent further evidence to support the legislative body's findings. Similarly, there is no set definition of a "just and reasonable" return, but if a court does not agree with a city's approach the court may find an unconstitutional taking of property without just compensation.

Much of the rent control litigation coming out of Santa Monica and other rent control cities relates to defining a just rate of return.

Cities can also adopt a moratorium on rent increases on an urgency basis, with a four/fifths vote of Council, for a 45-day period plus two specified extensions.

Such a moratorium would also be limited to units receiving a certificate of occupancy on or before February 1, 1995. A moratorium would not impact notices of rent increases which include an effective date prior to the adoption date of the moratorium. However, a moratorium would take effect immediately and thus would be effective as against noticed rent increases where the effective date of the increase has not yet occurred.

Rent control ordinances and rent increase moratoria may include a prohibition on evictions unless a landlord can establish "just cause" as defined in the ordinance, or a separate eviction restriction ordinance may be adopted. The Act provides that it shall not be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction. Such "just cause" ordinances typically enumerate the criteria for a just cause eviction, such as a tenant's failure to pay rent or a tenant's violation of another lease provision following a warning, or the owner's intention to occupy the unit or provide it to a relative or a resident manager. A landlord is also permitted to withdraw the unit from the rental market upon compliance with the Ellis Act, Government Code Section 7060 *et seq*. Provisions in an eviction restrictions ordinance cannot conflict with existing state law requirements for notice and the unlawful detainer process, but a tenant could likely raise a landlord's violation of the ordinance as a defense in an eviction proceeding.

In recognition of the lack of housing stock specifically rental/workforce/affordable housing in Healdsburg, as mentioned before, the City has formed a Housing Committee to address the roadblocks the GMO has caused in allowing sufficient housing stock to be built in the last 15 years as demonstrated in the Housing Element. The Committee will also evaluate building and zoning roadblocks that also limits development of affordable and workforce housing and the general affordability of housing in Healdsburg. Whereas the Housing Committee's initial focus will be to address the GMO restrictions, there may be opportunities to evaluate the general rental conditions and challenges our community faces.

ENVIRONMENTAL ANALYSIS:

This agenda item is not a "project" pursuant to California Environmental Quality Act (CEQA) Guidelines 15378.(b)(5) because the report provides background information regarding housing topics and does not involve commitment to any specific project that may impact the environment; therefore, no environmental review is required.

FISCAL IMPACT:

Not applicable

ALTERNATIVES:

CITY OF HEALDSBURG

Landlord / Tenant Relations

HOUSING

BACKGROUND INFORMATION

Background

- General Plan Housing Element Update (HEU) – 2014
  - The HEU serves as the City's strategic housing plan and presents a comprehensive look at both existing housing needs and anticipated future housing demands; and includes policies and implementation measures to advance the City's housing goals.
    - May 2014 - Community Workshop to identify housing issues and potential solutions
    - July 2014 - Community Workshop to discuss and evaluate emerging policies
    - August 2014 - City Council received a presentation of the draft Housing Element Update
    - November 2014 - City Council adopted the Housing Element Update

Background

- Pathway to Sustainability 2014 – 2019
  - Adopted Strategic Plan
    - Goal 1.3 Develop and implement a strategy to increase availability of housing Choices

- 2015-16 Council Goal
  - Community Housing - Develop an Action Plan for Community Housing which increases the inventory of workforce housing that meets the financial and physical needs of employees of local businesses, young families, and seniors who wish to live in Healdsburg.

Background

- <u>Housing Our Community Workshop Series – 2015</u>
  - The City continued its community engagement efforts on housing topics by conducting a series of public workshops.
    - January 2015 - City Council Work Session: *Housing 101-Baseline and Best Practices*
    - February 2015 - Community Forum: *Industry panel on solutions and approaches to diversified housing*
    - March 2015 - Community Workshop: *Define direction and prioritize options*
      - *All workshop information is available online at www.cityofhealdsburg.org*

Background

- Community Housing Committee - 2015
  - On May 18, 2015 the City Council adopted Resolution No. 61-2015 to establish a Community Housing Committee.
  - The City Council established the Community Housing Committee to advise and make recommendations to Council on how to best address workforce and affordable housing challenges in the City of Healdsburg.
  - The focus of the Committee, listed in priority order, are to:
    - Draft language for a GMO amendment to be placed before the voters in June 2016 to incentivize affordable market-rate housing construction.
    - Recommend measures such as reduced fees or streamlined building procedures to provide for housing diversification thru infill development and construction of workforce housing.

Background

- Housing Action Plan – 2015
  - As an outcome of the HEU and the Housing Our Community workshop series, the City is in the process of developing a Housing Action Plan to implement the goals, policies and programs that have been included in the HEU.

Constraints to Housing Production

- 2000 voter approved Growth Management Ordinance
  - Limited new building permit allocations to 30 per year
  - Rental project is included in the 30 per year average
- Recession
  - Impacted development statewide
- Dissolution of Redevelopment
  - Potential RDA owned properties (vacant land) have been tied up with the State
  - RDA funding for affordable projects lost in 2011

Current Resources

- City has approximately $1,514,638 in unallocated bond proceeds that can be utilized for affordable housing projects

- RDA / Successor Agency owned properties are currently being evaluated for affordable housing
  - Staff currently in negotiations with developers for affordable housing projects that could be built on Successor Agency owned properties.

Resources

- Sonoma County Housing Authority (SCHA)
  - SCHA offers information about HUD-funded rental assistance programs
  - Online application for the Housing Choice Voucher program/Section 8 waiting list:

    http://www.sonoma-county.org/cdc/s8waitlist.htm

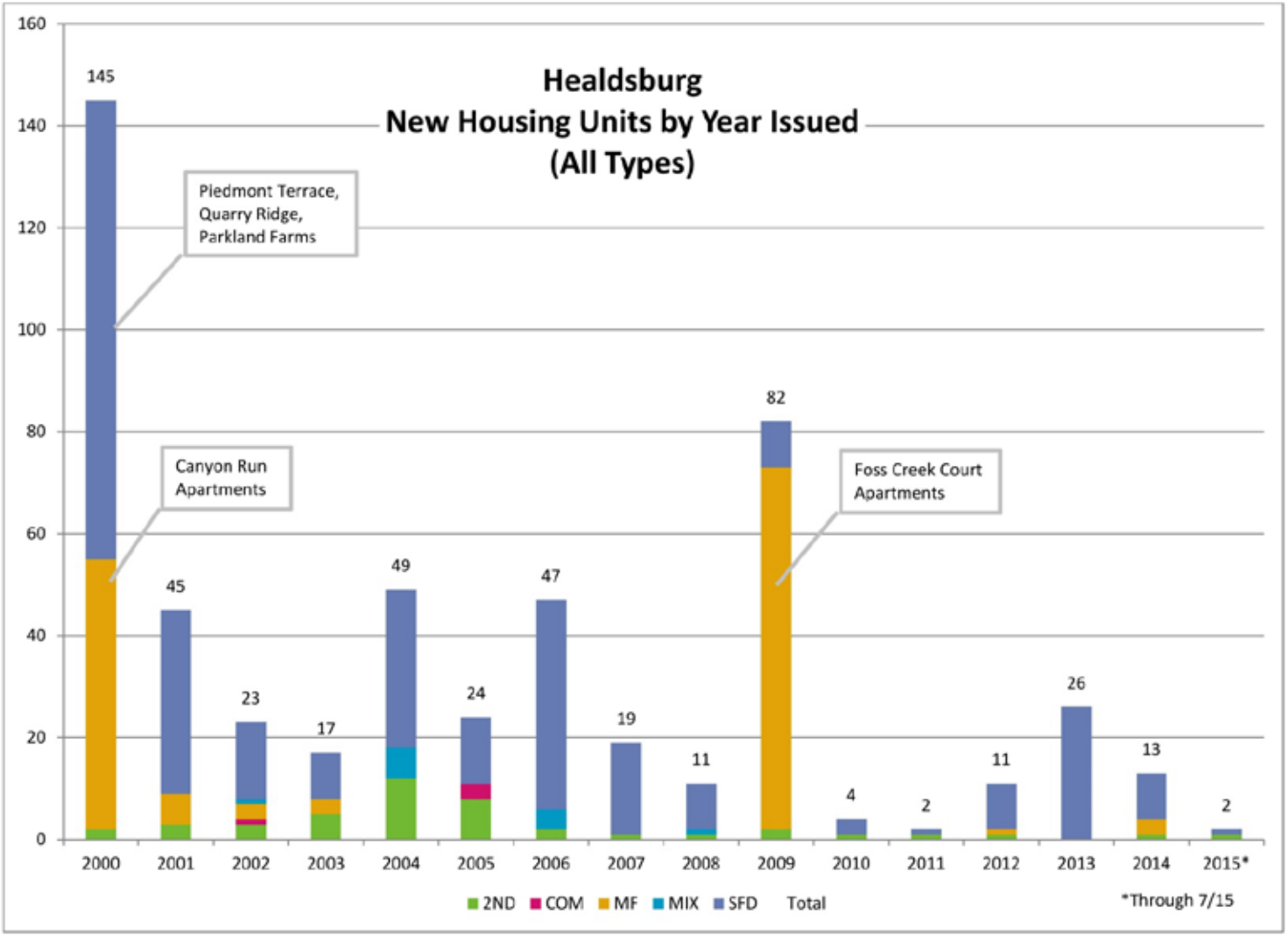
  - The Sonoma County Community Development Commission's main information number is **(707) 565-7500**

  - As of July 16, 2015 it appears that the waiting list is currently open.
    - Tenants who participate in the Housing Choice Voucher program can only be evicted for good cause.

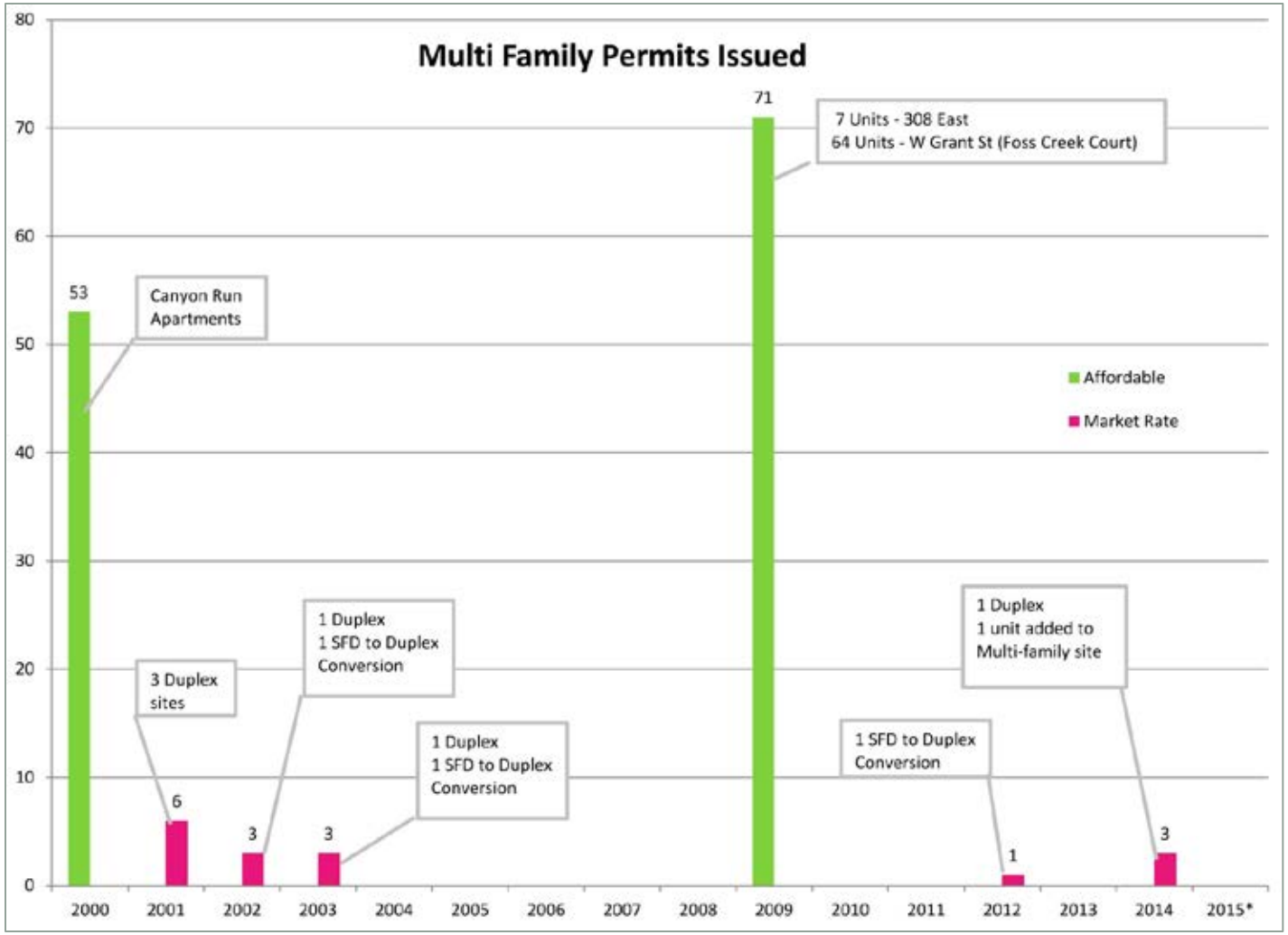
Recent Events

- Recent eviction of the tenants of a 21 unit multi-family rental property at 1301 Prentice Drive
- Rent increase for rental units on Fitch St.
- Potential rent increases for similar properties

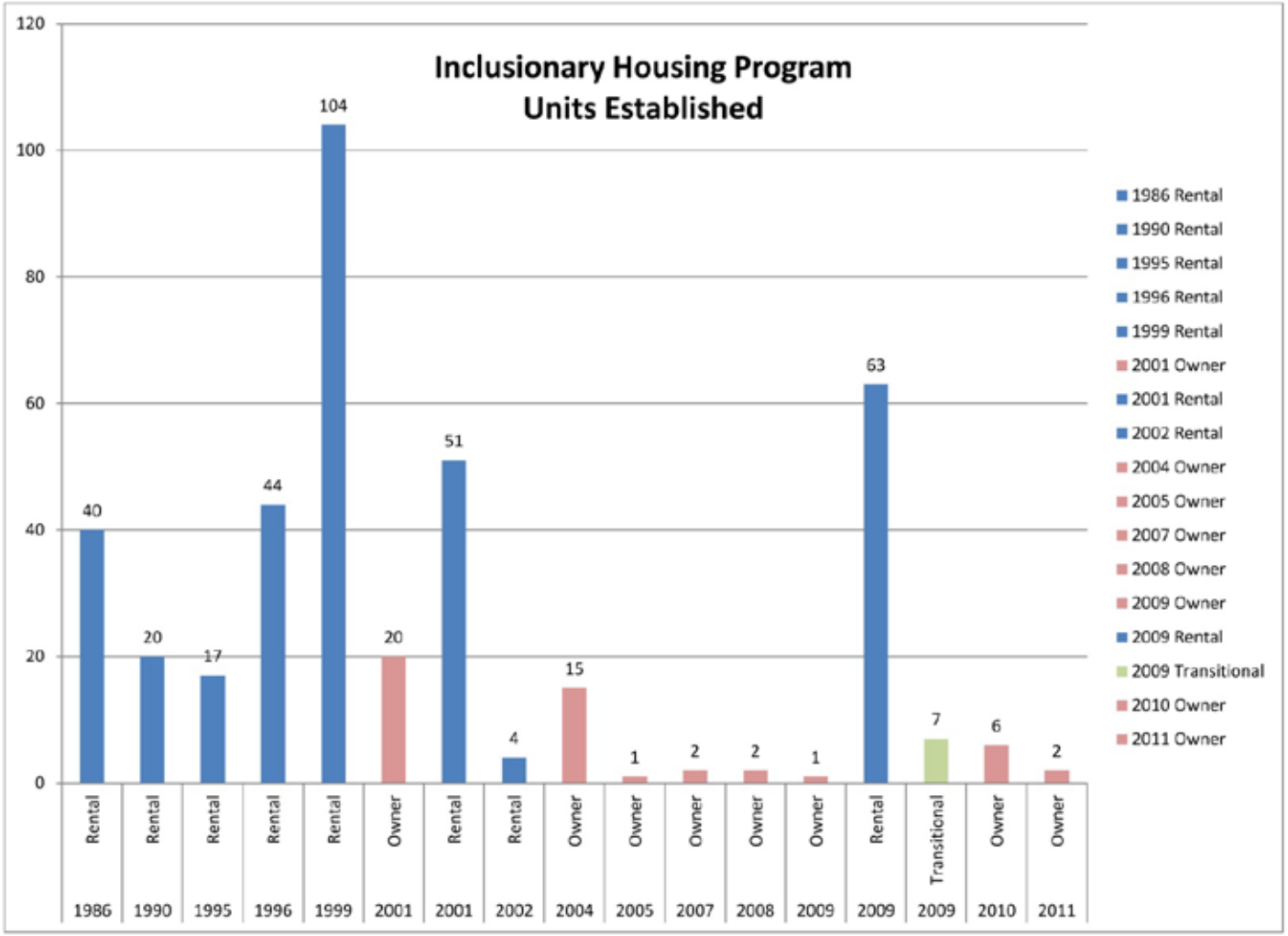
Total New Housing Units 2000- 2015 y.t.d.



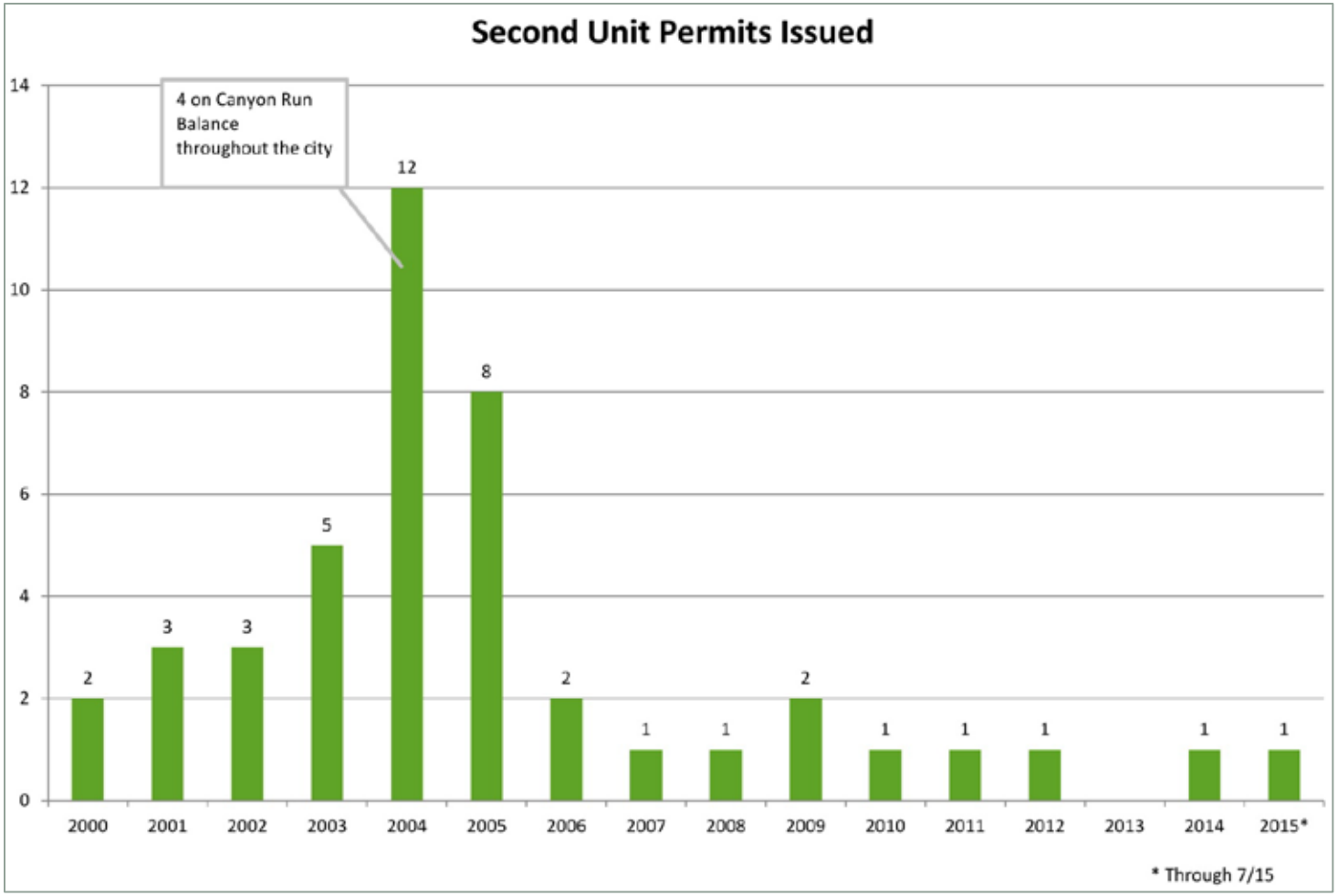
Multi Family Permits



Inclusionary Units



Second Units



Project	# units	Year	Rental/ownership	City Contribution
Fitch Mountain Terrace I	40	1986	Rental (senior/disabled)	-Land donation -$93,200 loan
Fitch Mountain Terrace II	20	1990	Rental (senior/disabled)	-land donation -$800,000 loan -$147,350 in improvements
Riverfield Homes	18	1995	Rental	-$388,000 in loans
Harvest Grove Apartments	44	1996	Rental	-$485,000 loan
Oak Grove Apartments	81	1999	Rental	-development standard waivers -Fire truck to serve 3-story building
Park Land Senior Apartments	23	1999	Rental (Senior)	-Acquired site -$633,500 loan
Canyon Run Apartments	51	2001	Rental	-Acquired site -$1.64 million loan

Project	# units	Year	Rental/ownership	City Contributions
Quarry Ridge	20	2001	Ownership	-Acquired site/sold to developer for $300,000 - Rezoned site
Victory Apartments	4	2002	Rental	- Purchas site for $400,000 - Obtain CDBG funding ($210,000) - Rehab 4 existing units
Palomino Court	15	2004	Ownership	-Acquired and rezoned site -granted $100,500 2nd mortgages per unit
Foss Creek Villas	40	2008	Ownership	N/A
Habitat for Humanity – University St.	2	2008	Ownership	-Development fees -Lot purchase -loans
Sonata	6	2010	Ownership	-partnered with Land Trust
Foss Creek Apartments	64	2010	Rental	-Acquired site ($ 1.554 Million) -$3.4 million loan

Housing Conditions

- Condition of Housing Supply - As noted in the HEU, housing that is older than 30 years requires minor repairs and stabilization, and units that are 50 years of age and older require more extensive repairs, rehabilitation and modernization
  - Approximately 59% of the housing units in the city are over 30 years of age
  - 32% are over 50 years of age

- Rental Inventory
  - Based on 2010 Census data – There is a total of 4,794 housing units in Healdsburg
  - 4,378 are occupied
  - Of the occupied units 1,857 are rental units
    - Approximately 1,095 (59%) are over 30 years of age
    - Approximately 274 (32%) are over 50 years of age

Code Compliance Process

Complaint Received

- Reporting party files a complaint with the City

Investigation

- Investigation confirms violation - City issues a notice and order of compliance to the property owner
- Investigation does not confirm a violation; no further action is needed

Compliance

- Property owner voluntarily corrects violations; City confirms that property is in compliance and no further action is needed.
- If the property owner does not voluntarily correct violations; an administrative citation may be issued and/or the City may pursue other legal options

RENT STABILIZATION

Definition

- Rent Control
  - The California Department of Consumer Affairs defines rent control as *“ordinances that limit or prohibit rent increases, or that limit the circumstances in which a tenant can be evicted.”*

General Law vs. Charter Cities

- The extent to which a city can control residential rents depends on whether it is a charter city or a general law city. (Healdsburg is a general law city.)
- Healdsburg has only those powers conferred by the California Constitution and state law.
- Residential rent control is deemed to be within a city's general police power but, general law cities are restricted by the 1995 Costa-Hawkins Rental Housing Act, California Civil Code section 1954.50 *et seq*. (the "Act")

General Law vs. Charter Cities

- The Act permits owners of residential real property to establish the initial and all subsequent rental rates for all dwelling units that had a certificate of occupancy issued after February 1, 1995.
- The Act prohibits regulation of rents for single family-homes and condominiums, and when tenancies change, in most cases.

Rent Control

- Any rent control ordinance must be constitutional, as evidenced by both a legitimate governmental purpose (such as protection of tenant welfare and from excessive rents, as demonstrated over a period of several months); and the ability for a landlord to earn a just and reasonable return
  - What constitutes a legitimate governmental purpose is determined on a case-by-case basis and is highly fact-dependent.
  - A court could find such purpose lacking in a citywide ordinance based on a one-time experience in a limited number of units, absent further evidence to support the legislative body's findings.
  - There is no set definition of a "just and reasonable" return, but if a court does not agree with a city's approach the court may find an unconstitutional taking of property without just compensation

Rent Increase Moratorium

- Cities can also adopt a moratorium on rent increases on an urgency basis, with a four/fifths vote of Council, for a 45-day period plus two specified extensions
  - Such a moratorium would also be limited to units receiving a certificate of occupancy on or before February 1, 1995.
  - A moratorium would not impact notices of rent increases which include an effective date prior to the adoption date of the moratorium

MOVING FORWARD

Moving Forward

The Community Housing Committee will:

- Focus on developing recommendations to amend the Growth Management Ordinance (GMO) consistent with City housing goals.
- Identify and make recommendations to revise building permit processes and Land Use Code requirements that may impede the development of affordable and workforce housing as well as the general affordability of housing in Healdsburg.
- Identify and evaluate opportunities to improve general rental housing conditions and respond to housing challenges in our community.

Actions to Consider

- Re-direct unspent Measure V funds related to Economic Development to Affordable Housing Projects (Approximately $140,000)
  - Funding to support expanded scope for NSCS and their partner COTS to include relocation assistance for displaced tenants
  - Offset impact and building fees for affordable projects
- FastTrack affordable housing projects
- Community Housing Committee (Rent Stabilization Advisory) to evaluate other options

Community Housing Committee
(Rent Stabilization Advisory)

- The Council may approve an amendment to Resolution No. 61-2015 to expand the designated responsibilities of the Committee. The expanded scope would require the Committee to consider and make recommendations to the Council regarding rent stabilization topics, including but not limited to:
  - Imbalances between market rent and current rent.
  - Transition period to bring rents to market rate - if so desired by the landlord
  - Tenant displacement issues including: establishing a reasonable period of time for evictions; and, for significant remodels that necessitate tenants vacating the unit, allow for first right of re-entry to former tenants

Questions ?