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Lawsuit pondered after city's rejection of housing project

by John H.K. Riley

The Sebastopol City Council's decision last week to reject a residential development offering a mix of affordable and "market-rate" homes has exposed the city to possible litigation and potential invalidation of its General Plan.

While no group or individual has yet stated publicly if they will sue the city for not approving the 48-unit Orchard Park Feb. 16, there has been plenty of behind-closed-doors discussion.

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—Yvonne Cornelius

analysis of the whole (approval) procedure to see if that was done correctly, and whether or not the few options that we have, are applicable to that

But Gardner and his attorney are not the only people investigating their options. Yvonne Cornelius, a candidate for city council last November, said there is talk of mounting a recall campaign against the four council members who voted against the project

(Anne Magne, Lynn Hamilton, Howard Levy, and Bill Roventini) or initiating a petition drive in favor of the development.

"I am hoping we can get enough people involved to get (the council) to reopen the issue," said Cornelius, former president of Our Town, a grassroots citizen group, and one of about 100 speakers who spoke at last week's public hearing.

Also in attendance at the public hearing was Sebastopol resident Robert Harkavy, a member of Sonoma County Housing Now (SCHN), a private advocacy group which believes the long-term solution to homelessness is the construction of affordable housing.

"We haven't made any decision about whether to press for litigation, but we definitely have not ruled it out," said Harkavy, who is scheduled to meet with Gardner this week.

SCHN filed a lawsuit against the city of Healdsburg (trial is scheduled to start in April), charging the city is not building enough affordable housing. In the suit, SCHN alleges the city is in violation of state law because the Housing Element of its General Plan has not been approved by the state Department of Housing and Community Development (HCD).

Sebastopol also is vulnerable to a similar court challenge, as are most cities and counties in California (only Colati in Sonoma County has an approved Housing Element).

Sebastopol's five-year update of its Housing Element was (Please see *Suit* page A10)

A close look at the Orchard Park issues

In rejecting the 48-unit Orchard Park subdivision, which offered a mixture of affordable and "market-rate" housing just outside Sebastopol's northern boundary, the majority of four city council members listed several issues of concern, among them the impacts of the housing project on city water and sewer, schools and traffic.

While the findings in the project's Environmental Impact Report and its addendum identified these issues as problems, the report also concluded that many of the impacts could be mitigated. And where the mitigation measures were not satisfactory to address the impacts, a resolution of "Overriding Concern" could be adopted, in that the inclusion of affordable housing in a residential development was of greater significance than the detrimental impacts the project might create.

Below are council members' concerns about the project together with information provided by city staff and consultants in response to the issues raised.

WATER:

Some council members stated their concern that the city's water supply and delivery sys-

tem may not be adequate to service the city if it adds 48 new homes. At least one council member stated that the city may not be able to afford improvements for either the city's water or sewer system.

procedure and if there was any violation of procedure (by the city of Sebastopol)," said Richard Gardner, the project's developer.

•Consultants agree the city has a plentiful water supply, as

from which Sebastopol draws its water does not appear to be diminishing. Although one of the city's four wells has been shut down due to contamination, the city engineer reports that the remaining wells, operating between 25 to 50 percent of the time, provide an ample water supply. As further assurance, the city recently authorized plans to drill a new well on the south part of town. If there are no delays in the review process and acquiring a suitable site, that new well, estimated to cost \$300,000 to \$350,000, could be on line by the end of the summer. City Manager Mel Davis estimates the city has \$220,000 in its well fund (includes est. \$120,000 from 1993-94 fiscal year), and could borrow up to \$131,858 from the Redevelopment Agency or the Sewer Fund.

(Please see *Look* page A3)