



OFFICE OF THE CITY MANAGER

August 16, 2004

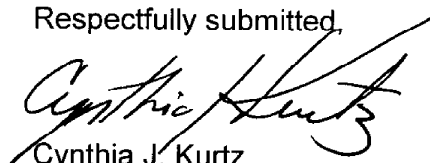
To: City Council

From: City Manager

Subject: APPROVAL TO AMEND INCLUSIONARY HOUSING
ORDINANCE TITLE 17 (REVISED ZONING ORDINANCE) OF
THE PASADENA MUNICIPAL CODE, CHAPTER 17.71 AND SET
A PUBLIC HEARING TO ADOPT AN IN-LIEU FEE SCHEDULE
FOR RESIDENTIAL DEVELOPMENTS OF 4-9 UNITS

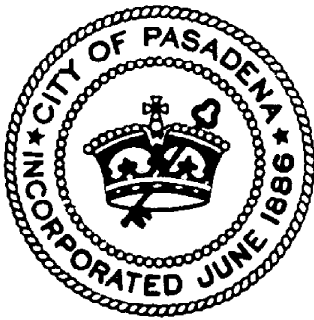
The Inclusionary Housing Committee reviewed the attached report on August 10, 2004. The Committee supported staff recommendation #1, to eliminate the one-quarter mile radius requirement, and #2, to enable developers of ownership units to substitute rental units. The Committee recommended that item #3, to broaden the application of the ordinance to residential developments of 4-9 units, be deferred until further study can be completed. The Committee also recommended approval of staff recommendation #4, regarding the use of Inclusionary Housing Trust Fund monies, with the condition that an implementation strategy be developed and brought back to the Committee for review.

Respectfully submitted,



Cynthia J. Kurtz
City Manager

8/16/2004
5.F.(1)



Agenda Report

DATE: AUGUST 16, 2004

TO: CITY COUNCIL

THROUGH: SPECIAL COMMITTEE ON INCLUSIONARY HOUSING

FROM: CYNTHIA J. KURTZ, CITY MANAGER

SUBJECT: APPROVAL TO AMEND INCLUSIONARY HOUSING ORDINANCE TITLE 17 (REVISED ZONING ORDINANCE) OF THE PASADENA MUNICIPAL CODE, CHAPTER 17.71 AND SET A PUBLIC HEARING TO ADOPT AN IN-LIEU FEE SCHEDULE FOR RESIDENTIAL DEVELOPMENTS OF 4-9 UNITS.

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt a resolution amending the Inclusionary Housing Regulations to eliminate the one-quarter mile radius requirement for off-site inclusionary units and permit the siting of such units throughout the city except in Sub-area "B" where existing proximity requirements would continue to be applicable;
2. Adopt a resolution to enable developers of ownership units to substitute rental units, either on-site or off site, in meeting the affordable housing requirement under the Ordinance;
3. Direct the City Attorney to prepare an ordinance to broaden the application of the Ordinance to residential developments of 4-9 units ("Small Developments") and set a public hearing for October 4, 2004 to adopt an In-Lieu Fee Schedule for Small Developments; and

4. Adopt a resolution amending the Inclusionary Housing Regulations to specify that the use of Inclusionary Housing Trust Fund monies are available to develop affordable housing shall include the provision of such funds as financial assistance to developers for new construction, rehabilitation, and acquisition of real property, and authorizes staff to initiate a program of acquisition of housing to maintain preserve affordable housing.

BACKGROUND

The City Council, at its meeting on September 8, 2003, established an ad hoc Special Committee on Inclusionary Housing (the "Committee") to review and clarify provisions of the Ordinance and to improve its implementation and performance. During the period February to August, 2004 the Committee convened five meetings and considered the following items: 1) amending the In-Lieu Fee Schedule; 2) eliminating the one-quarter mile radius proximity requirement; 3) enabling ownership housing developers to substitute rental units either on-site or off-site; 4) applying the Ordinance to developments of 4-9 units and providing an In-Lieu Fee option for such projects; and 5) clarify Ordinance regulations on the use of Inclusionary Housing Trust Funds to develop affordable housing. On June 8, 2004 the Committee moved to forward to the City Council for consideration item # 1. On August 10, 2004 the Committee met to consider and make recommendations on the remaining proposed amendments to the Ordinance.

At the July 26, 2004 meeting the City Council requested staff to provide a report on the ability to establish local residency or employment as a preferential selection criteria in the provision of affordable housing units to income-eligible households. This item is being researched by staff and will be brought back for City Council consideration at a future meeting.

PROPOSED AMENDMENTS TO ORDINANCE

The objective of the Ordinance is to provide affordable housing. Items #1 and #2 below provide flexibility in the Ordinance implementation and make it more likely that developers will provide the affordable units. The following is a discussion of the three proposed amendments to the Ordinance.

1. One-Quarter Mile Proximity Requirement

The Inclusionary Housing Regulations (Section IV. B. 3b.) require off-site development of Inclusionary units to be built within one-quarter mile of the "Residential Development". In a built-out urban city like Pasadena this requirement proves to be challenging and may lead developers to pay the fee rather than build units. The objective of the Ordinance is to provide affordable housing; amending the one-quarter mile proximity requirement will give developers opportunity to provide the units. Developers have stressed that the one-quarter mile rule is too restrictive. As proposed the one-quarter mile radius Proximity

Requirement would be eliminated and off-site development of affordable inclusionary units would be allowable throughout the city with the exception of Sub-area "B", in recognition of the northwest Pasadena community concern of over concentration of affordable housing production in this area. This approach significantly opens the opportunity for developers to seek alternative sites providing inclusionary housing units. If a developer wishes to pursue off-site development in Sub-area "B" the existing standards for the one-quarter mile proximity requirement would apply, including City Council approval.

2. Provision To Trade Ownership Units for Rental Units

Developers of ownership projects have requested consideration of substituting rental units for their compliance with the Ordinance. Currently the Ordinance does not provide for this substitution. There are reasonable positions to support an amendment to the Ordinance allowing for the substitution of ownership units for rental units:

- a. Since the inception of the Ordinance developers of ownership projects have opted to pay the In-Lieu Fee as opposed to building on-site. Providing the option to exchange ownership units for rental will increase the potential for affordable unit production.
- b. The Housing Element identifies the City's greatest affordable housing need is among very low and low income residents. Typically housing for these households is accommodated through rental housing not ownership. Allowing the exchange would increase the potential for increased affordable housing for very low and low income households.

3. Residential Developments of 4-9 Units Subject To Ordinance; In-Lieu Fee

The provisions of the Ordinance apply to residential developments of 10 or more units. It has been the City's experience that developers have purposefully avoided the reach of the Ordinance by simply building projects with only nine units, even though their projects are entitled to a higher density. The proposal to expand the Ordinance to apply to smaller projects of 4 to 9 units would resolve the issue. As for projects of 10 or more units, developers of such projects would have the option of paying a fee to the City in lieu of providing the required affordable housing. The proposed in-lieu fees for 4- to 9-unit projects, shown in Attachment "A", are sized to the prevailing economic scale for the development of such projects.

Financial consultant Keyser Marston Associates ("KMA") were requested by the Committee to survey other local jurisdictions in California with inclusionary housing ordinances and determine project size thresholds. The KMA survey, which comprised 107 cities, is attached as Attachment "B". The table below illustrates the results of the survey:

| | Number of Programs | % of Programs |
|--|--------------------|---------------|
| All Projects are Subject to Requirements | 21 | 20% |
| Projects with 5+ Units Subject to Requirements | 42 | 39% |
| Projects with 10+ Units Subjects to Requirements | 30 | 28% |
| Other Threshold Limits | 14 | 13% |
| TOTAL | 107 | 100 |

The survey found that “the median threshold project size is set at five units, and that five units is also the most frequently applied threshold in the 107 jurisdictions...approximately 39% of the jurisdictions provide different restrictions for small projects than are required for mid- to large-sized projects...including a lower in-lieu fee amount per square foot of gross building area or per unit than would be imposed on larger projects.” The proposed amendment to the Ordinance appears to be in concert with the practice of many jurisdictions.

The Planning Commission when considering amendments to the Inclusionary Ordinance and Regulations at its meeting on July 9, 2003 voiced support to have an In-Lieu Fee applied to small projects, i.e. 4-9 units.

4. Use of Inclusionary Housing Trust Fund To Develop Affordable Housing

Presently, Section VII of the Ordinance Regulations state that monies in the Inclusionary Housing Trust Fund “shall be used solely for the development of housing affordable to Low and Moderate Income Households”. To add specificity to this general provision, it is recommended that it be amended to state that the use of these funds shall include their provision by the City to work with non-profit owners/developers to acquire properties for the purpose of preserving the affordability of rent in existing housing and authorizes staff to initiate a program to acquire properties which may or may not require rehabilitation in conjunction with private sector partners.

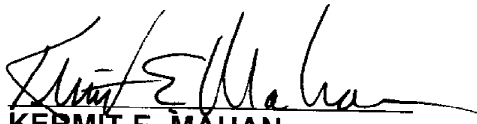
FISCAL IMPACT

The revenue generated from collection of the In-Lieu Fees pursuant to the Ordinance is deposited into a separate City fund, the “Inclusionary Housing Trust Fund”, which was established to assist in the development of affordable housing. To the extent that small residential developments (4-9 units) generate In-Lieu Fees as a result of the amended Ordinance, revenue into the Inclusionary Housing Trust Fund will increase. However, it is not possible to accurately estimate this amount at this time.

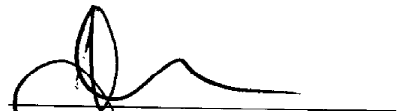
Respectfully submitted,


CYNTHIA J. KURTZ
City Manager

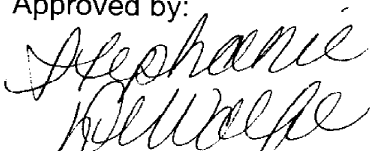

Prepared by:


KERMIT E. MAHAN
Project Manager

Reviewed by:


JIM WONG
Acting Housing Administrator

Approved by:



RICHARD J. BRUCKNER
Director of Planning and
Development

ATTACHMENTS:

Proposed In-Lieu Fee Schedule for small projects, "A".

KMA Survey of other cities, "B".

ATTACHMENT "A"

PROPOSED IN-LIEU FEE SCHEDULE 4 TO 9 UNITS

| RENTAL IN-LIEU FEES | |
|----------------------------|------------------------|
| Number of Units | Per Square Foot |
| | 4 to 9 Units |
| Sub-area A | To Be Decided* |
| Sub-area B | To Be Decided* |
| Sub-area C | To Be Decided* |
| Sub-area D | To Be Decided* |

* Sub-areas had no market data at the time of the Keyser Marston Associates study to determine fee. The attached nexus report sets out the methodology that will be used to determine the fee.

| OWNERSHIP IN-LIEU FEES | |
|-------------------------------|------------------------|
| Number of Units | Per Square Foot |
| | 4 to 9 Units |
| Sub-area A | \$21 |
| Sub-area B | \$6 |
| Sub-area C | \$7 |
| Sub-area D | \$10 |

KEYSER MARSTON ASSOCIATES INC.

500 SOUTH GRAND AVENUE, SUITE 1480
LOS ANGELES, CALIFORNIA 90071
PHONE: 213/622-8095
FAX : 213/622-5204
WWW.KEYSERMARSTON.COM

ADVISORS IN:

REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

MEMORANDUM

To: James Wong, Acting Housing Administrator
City of Pasadena

From: Kathleen Head

Date: August 4, 2004

Subject: Inclusionary Housing Programs: Threshold Project
Size Survey

LOS ANGELES
Calvin E. Hollis, II
Kathleen H. Head
James A. Rabe
Paul C. Anderson
Gregory D. Soo-Hoo

SAN DIEGO
Gerald M. Trimble
Paul C. Marra

SAN FRANCISCO
A. Jerry Keyser
Timothy C. Kelly
Kate Earle Funk
Debbie M. Kern
Robert J. Wetmore

At your request, Keyser Marston Associates, Inc. (KMA) performed a survey of the 107 jurisdictions in California that currently impose inclusionary housing requirements on new housing development. The purpose of this survey was to identify the threshold project sizes that these communities have established for inclusion in the program requirements. The results of this survey are presented in Table 1, and the KMA analysis is summarized in the following sections of this memorandum.

SURVEY RESULTS

The survey indicates that cities are imposing the following minimum project sizes in their inclusionary housing program requirements:

| | Number of Programs | % of Programs |
|---|-----------------------|------------------|
| All Projects are Subject to Requirements | 21 | 20% |
| Projects with 5+ Units are Subject to Requirements | 42 | 39% |
| Projects with 10+ Units Are Subject to Requirements | 30 | 28% |
| Other Threshold Limits | 14 | 13% |
| Total | 107 | 100 |

The KMA survey indicates that the median threshold project size is set at five units, and that five units is also the most frequently applied threshold in the 107 jurisdictions. KMA also found that approximately 40% of the jurisdictions provide different restrictions for small projects than are required for mid- to large-sized projects. The most typical variations are:

To: James Wong, City of Pasadena
Subject: Inclusionary Housing Programs: Threshold Project Size Survey

August 4, 2004
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1. Small projects are allowed to pay a lower in-lieu fee amount per square foot of gross building area or per unit than would be imposed on larger projects. The in-lieu fee amounts are typically established in a schedule, with the fee increasing as a function of the project size.
2. The percentage of units required to be made affordable is reduced.

ANALYSIS/CONCLUSIONS

KMA prepared a financial analysis to supplement the in-lieu fee analysis that was submitted in support of the fee update currently being considered by the City of Pasadena (City). This supplemental analysis tests the financial impact created by the Inclusionary Housing Ordinance (Ordinance) on projects of varying sizes. This analysis includes evaluations of projects ranging from four to nine units; projects in this size range are currently exempt from the Ordinance requirements.

Background

KMA worked with an ad hoc group of for profit and nonprofit developers to evaluate the in-lieu fee issue. This collaboration resulted in the analysis of two actual projects and 24 hypothetical development scenarios to test the impact of the proposed in-lieu fees. The results of these pro forma analyses are consistent with the conclusions derived from the KMA analyses performed in support of the proposed fee update. However, the supplemental analysis further indicated that the proposed fee creates a disproportionate impact on small projects. As a result, a four-tiered fee schedule was created to better reflect the constraints exhibited by small projects.

Methodology

To identify the breakpoints where the Ordinance requirements impose disproportionate impact on project economics, KMA evaluated projects ranging in size from four to 131 units. KMA then quantified the discounts that would have to be applied to equalize the impacts.

Conclusions

The Ordinance currently includes two-tiered in-lieu fee schedules with thresholds at 10 to 49 units and 50+ units. Based on survey work undertaken by KMA as part of the in-lieu fee update, the established tiers are appropriate for the majority of new development occurring within the City. However, there is likely to be some smaller scale development in the community, and this type of development may be constrained by the Ordinance requirements. Based on the results of pro forma evaluations, KMA concluded that the breakpoints should be set as follows:

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Subject: Inclusionary Housing Programs: Threshold Project Size Survey

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Four to Nine Units¹
10 to 24 Units
25 to 49 Units
50+ Units

KMA created recommended in-lieu fee schedules for the four identified tiers. These fee schedules vary from sub-area to sub-area, and have been structured to reflect the characteristics embodied by projects at the various size ranges. As is the case with the existing two-tiered structure, the in-lieu fee schedules should be updated periodically to reflect changes in development economics.

¹ This tier would only be applicable if the Ordinance is amended to require projects with four or more units to comply with the inclusionary requirements.

TABLE 1

**INCLUSIONARY PROGRAMS
PROJECT SIZE THRESHOLDS
PASADENA, CALIFORNIA**

| City | Project Size Threshold | City | Project Size Threshold |
|------------------------|------------------------|------------------------|------------------------|
| 1 Agoura Hills | 11 | 55 Patterson | 5 |
| 2 Arroyo Grande | 5 | 56 Petaluma | 5 |
| 3 Benicia | 10 | 57 Pismo Beach | 5 |
| 4 Berkeley | 5 | 58 Pleasant Hill | 5 |
| 5 Brea | 20 | 59 Port Hueneme | 10 |
| 6 Calistoga | 5 | 60 Portola Valley | 0 |
| 7 Carlsbad | 0 | 61 Poway | 0 |
| 8 Chula Vista | 50 | 62 Rancho Palos Verdes | 5 |
| 9 Clayton | 10 | 63 Richmond | 10 |
| 10 Contra Costa County | 0 | 64 Rio Vista | 400 |
| 11 Coronado | 2 | 65 Ripon | 5 |
| 12 Corte Madera | 0 | 66 Rohnert Park | 5 |
| 13 Cotati | 5 | 67 Roseville | 0 |
| 14 Cupertino | N/A | 68 Sacramento | 10 |
| 15 Danville | 8 | 69 Salinas | 10 |
| 16 Davis | 5 | 70 San Anselmo | 10 |
| 17 Del Mar | 10 | 71 San Benito County | 0 |
| 18 Dublin | 20 | 72 San Carlos | 0 |
| 19 East Palo Alto | 2 | 73 San Clemente | 6 |
| 20 Emeryville | 30 | 74 San Diego | 0 |
| 21 Encinitas | 10 | 75 San Francisco | 10 |
| 22 Fremont | 7 | 76 San Juan Batista | 6 |
| 23 Half Moon Bay | 10 | 77 San Jose | 10 |
| 24 Healdsburg | 0 | 78 San Juan Capistrano | 2 |
| 25 Hercules | 10 | 79 San Leandro | 20 |
| 26 Hesperia | 5 | 80 San Luis Obispo | 5 |
| 27 Huntington Beach | 3 | 81 San Mateo | 11 |
| 28 Irvine | 0 | 82 San Mateo County | 5 |
| 29 Isleton | N/A | 83 San Rafael | 10 |
| 30 Laguna Beach | 3 | 84 Santa Barbara Count | 5 |
| 31 Larkspur | 10 | 85 Santa Clara | 10 |
| 32 Livermore | N/A | 86 Santa Cruz | 5 |
| 33 Lompoc | 10 | 87 Santa Cruz County | 3 |
| 34 Los Altos | 2 | 88 Santa Monica | 2 |
| 35 Los Gatos | 5 | 89 Santa Rosa | 0 |
| 36 Mammoth Lakes | 0 | 90 Sebastopol | 3 |
| 37 Marin County | 2 | 91 Solana Beach | 4 |
| 38 Menlo Park | 5 | 92 Sonoma | 5 |
| 39 Mill Valley | 2 | 93 South San Francisco | 4 |
| 40 Monrovia | 0 | 94 Sunnyvale | 10 |
| 41 Monterey | 10 | 95 Sutter County | 10 |
| 42 Monterey County | 5 | 96 Tiburon | 0 |
| 43 Morgan Hill | 0 | 97 Union City | 2 |
| 44 Morro Bay | 0 | 98 Vista | 0 |
| 45 Mountain View | 4 | 99 Walnut Creek | 2 |
| 46 Napa | 0 | 100 Watsonville | N/A |
| 47 Napa County | 0 | 101 West Hollywood | 2 |
| 48 Nevada County | 20 | 102 West Sacramento | N/A |
| 49 Newport Beach | 10 | 103 Winters | 5 |
| 50 Novato | 0 | 104 Woodland | 10 |
| 51 Oceanside | 3 | 105 Yolo County | 10 |
| 52 Oxnard | 10 | 106 Yorba Linda | N/A |
| 53 Palo Alto | 3 | 107 Yountville | 5 |
| 54 Pasadena | 10 | | |

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA,
CALIFORNIA, AMENDING INCLUSIONARY HOUSING REGULATIONS
IMPLEMENTING CHAPTER 17.71 OF THE ZONING ORDINANCE**

WHEREAS, the City Council of the City of Pasadena has adopted Ordinance No. 6868 on July 16, 2001 adding Chapter 17.71 (Inclusionary Housing) to Title 17 (Zoning Ordinance) of the Pasadena Municipal Code to require Inclusionary Units in accordance with procedures and standards set forth in the City of Pasadena Inclusionary Housing Regulations, adopted pursuant to Resolution 8042; and

WHEREAS, Chapter 17.71 establishes standards and procedures that encourage development of housing affordable to a range of households with varying income levels; and

WHEREAS, Section 17.71.100 of Chapter 17.71 of Title 17 entitled, “**Regulations**” requires that City Council establish regulations for the implementation of Chapter 17.71

NOW, THEREFORE, the City Council of the City of Pasadena does hereby find, determine and resolve as follows:

Section 1. The above recitals are all true and correct.

Section 2. Pursuant to Section 17.71.100 of Chapter 17.71 of Title 17 of the Pasadena Municipal Code, the City Council hereby amends the City of Pasadena Inclusionary Housing Regulations as follows:

- A. Section IV.B.b entitled “**Proximity Requirements**” is hereby replaced in its to read as follows:

”In addition to the requirements set forth in paragraph “a” , the land proposed for off-site Inclusionary Units may be located anywhere within the City limits. However, for projects located outside Sub-Area B as shown in the attached map, the off-site location may not be within Sub-Area B. Residential Developments proposed in Sub-Area B may propose land within Sub-Area B, or anywhere within the City limits.”

- B. Section IV. entitled “**Alternatives**” is hereby amended by adding a new section D to read “**Substitution of Inclusionary Ownership Units for Rental Units, On-Site or Off-Site.**”

“Upon the application by the Developer and at the discretion of the Director, the Developer may satisfy the requirements of providing Inclusionary for sale units on-site, in whole or in part by constructing rental units on-site or off-site. For both the on-site and off-site proposal, Developer will be required to comply with the income provisions outlined in Section 17.71.040 of the Municipal Code. If an off-site location is proposed, the Developer will have to comply with the provisions of the Section IV.B of these Regulations.”

- C. Section VII. entitled “**Inclusionary Housing Trust Fund**” is hereby amended to read in its entirety as follows:

“The Inclusionary Housing Trust Fund (the “Fund”) is a separate City fund established for the specific purpose of providing the city with funds to assist in the development of housing that is affordable to Low and Moderate Income Households. All in lieu fees collected pursuant to Chapter 17.71, all penalties and

other monies generated by monies in the Fund, shall be deposited in the Fund. Monies in the Fund shall be used solely for the development of housing affordable to Low and Moderate Income Households. Priority for the use of those monies shall be to assist in the development of housing affordable to Very Low and Low Income Households. Such monies may also be used to provide financial assistance to developers of new construction, rehabilitation, and acquisition of real property that will provide housing for Low and Moderate Income Households. Such monies may also be used to acquire properties necessary to maintain affordable housing. Should the City recover monies pursuant to Section 17.71.090B, those monies may be distributed to the affected tenants or buyers, to the extent the tenants or buyers are Low or Moderate Income Households eligible to occupy the Inclusionary Unit(s) and made payments in excess of the applicable Affordable Housing Cost.”

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Adopted at the regular meeting of the City Council on the _____ day of _____, 2004, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANE L. RODRIGUEZ, CMC
City Clerk

Approved as to form:


MARIBEL S. MEDINA
Assistant City Attorney