

Agenda Report

DATE: JULY 26, 2004

TO: CITY COUNCIL

THROUGH: SPECIAL COMMITTEE ON INCLUSIONARY HOUSING

FROM: CYNTHIA J. KURTZ, CITY MANAGER

SUBJECT: PUBLIC HEARING: APPROVAL OF AMENDED INCLUSIONARY HOUSING IN-LIEU FEE SCHEDULE AND TRANSITION CRITERIA

RECOMMENDATION:

It is recommended that the City Council, after close of public hearing, adopt a resolution:

1. Amending the Inclusionary Housing In-Lieu Fee Schedule, as follows:

PROPOSED IN-LIEU FEE SCHEDULE
(In-Lieu Fees Per Square Foot)

Rental Units In-Lieu Fee				
	10 – 49 Units		50 + Units	
	Existing Fee	Proposed Fee	Existing Fee	Proposed Fee
Sub-area A	*	*	*	*
Sub-area B	\$0	\$1	\$0	\$1
Sub-area C	\$7	\$16	\$10	\$22
Sub-area D	\$10	\$12	\$15	\$17

For Sale Units In-Lieu Fee				
	10 – 49 Units		50 + Units	
	Existing Fee	Proposed Fee	Existing Fee	Proposed Fee
Sub-area A	\$10	\$30	\$14	\$41
Sub-area B	\$0	\$5	\$0	\$7
Sub-area C	\$1	\$7	\$2	\$10
Sub-area D	\$5	\$12	\$7	\$17

* Sub-area A had no market data at the time of the Keyser Marston Associates (KMA) study to determine a fee. The attached nexus report identified as Attachment "A", and incorporated hereto, sets out the methodology that will be used to determine the fee for this sub-area.

MEETING OF 07/26/2004

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2. Establishing the following transition criteria for projects to which the current In-Lieu Fee Schedule would apply:
 - (a) Submission of a completed Predevelopment Plan Review application, and
 - (b) Approved Inclusionary housing Plan, and
 - (c) Payment of 100% of the current In-Lieu Fee by the date the amended In-Lieu Fee becomes effective. All criteria (a) through (c) must all be completed.

EXECUTIVE SUMMARY

Approval of the recommendation will result in increases to the In-Lieu Fees paid by developers under the City's Inclusionary Housing Ordinance. The recommended increased fee schedule is based on an economic study conducted in 2003 which determined the financing gap between providing market rate housing and affordable housing on-site, and is the same fee schedule that staff recommended to the City Council at a public hearing on September 8, 2003. No action was taken by the City Council on the staff recommendation, but it created a Special Committee on Inclusionary Housing (the "Committee") consisting of three City Council members. A series of meetings were held to hear public comment and provide a forum for local developers, realtors and affordable housing advocates to participate in a study of the In-Lieu Fee structure based on the current local development market. After reviewing the results of the 2003 and 2004 studies the Committee at its meeting on June 8, 2004 chose to forward to the City Council for approval the September 8, 2003 staff recommendation.

At its meeting on July 7, 2004 the Committee considered additional issues presented by staff that would require amendments to the Inclusionary Housing Ordinance, including the application of the In-Lieu Fee for housing developments of 4-9 units. The Committee will consider these items further at its next meeting and will forward its recommendations to the City Council at a later date; however, it was the Committee's desire that the City Council be informed of the "In-Lieu Fees for Small Developments" item, in particular, at this public hearing. A discussion of this item is included on page 5 of this report.

BACKGROUND

On July 16, 2001, the City Council passed an ordinance amending Title 17 of the Pasadena Municipal Code adopting an Inclusionary Housing Ordinance (the "Ordinance"). The Ordinance became effective September 13, 2001. The purpose of the Ordinance is to require that residential and mixed-use projects include a share of housing that is affordable for low and moderate-income households. The Ordinance applies to projects of ten or more units and requires 15% of newly constructed units to be affordable. The Ordinance provides three alternatives to constructing the required units on the primary development site: 1) construct the

units on another site, 2) donate another site to the city for construction of the required units, or 3) pay an In-Lieu Fee. On July 21, 2003 the City Council conducted a public hearing and approved staff recommendations to amend elements of the Inclusionary Housing Regulations, realign the boundaries for the Sub-Area "D" map for rental housing, and adopt Project Funding Criteria guidelines for the Inclusionary Housing Trust Fund. Staff also recommended amending the In-Lieu Fee Schedule based upon updated market conditions and affordability for low and moderate income households; however the City Council referred the In-Lieu Fee issue back to the Community Development Committee to hold a public hearing seeking more input and to make a recommendation. The Community Development Committee on August 28, 2003 conducted a public meeting on the proposed In-Lieu Fee increases but made no recommendation.

The City Council on September 8, 2003 held a second public hearing to amend the In-Lieu Fee Schedule and after taking public comment elected to create a Special Committee on Inclusionary Housing (the "Committee") comprised of three City Council members to perform an in-depth analysis/review and provide recommendations. Three meetings were held February 24, March 16, and June 8 2004. After hearing public comment on February 24 the Committee instructed staff to meet with local developers, realtors and affordable housing advocates to take a fresh look at the methodology establishing the In-Lieu Fee with technical assistance from financial consultant Keyser Marston Associates (KMA). The results of the new study, which was based on 24 prototype development scenarios, were presented at the March 16th meeting. Further review and public comment of the results of the new study and findings of the 2003 study (Attachment "C" to the Resolution) were continued in the June 8, 2004 meeting. At the meeting the Committee upon final review of the two studies and taking public comment moved to forward to the City Council for approval the September 8, 2003 staff recommendation.

AMENDED IN-LIEU FEE SCHEDULE AND TRANSITION CRITERIA

In-Lieu Fee Schedule

KMA previously conducted the financial analysis in connection with the Inclusionary Housing In-Lieu Fee Schedule adopted by the City Council in September 2001. For the current analysis KMA again employed a methodology that divided the city into sub-areas to reflect varying land values and development characteristics. Based on KMA's survey of the fair market and market housing prices/rents in each sub-area and the computation of the estimated maximum affordable housing costs payable by low and moderate income households, affordability gaps (differential between market costs and affordable costs) were calculated utilizing the 15% Inclusionary Housing requirement for both rental (10% low & 5% moderate) and for-sale (15% moderate) units. The affordability gaps (cost recovery) were determined by number of units, development type, zoning restrictions, income group and sub-area, then converted to the applicable In-Lieu Fees. The In-Lieu Fees are based on the affordability gap and not the total unit development cost.

Staff is recommending that the In-Lieu Fee represent 100% cost recovery; that is, the amount of the affordability gap between providing market rate housing and affordable housing on-site. The current In-Lieu Fee Schedule is based on 75% of cost recovery. However, concerns have been expressed that this encourages developers to pay the fee and not develop Inclusionary Units on-site, and, in fact, developers of for-sale housing projects in particular have opted to pay the fee. In order to provide a greater incentive to provide Inclusionary Units on-site and/or generate additional resources for City-sponsored affordable housing developments, staff recommends that the In-Lieu Fees be established at a level approximating 100% cost recovery and adjusted annually thereafter.

The proposed recommendation if approved would enable the City to achieve substantial parity between affordable unit production on-site and collection of In-Lieu Fees. Currently the In-Lieu Fee structure does not meet the standard of providing affordable gap financing for units to be occupied by low and moderate income households and therefore provides an economic incentive for developers to pay the fee.

Transition Criteria

If the City Council adopts a resolution amending the In-Lieu Fees, a 60-day period (i.e. transition period) is required before the new fees become effective. The Ordinance requires payment of one-half of the In-Lieu Fee after receipt of the appropriate discretionary approvals but prior to issuance of a building permit, with the remainder of the fee to be paid prior to issuance of a certificate of occupancy. There are a number of projects currently seeking discretionary approvals or proceeding through plan check, which will be impacted by the transition period. In recognition of the time and expense to initiate and complete the city entitlement and plan check process, staff recommends that the current In-Lieu Fee Schedule be applied to projects which meet all of the following criteria:

- (a) Submission of a completed Predevelopment Plan Review application, and
- (b) Approved Inclusionary Housing Plan, and
- (c) Payment of 100% of the current In-lieu Fee by the date the amended In-Lieu Fee becomes effective. All criteria (a) through (c) must all be completed.

FUTURE POTENTIAL CHANGES

At its meeting on July 7, 2004 the Committee considered additional issues presented by staff which would require amendments to the Inclusionary Housing Ordinance: a) Trade of For-Sale Units for Rental Units; b) ¼ Mile Proximity requirement; and c) In-Lieu Fee for Small Developments of 4-9 Units. The Committee will further consider these issues at their next meeting and forward

recommendations to the City Council. The Committee did feel it important, however, to inform the City Council at this public hearing of item c. It should be noted 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. Moreover, the City Council considered the fee application to small projects at its July 21, 2003 meeting.

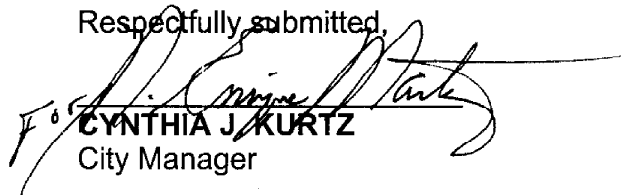
In implementing the Ordinance, staff has observed a deliberate effort on the part of some developers to exempt their project from the Ordinance provisions by simply opting to build nine units. To address this, staff is proposing that the Ordinance be amended to make In-Lieu Fees apply to small developments of 4-9 units. The fees amounts would reflect the respective economic scale of such projects. The In-Lieu fees collected from small developments would provide additional revenue to the Inclusionary Housing Trust Fund, which would be used to further assist affordable housing production.

FISCAL IMPACT

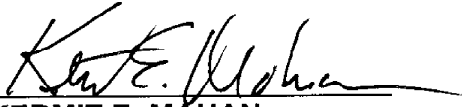
Approval of the recommended In-Lieu Fees will generate fee increases ranging from 100% to 600%, depending on the Sub-area location of the housing development, and In-Lieu Fees will be instituted for the first time in Sub-Area B (northwest Pasadena). Based on KMA's analysis and assuming that the developers of those projects identified in the performance assessment (Attachment "B") opt to pay the proposed In-Lieu Fees, the revenue to the Inclusionary Housing Trust Fund would increase by an average of approximately \$11,000 per unit constructed.

To date, the city has received from developers actual In-Lieu Fee payments totaling \$1,165,623 and obligations for payment of In-Lieu Fees in the total amount of \$688,688. Because 50% of the fee is due prior to issuance of a building permit, and the remaining 50% is collected at issuance of a Certificate of Occupancy, receipt of the outstanding In-Lieu Fee obligations is not expected for 18-24 months.

Respectfully submitted,

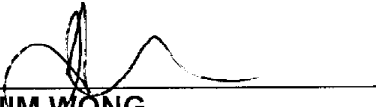

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