

# Agenda Report

**DATE:** JULY 21, 2003

**TO:** CITY COUNCIL

**FROM:** CYNTHIA J. KURTZ, CITY MANAGER

**SUBJECT: INCLUSIONARY HOUSING BIENNIAL REPORT; APPROVAL OF INCLUSIONARY HOUSING IN-LIEU FEE, INCLUSIONARY HOUSING REGULATIONS AMENDMENTS, INCLUSIONARY HOUSING TRUST FUND – PROJECT FUNDING CRITERIA AND RELATED DOCUMENTS**

## RECOMMENDATION

It is recommended that the City Council take the following actions:

1. Schedule a public hearing to adopt the new In-Lieu Fees (Attachment "A") for September 8, 2003.
2. Adopt a resolution approving Amendments to the Inclusionary Housing Regulations (Attachment "C"),
3. Approve the expanded Rental Sub-Area D boundaries (Attachment "D-1")
4. Approve the Inclusionary Housing Trust Fund – Project Funding Criteria

## ADVISORY BODIES

The subject recommendations were presented to the Planning Commission on July 9, 2003, and the Community Development Committee ("Committee") on July 10, 2003. The Planning Commission recommended approval of the proposed revisions to the Inclusionary Housing Regulations and requested that item f) Inclusionary Housing Trust Fund (VIII) of Attachment "C", be revised to indicate "up to and not more than 10% of the Inclusionary Housing In-Lieu Fees collected and deposited in the Inclusionary Housing Trust Fund be utilized for administrative costs along with a requirement for a biennially review of administrative costs. This has been included in this recommendation. The Planning Commission also voiced its desire that any future amendments to the Ordinance or Zoning Code (i.e., Small Projects In-Lieu

Fee, Condominium Conversion, and Commercial Linkage Fee, etc.) be brought before the body for its consideration.

The Community Development Committee recommended approval of the In-Lieu Fees, the revised Rental Sub-Area "D" boundaries and the Inclusionary Housing Trust Fund – Project Funding Criteria. The Community Development Committee also recommended that a more detailed Project Funding Criteria be developed (i.e., statement of eligibility, funding application process, priorities, weighted evaluation criteria including community impact, development funding application, etc.) and submitted to the Committee for approval to facilitate their review of proposed projects.

### **EXECUTIVE SUMMARY**

On July 16, 2001, the City Council approved the Inclusionary Housing Code Amendment to the Pasadena Municipal Code (Inclusionary Housing Ordinance). The Inclusionary Housing Ordinance (Ordinance), Chapter 17.71, Section.3, requires that within forty two months from the effective date of the Ordinance (September 13, 2001) an evaluation of the effectiveness of the Ordinance during the first three years of its implementation, and recommendations for changes, if any, be prepared and presented to the City Council.

Approximately, twenty months have now elapsed since the enactment of the Ordinance and based on the recommendation of the Housing Affordability Task Force, Planning Commission, and the Community Development Committee several amendments to the process are recommended, including 1) updating In-Lieu Fees; 2) amendments to clarify the regulations; 3) revisions to sub-area boundaries, and 4) establishment of a project funding criteria.

### **BACKGROUND**

On July 16, 2001, the City Council adopted an Ordinance amending Title 17 of the Pasadena Municipal Code to require Inclusionary Housing. The Inclusionary Housing Ordinance (Ordinance) became effective September 13, 2002. The purpose of the Ordinance is to require that residential and mixed use projects include a share of housing that is affordable to low and moderate-income households. The Ordinance applies to projects of ten or more units and requires 15% of newly constructed units be affordable. It provides three alternatives to constructing the required units on 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 a fee in lieu of building the units. To accommodate projects that had begun the city review and approval process, the Ordinance also provided an interim 6% unit requirement or equivalent 40% in lieu fee for the first year, after which time the full 15% unit share or and in lieu fee payment was required. To date, on-site development and in-lieu fee payment have proven to be the two most popular choices.

During the nearly two years of Ordinance implementation there has been full compliance by all market-rate housing developers. Nineteen projects are currently in compliance or undergoing

review for compliance with the Ordinance (Attachment “B”). Of this number, thirteen projects have executed Inclusionary Housing Agreements or In-Lieu Fee Certificates and six projects have applied for plan review. During this initial two-year period it has been determined that certain provisions and existing language in the Inclusionary Housing Regulations (Regulations) require further clarification. Attachment C denotes the sections of the Regulations that require amendment and Attachment “D” is Keyser Marston Associates, Inc. (KMA) recent economic analysis for determination of the amount of the In-Lieu Fees.

### **IN-LIEU FEE**

#### **a) Rental Sub-Area Map**

The In-Lieu Fees are calculated based on four geographic areas of Pasadena, Sub-areas A-D. Based upon the recent findings made by Keyser Marston Associates, Inc. it is recommended that the southern boundary for Rental Sub-Area D should be moved one block south from Colorado Boulevard to Green Street. This is proposed to ensure a consistency in the application of In-Lieu Fees on both the north and south side of Colorado Blvd. The relocation of the boundary better captures the density of developments occurring along the Colorado Boulevard corridor. The recommended modification is depicted in the Map of Rental Sub-area D, Attachment “D-1”.

#### **b) In-Lieu Fee Schedule**

The Ordinance provides for payment of an In-Lieu Fee as an alternative to constructing Inclusionary Units. In-Lieu Fee Schedules, ranging from 75% - 100% of cost recovery, are displayed in the Inclusionary Housing Ordinance – In-Lieu Fee Update, dated June 18, 2003, prepared by Keyser Marston Associates, Inc. (KMA) (Attachment D, Appendix C). The In-Lieu Fee Schedules are displayed by percentage cost recovery, tenure (ownership & rental), geographic area and project size, (small projects – 10-49 units; large projects – 50 + units). The In-Lieu Fees are now set at 75% of cost recovery. However, there has been concern expressed that developers have been paying the fee and not developing Inclusionary Units on-site. In order to provide a greater incentive to provide Inclusionary Units on-site, staff recommends that the In-Lieu Fees be established at 90% of cost recovery for one year and automatically adjusted to 100% of cost recovery thereafter. The proposed In-Lieu Fees are set forth in the Attachment A.

KMA has performed Inclusionary housing analyses of this type in numerous cities throughout the State of California. KMA previously conducted the financial analysis for adoption of the Pasadena Inclusionary Housing In-Lieu Fee Schedule in September 2001. For the current analysis KMA again employed a methodology that divided the city into sub-areas to reflect the 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 were determined by development type, income group and sub-area then converted to the applicable In-Lieu Fees.

c) In-Lieu Fee Payment for Small Projects (9 units or less):

The Ordinance specifically excludes projects of nine units or less from compliance with any Inclusionary provisions. However, concerns have been raised regarding the new construction of small projects (9 units or less) that remove existing older, and possibly affordable, homes from the housing stock without any consideration for the unit affordability of the replacement housing project. Possible options to address this concern include a) lowering the Ordinance threshold to four units b) a reduced Small Project In-Lieu Fee on projects with four to nine units, and c) a Small Project In-Lieu Fee per unit for one to nine unit projects. Although not as intensive as the existing Inclusionary provisions, the recommended option is imposition of the Small Project In-Lieu Fee for new construction of one to nine units, which would provide a contribution toward the production of future affordable housing units. The Small Project In-Lieu Fee would essentially impose an Inclusionary housing requirement on developers who may purposely set their unit count below ten to avoid the Ordinance. Presently, KMA is performing an additional analysis regarding the applicability and amount of an In-Lieu Payment for Small Projects, including a survey of other communities that have adopted in-lieu fees for projects of ten units or less. Upon conclusion of the analysis, this matter will be presented to the Planning Commission for consideration as an amendment to the Ordinance.

**AMENDMENTS TO INCLUSIONARY HOUSING REGULATIONS**

The Inclusionary Housing Regulations (Regulations) augments and provides the administrative procedures for implementation of the Inclusionary Housing Ordinance. During this initial two-year period it has been determined that certain provisions and existing language in the regulations require further clarification. Attachment "C" denotes in detail the sections of the Regulations that require amendment. The proposed amendments are as follows:

1. Revise the Implementation Process to distinguish between submission of the Supplemental Inclusionary Housing Plan Application other discretionary approvals and approval of the Inclusionary Housing Plan and Inclusionary Housing Agreement.
2. Clarify the appropriate application (terms and conditions) of density bonus units to meet the Ordinance unit requirements.
3. Require execution of an In-Lieu Fee Certificate for those projects paying the fees.
4. Revise the Standards for Off-Site Inclusionary units provision to provide criteria for Off-Site Inclusionary units.
5. Update the Inclusionary Housing Household Income, Rent and Sales Price Limits (Attachment A) biannually.
6. Provide that up to and not more than 10% of the Inclusionary Housing In-Lieu Fees collected and deposited in the Inclusionary Housing Trust Fund can be utilized for

administrative cost associated with implementation of the Inclusionary Housing Ordinance.

### **INCLUSIONARY HOUSING TRUST FUND – PROJECT FUNDING CRITERIA**

The Regulations indicate a priority for the use of Inclusionary Housing Trust Fund monies to assist in the development of housing affordable to very low and low-income households. However, there is not an established criteria or method for the allocation of these monies.

It is therefore recommended that the use of Inclusionary Housing Trust Fund be allocated in accordance with the following project funding criteria:

- 1) Very low and low-income households
- 2) Furtherance of the General Plan, Housing Element, Specific Plan goals and objectives, Redevelopment Plan goals
- 3) Project readiness
- 4) Project's financial feasibility
- 5) Removal of blight and/or improvement/revitalization of a neighborhood

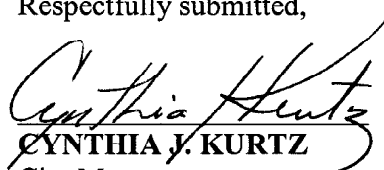
In addition, each project funded with Inclusionary Housing Trust Fund monies will be the subject of an agreement with the City of Pasadena, approved by the City Council, after review by the Community Development Committee.

### **FISCAL IMPACT**

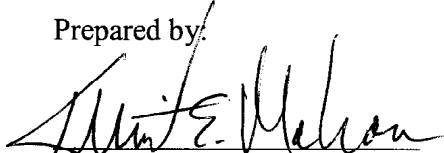
Two financial alternatives that directly contribute to the city financial assets are the dedication of land or payment of an In-Lieu Fees, which are at the discretion of the developer. To date, the city has received and/or accrued Payment of In-Lieu Fees for an estimated amount of \$1,044,445. No offers of land donations have been made since the inception of the Inclusionary Housing Ordinance.

Approval of the recommended In-Lieu Fees will generate fee increases from 100 – 600%. Additionally, in Sub-area B, In-Lieu Fees will be instituted for the first time. If developers opt to pay the In-Lieu Fees, the increased revenue to the Inclusionary Housing Trust Fund would average approximately \$11,000 per unit constructed.

Respectfully submitted,

  
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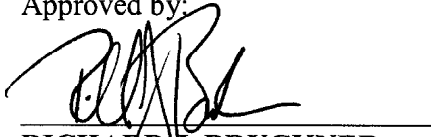


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Attachments