

Agenda Report

TO: CITY COUNCIL **DATE:** APRIL 6, 2009

THROUGH: ECONOMIC DEVELOPMENT AND TECHNOLOGY COMMITTEE
(APRIL 1, 2009)

FROM: CITY MANAGER

SUBJECT: 2008-2014 HOUSING ELEMENT PROGRAM RECOMMENDATIONS

RECOMMENDATION

It is recommended the Council direct staff to:

1. Initiate an analysis of the Inclusionary Housing Program, as described below in the report;
2. Investigate using the California Community Foundation Land Trust (CCFLT) for a share of affordable homeownership housing projects in the city.

BACKGROUND

On November 24, 2008, the City Council authorized submittal of the Draft 2008-2014 Housing Element of the General Plan to the California Department of Housing and Community Development (HCD) for its comments. The Council directed that staff return with additional information on five program proposals recommended by the Planning Commission. The council may consider incorporating changes in the final Housing Element when it is prepared for adoption during 2009.

The Planning Commission recommended submittal of the Draft 2008-2014 Housing Element with additions and modifications to certain programs. The Commission recommended the following changes:

- specify that reconsideration of the standards for second units (Program 7C) be completed by March 2009;
- modify the proposal (Program 13B) for considering creation of a Pasadena Housing Nonprofit during the planning period to, instead, require creation of a Nonprofit by December 2008;

- modify the proposal (Program 8A) for studying modifications to the inclusionary housing ordinance during 2009 by adding an emphasis on low- and very low-income rental housing;
- add a program (Program 9D) to develop an Affordable Housing Land Trust by December 2008, concurrent with creation of a Housing Nonprofit; and
- add a program (Program 6C) to analyze alternatives by December 2009 for the disposition of housing owned by Caltrans.

In the Draft Housing Element that was sent to HCD, staff incorporated the change to Program 8A (study of modifications to the inclusionary housing program) and the addition of Program 6C (study of alternatives for disposition of Caltrans property housing), as the Council authorized. Additional information is provided below for the five Planning Commission recommendations.

Second Units

The Draft Housing Element includes a program to “review the City’s second-unit standards and evaluate changes to the ordinance to better facilitate second units in the context of maintaining neighborhood quality” (Program 7C). The Planning Commission recommended that the review be completed by March 2009.

During preparation of the Draft Housing Element, several speakers commented on the development standards for second units, indicating that the standards make construction of new second units unlikely. The concern was raised again when the Planning Commission considered the Draft Element. While some speakers addressed the restrictions, others spoke about the need for extensive public participation before staff recommends any changes. Review of the second-unit requirements will consider the issues raised during the preparation of the Draft Housing Element as well as state legal requirements.

Staff discussed the scope of work on the second unit ordinance with the Planning Commission on March 25. (See attached Planning Commission report.) During the spring, staff will hold meetings to hear comments on the current second-unit program. Staff will then prepare preliminary recommendations on the ordinance and in early fall will hold a second round of community meetings. Commissions will receive the proposed changes during late 2009, before they go to the Council.

Creation of Housing Nonprofit

Most nonprofit housing development organizations are sustained in large part by fees earned through development projects. Typically, a portion of the developer fee is paid right before the start of construction, and the remainder is paid at the close of permanent financing once the project has been completed and leased up. If the City creates its own new housing nonprofit the City will need to subsidize operations until the nonprofit receives its developer fee which may be a period of several years, depending on the project. Secondly, it may not be possible for the nonprofit to develop a pipeline

of projects sufficient to provide a steady stream of developer fees to sustain the organization. In order to support the organization, the City may be compelled to award most or all of its housing funds to the organization's projects, thereby eliminating access to the funds by other development organizations.

There is need for a wide variety of affordable housing project types serving families, seniors, persons with special needs, and other populations. These project types include permanent rentals, transitional housing, emergency shelters, and homeownership housing. However, most affordable housing development corporations specialize in one or two types of housing projects. If a large portion of the City's housing resources go to one organization, it may mean needed types of housing will not be produced. Hence, certain segments of the City's population needing affordable housing will not be served.

The City's inventory of affordable housing projects has been developed by a number of nonprofit and for-profit organizations. There has not been a shortage of ready and qualified developers. The City should consider why it would create another nonprofit housing organization when there are plenty of developers already doing fine work in Pasadena. The City's more recent experience is that there are not nearly enough housing resources to fund the existing developers currently desiring to produce affordable housing in the City.

The County of Los Angeles created the LA County Housing Development Corporation (HDC) in 1989. At the time, there were very few nonprofit housing corporations in the County. HDC has developed 24 affordable for sale units, a senior rental tax credit project, family rental project, and several small rental developments for emancipated foster youth. HDC has become relatively inactive because 1.) since 1989, numerous highly skilled nonprofit housing corporations have been created; 2.) HDC never become self sufficient requiring financial and staffing (property management, housing development, legal and accounting) assistance; 3.) HDC was ill equipped to deal with homeowner warranties, tax credit partnership management, property tax waivers, and other matters; 4.) the County has received some criticism from the affordable housing community for funding HDC which is perceived to be the County funding itself; and 5.) because differences with HDC's board of directors who felt all the County's City of Industry funds should be reserved solely for HDC.

In 1986, the City of West Hollywood created the West Hollywood Community Housing Corporation (WHCHC). Since its inception, WHCHC has developed over a dozen rental developments containing several hundred units. However, the City annually funds approximately 20% of WHCHC's operating budget totaling over \$2,000,000 in City subsidy to date.

In the early 1980's, the City of Santa Monica created the Community Corporation of Santa Monica. The organization was an early leader in the development of affordable rental housing and owns and operates a portfolio of hundreds of units. The City has consistently funded at least a portion of the organization's operating budget including \$100,000 for the current fiscal year.

Staff recommends a new nonprofit housing organization not be created due to the existence of numerous well qualified existing organizations and to utilize Pasadena's scarce housing resources to produce affordable units instead of funding organizational operating costs.

Analysis of Inclusionary Housing Ordinance

As recommended by the Planning Commission and authorized by the Council, the program described in the Draft Housing Element now includes consideration of greater emphasis on the production of low- and very low-income rental units. A preliminary framework has been developed for the analysis of modifications to the Inclusionary housing ordinance, and is outlined below. It is anticipated that a draft analysis will be completed within the fourth quarter of FY 2009.

- I. Review purpose of the inclusionary program
- II. Identification of the City's housing needs
 - a. Use of Regional Housing Needs Assessment (RHNA) numbers
 - b. Number and type of units needed by income level.
- III. Examination of Inclusionary housing production to date
 - a. Number, type, location and income level of on-site units produced per year.
 - b. Assessment of impact of density bonus on inclusionary production
 - c. Projection of future production of inclusionary units.
- IV. Analysis of Inclusionary in-lieu fee option
 - a. Amount of in-lieu fees generated per year and projection of future payments.
 - b. Number, type and income level of units subsidized and produced with Inclusionary housing funds.
 - c. Assessment of in-lieu fee and affordable housing financial gap
 - d. Legal analysis of eliminating the inclusionary housing in-lieu fee, including information on those cities that have eliminated this fee.
- V. Explore concept of requiring a land trust arrangement for all affordable ownership units as a means of preserving long-term affordability.
- VI. Benchmarking: Experience of other cities with inclusionary requirements
 - e. West Hollywood
 - f. Santa Monica
 - g. Brea
 - h. Carlsbad
 - i. Other cities in California
- VII. Potential recommendations

- a. Refine purpose of the inclusionary program
- b. Eliminate in-lieu fee option
- c. Adjust inclusionary percentage requirements to emphasize production of very low and lower income rental units
- d. Target inclusionary housing funds to producing high priority unit types
- e. Require land trust arrangement for ownership inclusionary units.

Creation of Land Trust

Affordable housing land trusts are a proven way to provide long term affordability for affordable homeownership projects. Currently, most jurisdictions including Pasadena use mechanisms including first rights of refusal and appreciation sharing to try to achieve long term affordability in homeownership projects. The reality is that these mechanisms are relatively weak. A land trust arrangement is a significantly stronger mechanism, although it also typically limits the amount of equity the homeowner builds. A land trust enters into long term low cost leases with the homebuyers who buy only the improvements, but lease the land. The leases are often 99 years and at a very low cost (\$50-\$150 per month). For a land trust to be self sustaining it would need a large number of leases to support itself which will take years to achieve.

The City of Irvine created the Irvine Community Land Trust (Land Trust) in March 2006. The City provided \$250,000 in start up funds plus in-kind personnel contributions from the Housing Division and City Attorney's Office to staff the Land Trust. To date, the Land Trust has not become self supporting, has not hired its own staff or legal counsel, and has used up almost all of the start up funds. When asked if the City would have preferred to use an existing land trust rather than creating their own, the City's housing manager indicated they would have preferred to use an existing land trust.

Staff recommends investigating the possibility of using the California Community Foundation Land Trust (CCFLT) instead of the City creating, and subsidizing, its own. CCFLT is active in unincorporated Los Angeles County, the San Fernando Valley, and El Monte, and has expressed an interest in exploring opportunities to work in Pasadena.

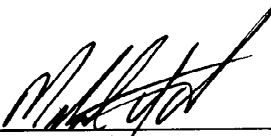
Alternatives for Disposition of Caltrans Properties

City staff met recently with Caltrans staff. As studies to evaluate a potential tunnel for the 710 are underway, Caltrans will not be releasing properties. Staff will monitor the situation with Caltrans.

FISCAL IMPACT

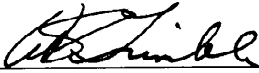
Preparation and submittal of the 2008-2014 Housing Element to the California Department of Housing and Community Development is included in the FY2009 work program. Analyzing the Inclusionary Housing Program and investigating the possibility of using CCFLT can be accommodated within the existing FY 2009 Housing work program.

Respectfully submitted,



MICHAEL J. BECK
City Manager

Prepared by:



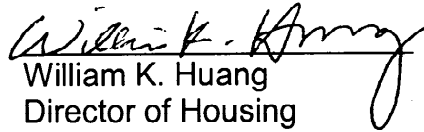
William E. Trimble
Senior Planner

Approved by:



Richard J. Bruckner
Director of Planning & Development

Concur:



William K. Huang
Director of Housing

Attachment A: Planning Commission report (March 25, 2009)

TO: PLANNING COMMISSION

DATE: MARCH 25, 2009

FROM: RICHARD J. BRUCKNER, DIRECTOR OF PLANNING AND DEVELOPMENT

SUBJECT: REVIEW OF THE CITY'S SECOND UNITS STANDARDS WORK PROGRAM AND SCHEDULE

RECOMMENDATION:

This report is provided for information and comment by the Commission.

BACKGROUND

Second units are dwelling units that provide complete independent living units for one or more persons on the same parcel as a legal single-family residence. Second units offer several options for additional diversity of housing types in a community. They typically rent for less than apartments of comparable size, and may offer affordable rental options for seniors, college students, single persons and extended families (i.e., elderly or ill parents).

State Law as amended in 2002 requires local governments to use a ministerial process for second-unit applications, subject to reasonable development standards. The City Council adopted Section 17.50.275 of the Zoning Code (Attached) in June 2004 to allow by right approval of second units in all RS districts subject to the following criteria, except where prohibited by ordinance:

- Minimum 15,000 square foot lot requirement;
- Owner occupancy in either the primary or second unit;
- Requirement for second unit to meet existing standards for additions to single-family residences and provide two covered parking spaces;
- Limitation on the size of second units to 800 square feet and 17 feet in height;
- Establishment of a minimum 500-square foot distance requirement between second units to avoid over concentration built under the section;
- Limitation on the maximum number of new second units to be allowed per year to 20, with more than 200 allowed within a 10-year period;
- Flexibility from development standards for the relocation of a historic home onto a property with an existing single-family residence;
- Second dwelling units are prohibited on properties located within the Hillside and Landmark Overlay Districts.

The above criteria were established to address concerns voiced from the members of the residential community related to additional traffic, increased density, massing of development, privacy issues, and potential loss of neighborhood character and identity.

Since adoption of the City's second unit provisions in 2004, Pasadena has had only two applications (both in 2007) for second units, one of which has been built.

In various housing issue forums, the City received comments on the current development standards on second units, including minimum lot size, two covered parking spaces, separation requirement, and prohibition in the landmark and hillside districts. Included in the 2008 Housing Element is a program to "review the City's second-unit standards and evaluate changes to the ordinance to better facilitate second units in the context of maintaining neighborhood quality".

The Draft Housing Element was submitted to the state Department of Housing and Community Development (HCD) for their comments in December 2008. In February 2009 the City received comments back from HCD, with no comments on the program specifically addressing second dwelling units.

WORK PROGRAM AND SCHEDULE

The Planning Division is now embarking on the process to revisit the development standards in the Zoning Code including the review of lot size, location and parking requirements.

Listed below are the major tasks associated with the program:

- Review history and update information on previous actions and analysis regarding the 2004 ordinance for second units including updating maps.
- Survey of other jurisdictions to ascertain how they have responded to the requirements of State law.
- Create a web page specifically for comments on studies and reports relating to second units, same as created for the Housing and Open Space Elements.
- Schedule community meetings to inform public of initiation of study and gather their comments and concerns regarding the current and possible recommendations to the second unit ordinance and follow-up with meetings on preliminary recommendations.
- Since the discussion of second units is a citywide issue, notification will be placed in the Neighborhood Connections e-newsletter in addition to notices mailed to interest groups and neighborhoods.
- Analysis of community input and development of alternative strategies.
- Refinement of alternatives strategies and development of preliminary recommendations.
- Public review and comment of preliminary recommendations.

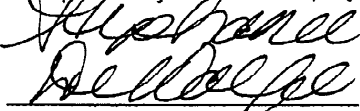
In order to reach a broad audience the outreach program has been designed to address the community by geographic boundaries based on similar single-family neighborhood characteristics. For this purpose it is proposed that the city be divided into three areas: (See attachment B).

- Area 1 West & South - This area is generally south of the 210 Freeway from Allen on the east to the west city boundary, and also north on the west side of Brookside Park. This area includes most of the hillside areas in the city, and larger lot sizes.
- Area 2 North – This area is bounded by Arroyo Blvd. on the west, to Allen Avenue on the east, and north of the 210 Freeway to the city's northern boundary. This area is comprised of many historic landmark districts and older neighborhoods.
- Area 3 East – This area is bounded on the west by Allen and the city boundaries to the east, north and south. This area includes the more recent single-family neighborhoods in the city.

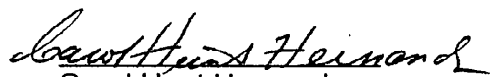
A Preliminary schedule has also been prepared.

- Spring and early summer: staff will hold three community meetings based on the above geographic locations to hear comments on the current second-unit program and perform the technical analysis and update 2004 maps.
- Summer: Staff will prepare preliminary recommendations on the ordinance and present it to the Planning Commission for their comments.
- Early Fall: staff will hold a second round of community meetings to receive input on the preliminary recommendations.
- Late fall: Advisory commissions will discuss recommendations and then the item will be scheduled for City Council consideration.

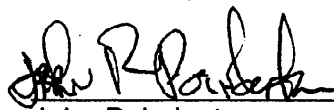
Respectfully submitted,

for 
 Richard J. Bruckner
 Director of Planning and Development

Prepared by:


 Carol Hunt Hernandez
 Planner

Approved by:


 John Poindexter
 Planning Manager

Attachment A - Chapter 17.50.275 – Second Dwelling Units
 Attachment B – Map of Neighborhood Areas